

David S. Broder

Closing Down Watergate

The Watergate special prosecutor is preparing to close his office this summer and go out of business. Three years of Watergate will be enough for Henry S. Ruth.

Who is Henry Ruth? He is the soft-spoken, young government attorney who followed the well-known Leon Jaworski as the man in charge of the largely unsupervised, congressionally sanctioned office charged with investigating all wrongdoing connected in any way with the 1972 presidential campaign.

One reason that Ruth wants the office shut down is that so few people know he is still in business. While Jaworski and his predecessor, Archibald Cox, were large public figures, Ruth is easy to overlook. And in his view, no one should be exercising the extraordinary, almost unchecked power of special prosecutor without continuing public and press scrutiny to hold him to account.

For that reason, he opposes the suggestion for a permanent special prosecutor, to investigate criminal conflict-of-interest cases within the federal executive branch, which was the main recommendation of the Senate Watergate committee. Vast power without accountability was at the root of Watergate, he believes, and should not be granted again to anyone—either a President or a special prosecutor.

But Ruth is winding up his work seriously concerned that neither this lesson, nor other lessons of Watergate, has been well-learned.

A generation from now, he fears, Watergate may occupy only a handful of pages in American history texts, and the deterrent power of Richard Nixon's banishment from office may have lost its effect even on future Presidents.

That seems gloomy, but as Ruth begins to look up from his lengthy preoccupation with the factual detail of the Watergate cases to examine the impact of that event on American society and government he is struck by the lack of basic institutional response to the enormous abuse of power that was involved.

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He is under criticism because the final report his office is now beginning to draft will not, by his decision, expand on evidence already made public against the former President and his men. Ruth believes, with all the passion of one who lived through the McCarthy era, that the place for government to make its case against alleged wrongdoers is in court, where they can answer, and not in some one-sided report.

But even if he were not concerned about the propriety of such a report, he would question the demand for one more wallow in the Watergate pool. The demand to "tell us more," he thinks, is a Washington cop-out, an excuse for the political community's unwillingness to consider how to remedy the evils already well-documented.

It is almost a year now since the Ervin committee of the Senate came in with 35 recommendations to prevent future Watergates. Except for dubious campaign finance "reforms," which were already well on their way to enactment before that report, virtually none of the suggestions has been passed or even seriously debated before Congress.

Instead, the Senate, in a little-noted action last week, showed that it was as strongly wedded to the concept of "legislative privilege" as Mr. Nixon ever was to "executive privilege."

The prosecutor in the Florida trial of former Sen. Edward J. Gurney on bribery and conspiracy charges subpoenaed the Comptroller General, an appointee of Congress, to produce the confidential financial disclosure document Gurney had filed under the provisions of the congressional ethics law. Normally, those personal finance statements are available only to the Senate and House ethics committees.

With minimal debate, in an action approved by the leadership of both parties, the Senate directed the Comptroller General to refuse the subpoena, because, as Sen. Howard Cannon of Nevada said, "the surrender of a disclosure statement made in reliance on a Senate rule which protects its confidentiality will jeopardize the whole system of senatorial disclosure."

In other words, the privileges of the club take priority over the pursuit of justice. The special prosecutor's pessimism may be well-justified.