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Wrapping Up Watergate

THE FINAL REPORT of the Watergate special prosecution force is bound to be disappointing to those who hoped—or dreamed—that it would be the vehicle for getting to the Truth. Outgoing special prosecutor Henry S. Ruth has not been able to pin down responsibility for the 18 ½ minute gap. He has not cleared up the many questions about Bebe Rebozo's financial deals. The report does not even present a comprehensive statement of the case against former President Nixon and his men. Yet before criticizing Mr. Ruth on these points, it is useful to ask what people expect when they demand the Truth about Watergate.

To start with, one might ask what more the nation absolutely needs to know about the crimes and abuses lumped under the label of "Watergate." Reams of material are available. Even before most of the tapes had been reviewed, enough was known to cause the grand jury to name Mr. Nixon as an unindicted co-conspirator. The House Judiciary Committee knew enough to justify three articles of impeachment, and published an enormous amount of material in its final report. The special prosecution force knew enough to obtain guilty pleas or convictions in cases involving about 20 corporations and some 50 individuals, including three former Cabinet officers and Mr. Nixon's most powerful White House aides.

Yet there are good grounds for wanting to know more. Many tapes have not been released; many questions are unresolved. New details keep surfacing, most recently about the plumbers' efforts to smear columnist Jack Anderson. Moreover, a final judicial verdict on Mr. Nixon has been rendered unattainable, first by Leon Jaworski's prudent decision not to try to indict a sitting president, then by Mr. Nixon's resignation before impeachment and Senate trial, and finally by the pardon. Thus many people thought that the special prosecutor's report should fill these gaps by furnishing both all the facts and a comprehensive, conclusive judgment on Mr. Nixon's role and culpability.

Mr. Ruth rejected that idea. On the one hand, he and Mr. Jaworski testified last winter that the essence of the evidence bearing on Mr. Nixon has already been disclosed, and that the additional material within their ken contains no bombshells. On the other hand, they have argued that it would be grossly improper for any prosecutor, and especially one entrusted with such power and independence, to release or discuss material obtained in confidence, allegations involving people not charged with crimes, and generally any facts or theories beyond those disclosed in indictments and trials. In his report, Mr. Ruth has carried this cautious approach so far that he has not even recapped the information already in the public domain—though in the course of describing Archibald Cox's and Mr. Jaworski's battles to get evidence from the Nixon White House, the report does set forth the basic evidence underlying a charge of obstruction of justice by Mr. Nixon and his associates.

In general, Mr. Ruth's circumscribed approach is appropriate. Certainly an office charged with prosecuting abuses of power should not abuse its own power or violate people's liberties along the way. Yet there would have been room within that principle for the report to detail more of the specific factors weighed in some controversial judgment calls, such as the plea-bargaining involving former Attorney General Richard G. Kleindienst. Moreover, Mr. Ruth could well have asked District Judge John J. Sirica to disclose the contents of the briefcase sent from the grand jury to the House Judiciary Committee, so the public would know how much the case against Mr. Nixon had been developed at that early point. Finally, the report could have performed a public service by summarizing, in a single place, the evidence presented publicly in the cover-up and plumbers' trials and other major court proceedings. Such steps would give the public easy ac-

cess to the central facts of the scandals—facts that should not become obscured by the sheer mass of Watergate detail available.

By making his report overly diffident in these respects, Mr. Ruth has unfortunately encouraged commentators to focus on the controversial or incomplete aspects of the office's work rather than on the extraordinary achievements of the three special prosecutors and their superbly skilled and disciplined staff. Even recounting their accomplishments—the successful litigation that acquired the tapes, the large number of convictions, the evidence delivered to the House committee—does not convey the full extent to which Messrs. Cox, Jaworski and Ruth and their associates functioned as instruments and symbols of public justice in a time of acute national anxiety and stress.

As the special prosecution office, now headed by Charles Ruff, winds down its last investigations and appeals, some kind of summing-up—if not from Mr. Ruth, then from another quarter—does seem appropriate. Yet "Watergate," much less the Truth, simply cannot be wrapped up in any neat and convenient way. Those who hunger to see every snippet of fact will never be satisfied, not even when the future of the Nixon tapes and papers has been settled in the courts and enough years have passed so that the records now withheld as too sensitive can be disclosed. Beyond that, any "final" assessments require the perspective and detachment that can come only with time. It is really too soon to gauge, for instance, how much or little of the abuses of power called "Watergate" were rooted in earlier events and presidencies, and what exactly was unique about the crimes and arrogations of the Nixon years.

One thing, however, is already obvious: it would be self-delusive to believe that Watergate can be wrapped up and put behind us in any way that would be likely to preclude future corruption in high offices. The human

and institutional frailties involved are simply not susceptible of any quick or easy fix, either by removing and punishing a few individuals or by passing some laws tagged as "reforms." Some of Mr. Ruth's own recommendations illustrate this. He proposes, for instance, that presidential campaign managers should not be named Attorney General. Yet such a prohibition, by itself, would not insure that future attorneys general will be highly qualified, and indeed might some day deny the nation the services of an outstanding lawyer who was able to divorce his past politics from his federal post. Similarly, Mr. Ruth advocates a constitutional amendment to clarify the circumstances under which a sitting President might be indicted. Yet language prompted by Mr. Nixon's situation could prove disastrously inappropriate in a future case. Moreover, constitutional changes would do nothing to remove or resolve the difficult problems of evidence, public perceptions, and governmental functioning that loom so large when the chief executive is under investigation.

Mr. Ruth recognizes that no reliable insurance against corruption can be written into law. In the context of summing-up, the particulars of his modest suggestions are much less important than the wisdom—and warning—that accompanied them. He wrote:

Democracies do not survive unless elected officials do what they are supposed to do and citizens maintain vigilance to see that they do. The public unfolding of Watergate abuses resulted from citizen, press and official actions. Nothing can replace that kind of vigilance; and recommendations for new laws or new institutions are insignificant when compared to the stubborn, plodding daily work of Americans and their elected representatives in watching over and channeling the power of their national Government, the power of concentrated wealth, the power of officially spoken and written words, and the power of secret bureaucracies.