



PRESIDENT FORD & AIDES RECEIVING REACTION TO PARDON ANNOUNCEMENT

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The Pardon That Brought No Peace

"Now, therefore, I, Gerald R. Ford, President of the United States, pursuant to the pardon power conferred upon me by Article II, Section 2, of the Constitution, have granted and by these presents do grant a full, free and absolute pardon unto Richard Nixon for all offenses against the United States which he, Richard Nixon, has committed or may have committed or taken part in during the period from January 20, 1969, through August 9, 1974."

With these words, spoken in a slightly nervous voice to a small group of reporters who had been hastily summoned to the White House on Sunday morning, President Ford pardoned the anguished man whom he had succeeded only 30 days before. As a result, Richard Nixon no longer faces the threat of indictment, prosecution and even prison on federal charges arising from the still-festering Watergate scandal. Given the disclosure in the White House tapes that he had tried to cover up the Watergate burglary ever since June 23, 1972, he had faced the serious possibility of being charged with obstructing justice. For other acts while President, he had also faced federal indictment for tax fraud and possibly for misuse of Government funds for his private homes and violation of the rights of Daniel Ellsberg and his former psychiatrist, Lewis Fielding.

From his estate in San Clemente, Nixon issued a statement conceding no

guilt but expressing remorse over "my mistakes over Watergate." And, he said, "One thing I can see clearly now is that I was wrong in not acting more decisively and more forthrightly in dealing with Watergate."

Ford explained that he acted, in part, out of compassion (see box page 12). More than that, the President added, the "serious allegations and accusations hang like a sword over our former President's head and threaten his health as he tries to reshape his life." Most important, Ford hoped that the pardon would help heal the nation. Any move to bring Nixon to trial, the President noted, would have taken many months or years. During that period "ugly passions would again be aroused, our people would again be polarized in their opinions, and the credibility of our free institutions of Government would again be challenged at home and abroad."

But no sooner had Ford made his broadcast remarks than the nation—which had been caught totally by surprise—was plunged anew into deep and divisive debate. Republicans generally applauded the President's action; Democrats generally condemned it (see following story). Supporters agreed with Ford that his predecessor had indeed "suffered enough." Critics, including many legal experts, charged that Ford had established a dual system of justice, that he had put Richard Nixon above the law. On all sides, there were grave

questions about the ways in which the pardon would affect the men currently jailed or awaiting trial for Watergate-related offenses (see story page 19). Said John J. Wilson, counsel for one of the six men who are scheduled to go on trial in Washington on Sept. 30 on charges of conspiring to cover up the Watergate burglary: "Bob Haldeman should be pardoned too."

Some cynics assumed that a deal had been struck between Ford and Nixon in the fateful early days of August: Nixon would quit if Ford would agree to pardon him at the earliest feasible moment. But that seemed highly unlikely, particularly considering that the pressures on Nixon to resign grew irresistible after it was revealed—three days before he quit—that Nixon had long been involved in the Watergate cover-up and had repeatedly lied to the nation about his actual role.

Credibility Question. By taking such sweeping action so soon, Ford damaged his efforts to restore confidence in the U.S. presidency and opened his own credibility gap. When asked during his vice-presidential confirmation hearings about the possibility of his granting a pardon should Nixon need one, Ford replied: "I don't think the public would stand for it." On the day that Ford was inaugurated as President, his press secretary, J.F. terHorst, reiterated that statement to reporters. On Sunday, immediately before Ford's speech, terHorst resigned in protest against the



FORD SIGNING PROCLAMATION OF PARDON FOR EX-PRESIDENT NIXON

pardon. At his first press conference on Aug. 28, Ford said that he was not ruling out the possibility of a pardon, but "there have been no charges made, there has been no action by the courts, there has been no action by any jury, and until any legal process has been undertaken, I think it is unwise and untimely for me to make any commitment."

Certain to Indict. Hardly had he spoken those words when Ford concluded that he very quickly had to make a commitment. The White House had reason to believe that prosecutors were right on the verge of bringing criminal charges against Nixon. The Watergate grand jury, which had named Nixon as an unindicted co-conspirator, was ready to receive the evidence. All that was needed to begin the case was to get the approval of the Watergate special prosecutor, Leon Jaworski. Then Jaworski made clear that if the decision were left to him alone, he would prosecute Nixon. The law, said Jaworski, demanded an indictment. His staff agreed unanimously.

Indeed, Jaworski had told Ford's legal counsel, Philip Buchen, that the grand jury was virtually certain to indict Nixon and the list of charges could be lengthy and varied. The White House believed that the indictments would be handed down as soon as the second week of September—this week—although Jaworski in fact did not intend to obtain them until after the Watergate cover-up jury was sequestered in October. Still, it was clear that Nixon could be spared only by one act by one man: a pardon from Gerald Ford.

Ford was also troubled by reports about Nixon's mental state: that he was deeply depressed, that he could not pull himself together to start rebuilding his life, that he was making self-pitying phone calls to old defenders. The Administration was embarrassed because Nixon was sending odd letters to leaders of foreign nations. Speculation swirled in Washington that Nixon might take some drastic action against himself.

