

Watergate Justice: A British View

This week, exactly a year after the Watergate break-in, President Nixon faces his personal Armageddon. His former counsel, John Dean, generally reckoned to be the man most likely to accuse him of criminal conspiracy, will appear before Senator Ervin's investigating committee. He will do so amid increasing argument at home and abroad, that these hearings should not take place, that the press should desist from its inquiries into Watergate, and that the whole enveloping scandal should now be left to the courts to deal with. The real threat to American public life, it is implied, now comes not from Watergate but from the Senate and the newspapers.

In this country, of course, it would not have happened like this. There could be no press reporting once a police investigation made criminal charges imminent. Technically it would take only one charge against one participant, however minor, to silence all comment on the event, however wide its impact. It is also true that here, even if publication were possible, the press would find far fewer sources to tap. Police investigators and the office of the Director of Public Prosecutions are much more discreet than the lawyers and grand jurors who conduct investigations in the U.S. Parliamentary select committees shelter with infinitely greater diligence behind the rules of parliamentary privilege than have congressmen conducting closed inquiries into aspects of Watergate. With five separate congressional investigations, four separate criminal inquiries and four civil suits in process of being assembled, pre-trial leaks—an accepted part of American public life—have naturally been plentiful.

The argument that Senator Ervin should now suspend operations, and that the American press suddenly embrace the British law of contempt of court, is couched in the high language of due process. Many of those Americans who make it, however, are more interested in relieving the pressure on the President than in seeing the truth emerge. And in the mouths of its more sincere proponents it seems to derive from two quite false assumptions.

The first false assumption is that, as far as Mr. Nixon is concerned, any proceedings exist of which the Senate or the press might be in contempt. The President's role in Watergate, and his future in the job, are not matters for legal and judicial assessment. Mr. John Mitchell, his former attorney-general, already faces trial. Mr. Haldeman, Mr. Ehrlichman and Mr. Dean may yet do likewise. But Mr. Nixon does not face trial. What is happening to him now is political not judicial in character—and it will be resolved by political not judicial methods.

The second false assumption is that the political crucible in which the President's future will be resolved should somehow exclude the press and Congress, or at least restrict their function more narrowly than it is restricted by the constitution. In Britain, again, it would all have been different. Here the Cabinet is not separate from Parliament, and political reality is expressed by the power of Parliament to withdraw support from the prime minister. There can be no doubt that—assuming it was all disclosed—a Prime Minister whose staff had raided the opposition's headquarters, whose attorney-general had been implicated in electoral frauds, whose most inti-

mate assistants had deceived him and whose spokesmen had repeatedly lied to the public would not remain in office. Parliament, without benefit of the judicial process, would force him out.

In the U.S., where the President is elected for a fixed term and depends not on Congress but on the people for his power, different methods must be used. At the bottom, these methods reflect the nature of presidential power. They call into play the judgment of the people, based on full and open investigation of what is *prima facie* a major political scandal.

This is now proceeding in the Ervin committee. It may be that the Ervin hearings will affect the future trials of men yet uncharged. But, as far as the President himself is concerned, they remain not only a justi-

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fiable but a vital undertaking. There is no case for abandoning them. Nor will any but the most occasional charges of inaccuracy or imbalance stick against the press. The Washington Post, which has performed with unrivalled enterprise in opening up Watergate, has published well over 200 stories about it. Only one, relatively minor item has caused it to admit to error. This is an extraordinary record. It contrasts significantly with the innumerable occasions on which the paper was traduced, defamed and deceived by White House spokesmen.

We believe that the rescue of President Nixon, if it can be accomplished, must come from greater not less disclosure. If British practice has anything to teach it is not in the law of contempt, but in the tradition which insists that the Prime Minister cannot remain silent in face of damaging allegations. Mr. Nixon has so far made two attempts to clear himself, the second including significant alterations of the first. When he has spoken, he has not convinced. It is surely imperative for his own position that he should now offer some final accounting to repudiate the allegations of substance as well as the hearsay of rumors, that he was complicit in the cover-up of Watergate.

It is already certain that this terrible corruption will overshadow the undoubted achievements of Nixon's first presidency. In the eye of history the accommodation with China, like the withdrawal of troops from Vietnam, will doubtless take their proper place. But in the eyes of men the President is already guilty at least of incompetence: of employing staff who behaved like criminals, of failing to control them, of secluding himself from all the influences which might have rescued him from the political aborigines around him. He may yet be proved not guilty of the ultimate charge, that he knew all about it. One must hope that he is. But it is right that the search for truth goes on in a way fitting the American system. In the interest of an effective presidency, Mr. Nixon should contribute to it.