

Special Prosecution

By Anthony Lewis

WASHINGTON—The magnitude of what happened in Judge Sirica's courtroom the other day can be appreciated only by taking one's mind back a year or two. In February, 1973, H. R. Halde- man and John Ehrlichman were still cocks of the White House walk. Even in February, 1974, not many could have imagined them standing at the bar of justice, with John Mitchell and Robert Mardian, to be sentenced for crime.

Not until March 1, 1974, did the grand jury indict them. It took less than a year, then, under difficult circumstances, to carry the case of the Watergate cover-up through trial, conviction and sentence: a remarkable piece of legal work.

Bringing these powerful men to justice vindicated an idea—the idea of the Watergate Special Prosecutor.

Now that its case has been tried, the future of the independent prosecution force comes into question. What is its unfinished business? How much longer should it continue an independent existence? Can it be ended in a way that maintains public confidence?

The unfinished business includes a substantial amount of investigation

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that has been stymied until now for one reason or another. There is, notably, the whole large problem of the Nixon tapes and documents. The American public will want assurance that they have been properly scrutinized.

There is a widespread impression that the Special Prosecutor has had access to the Nixon materials since his resignation. That is not true. Court orders have kept the files closed during complicated litigation about their control and ownership. But the U. S. Court of Appeals has now indicated that it will help the Special Prosecutor if he cannot soon get an agreement on access from Mr. Nixon's lawyer. Within a relatively short time, that long-delayed scrutiny should begin.

Another investigative necessity is to question Mr. Nixon himself. The pardon given him by President Ford probably deprives him of any privilege against testifying, and he is now in good enough health to go out for weekends. It can be expected, therefore, that in due course Mr. Nixon will be called before a grand jury to answer questions.

The single most significant area for investigation is the doctoring of evidence. Both the files and Mr. Nixon himself could help answer such questions as these: Who erased 18½ minutes from the tape of June 20, 1972, before it was given to the Special Prosecutor? Who altered and omitted large amounts of incriminating material on the tapes in making the transcripts for the impeachment inquiry? What were the roles of such Nixon aides as General Alexander Haig, Rose Mary Woods and J. Fred Buzhardt?

Those are questions of the first importance, not just matters of curiosity. If the impeachment process is to be a credible weapon against some future gross abuse of Presidential power, it must be able to get the facts. That means putting the White House staff on notice now that destruction of evidence, on a President's behalf, may bring legal retribution. On this matter above all, the official's duty must be to law, not to a President.

Another area still being investigated is violation of the campaign spending laws. Despite some reports to the contrary, the Special Prosecutor is continuing his inquiry into the use of political money by Mr. Nixon's friend Bebe Rebozo. Maurice Stans, the 1972 campaign treasure, is being investigated for receiving funds whose givers have already been prosecuted. Armand Hammer, the international business figure, is known to be under examination for contributions.

There are also some significant indictments awaiting trial. John Connally is to go on trial April 1 on the charge of taking a bribe while Secretary of the Treasury. Two men who participated in the alleged faking of Mr. Nixon's claims for tax deductions, Frank DeMarco and Ralph Newman, have just been indicted. Hubert Humphrey's one-time political aide, Jack Chestnut, awaits trial on a campaign fund charge.

The pending trials and investigations will plainly take months to complete, and more cases and leads will doubtless develop during that time. The question then will be whether the Special Prosecution Force should continue handling them independently—perhaps until the end of this Administration—or turn the final trials and appeals over to the Justice Department.

The present Special Prosecutor, Henry S. Ruth, would prefer to wind up the office sooner rather than later. But he is aware that neither Congress nor the public would accept an end unless confidence in the regular prosecutorial process has been restored.

That means confidence especially in the Justice Department's criminal division, whose reputation was soiled by the political prosecutions and trimming of the Nixon years. If the new Attorney General Edward H. Levi, picks a person of character and ability to head that division, we can envisage an end later this year to the extraordinary experiment of the Special Prosecutor.