

# The Watergate Gap

With each passing week, uncertainty increases about filling, in any definitive way, the large, serious remaining gaps in the Watergate story.

President Ford's pre-emptive pardon and Special Prosecutor Leon Jaworski's doubts about including a detailed analysis of the evidence against former President Nixon in his final report to Congress are enormous obstacles to developing answers to the many unanswered questions. Meanwhile, Mr. Nixon's lawyers resist subpoenas on the ground that he is too ill to testify.

Since Mr. Nixon is safely out of the Presidential office, none of this might be considered of great moment but for two over-riding concerns. The first is the strong and ugly aftertaste left by the sense that the system of justice has been short-circuited in favor of the former President. Secondly, some of the unresolved charges regarding Mr. Nixon's conduct in office bear heavily on the nature of American democracy.

For example, among the charges which the Special Prosecutor's office was pursuing at the time the pardon was granted were the transfer of wiretap files from the F.B.I. to the White House, wiretapping of White House aides in the name of national security and the use of the Internal Revenue Service for political purposes. A full understanding of the nature and the extent of those and similar abuses is essential to the development of safeguards against such threats to freedom in the future.

The cleanest way to develop the whole story would be to try the former President through the nominal judicial process. Although Mr. Jaworski has shown no inclination to contest the constitutionality of the pardon, sufficient doubt about its validity has been voiced within the legal community to warrant a searching review of that position.

For example, in commenting on a collateral case brought by James McCord, Federal District Judge Charles R. Richey expressed the view that a court test of the pardon "might be desirable" and indicated that Mr. Mc-

Cord's suit raised questions which "are very substantial." If those questions are to be raised in the most direct way by the party with the clearest interest, they would best be raised by Mr. Jaworski by way of an indictment of the former President.

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Yet Mr. Jaworski and his staff are in the best position to develop the most complete story for the American people and for history. The lawyers on the staff are steeped in the evidence and are familiar with all its nuances. But unless Mr. Jaworski receives some signal or some new authority from the Congress, it is entirely possible that that collective knowledge and expertise will not be preserved in any ordered and disciplined form.

Thus, once more, in the wake of Watergate, the Congress faces the challenge of bearing a heavier share of the leadership burden than has been its custom to undertake. Only yesterday, a Senate committee approved a bill prohibiting destruction of former President Nixon's tapes and papers except as provided by Congress—thus superseding the agreement President Ford had made with Mr. Nixon at the time he announced the pardon.

This move in the Senate is all to the good. Among the many other suggestions deserving careful consideration, one of the most immediately practicable will be for the Congress to direct Mr. Jaworski to include the Nixon material in the final report which is required of him. Another would be to confer special legislative status on the Watergate grand jury, permitting it, with appropriate safeguards for Mr. Nixon's rights, to issue a report on its findings regarding the former President.

Both of these proposals have the value of enabling the Special Prosecutor and his staff to continue their work on the Nixon investigation and to present the end product of their expertise to the Congress and to the American people. There are difficult questions concerning Mr. Nixon's rights, appropriate limits of the grand jury function and insuring—in the absence of a trial which would test it—the fairest possible presentation of the evidence.

But no matter how thorny the issues, a resolution of the current impasse is imperative. Congress can accomplish that and it is an obligation that Congress cannot shirk if the Watergate book is to be finally and appropriately closed and if Congress is to live up to the kind of responsibility that the Nixon years have demonstrated it must discharge.