On Friday, Aug. 30, Ford called Buchen into the Oval Office. Ford asked him how long the criminal process and the trial of Nixon might drag on, how long it would be before the nation finally had Watergate behind it. Buchen's answer fell like lead: it would take nine months to a year before a trial could begin. Jaworski himself had told Buchen that, because of the massive publicity surrounding the House Judiciary Committee's unanimous finding that Nixon should be impeached because he obstructed justice, it would take a year or even longer "before the selection of a jury is begun." All during this agonizing period, Ford reasoned, he would be dogged by public questions about his views on Nixon and on a pardon. Said one of Ford's aides: "The longer it went on, the less candid it would compel him to be. He did not like not giving a straight answer just because it would be impolitic, and he knew he would have to do that."

At Ford's direction, Buchen worked throughout the Labor Day weekend to provide legal grounds for a pardon. He found precedents to establish that a par-



NIXON & FORD IN WHITE HOUSE (1973)

don need not await an indictment or conviction. For example, he cited the case of a reporter who had been pardoned before testifying in a criminal action involving the customs department—during the Wilson Administration.

From Labor Day onward, intense, highly secret discussions went on in the White House. Some of Ford's closest advisers warned him that granting a pardon would greatly damage him in the eyes of the public. Aides pointed to the Gallup poll released last week showing that 56% of the public believed that Nixon should be tried for possible criminal charges arising from Watergate, while only 37% opposed such action. But the President said, with an edge to his voice, "I don't need to read the polls to tell me whether I'm right or not."

The Tapes Deal. Last week Ford gave a delicate job to a longtime friend, Benton L. Becker, a Washington criminal lawyer. The President assigned him to travel to San Clemente last Thursday and show Nixon a preliminary draft of a Ford statement granting a pardon. Becker was also assigned to complete the negotiations between the White House and Nixon for an agreement granting the Watergate prosecutors—and presumably other lawyers—the right to examine his tapes and presidential papers for use in future cases. White House Counsel Fred Buzhardt had insisted that these records belong to Nixon and proposed shipping them forthwith to San Clemente; that prompted Ford to fire Buzhardt.

On Friday Nixon signed an agreement. The terms were hammered out by Becker, Nixon's attorney Herbert J. Miller Jr. and former Press Secretary Ronald Ziegler. The tapes and documents will be turned over to the General Services Administration, which will store them near San Clemente. Two keys will be needed to open the vault; Nixon

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has one, the Government the other. Nixon has the right to listen to the tapes, and probably will do so in writing his memoirs. After five years he can order the Government to destroy the tapes or parts of them. In any case, the tapes must be destroyed in 1984 or at the time of Nixon's death, whichever comes first.

Watergate prosecutors regard the agreement as a *quid pro quo* for the pardon, but the White House denies it. On Saturday morning Becker delivered the agreement to the White House. Late that afternoon, Ford and several close advisers went over the final legal details of the pardon. He was still not completely sure that he would grant it, but, says one participant, "his mind was 95% made up." After that meeting, two old friends stayed behind with Ford. They were Bu-

Many could not be reached because they were out golfing or otherwise relaxing. When he broke the news to House Majority Leader Thomas P. "Tip" O'Neill Jr., the stunned Congressman said, "Jesus! Don't you think it's kind of early?" According to O'Neill, Ford replied: "There is doubt that he [Nixon] could get a fair trial, and it would take a year to a year and a half to try him. He's down on his health. I feel it's time to do it."

At 11:05 a.m., Ford somberly walked into the Oval Office to face a single television camera and a pool of reporters who had been advised to assemble for an important announcement. The President engaged in none of the usual joshing banter with reporters, either before or after the speech. After he left the office, he told a staff member: "Well, I think it was the right thing to do." Then the President went to the Burning Tree Club to play a round of golf with his old friend Melvin Laird. Soon after, Laird was asked why Ford had acted just now instead of waiting until indictments had been returned. Said Laird: "The furor would have been much greater then. It is much easier now than it would have been afterward."

Future Furor. Of course, nothing will be easy now, and the furor promises to be intense. TerHorst's swift resignation was a symptom of what may lie ahead. Said terHorst: "I couldn't in good conscience support the President's decision, even though I knew he took the action in good conscience." Republicans, who had delightedly looked forward to the deflation of Watergate as a major issue in November, now dejectedly faced the prospect of defending to the voters Ford's grant of pardon.

The issue is not whether Nixon has suffered enough. Indisputably, he has suffered, but so have countless other people who have committed wrongdoings—and they have not been exempted from prosecution. Nixon will be free and well pensioned, while those who took his orders are jailed and broken.

The real question is whether justice—and the country—have been served by giving Nixon a pardon. The American people deserve to know the entire story of Watergate. They do not know it yet, and the person who is in the best position to tell them—because he has the fullest knowledge of it—is Richard Nixon. If he had been brought to court, Nixon would have been under intense political pressure to divulge the full truth under oath. His degree of guilt or innocence would have been established by the law, and any claims that he had been hounded from office would have been laid to rest. Richard Nixon may well testify at the future trials of other, less privileged Watergate principals, and at that time he could still reveal the details of the unending Watergate story. The Sabbath pardon eased the plight of the man who received it, but gravely complicated the future of the man who granted it, Gerald R. Ford.



EX-PRESS AIDE TERHORST
An act of conscience.

chen and Counsellor Robert Hartmann, whose long association with the President enables him to capture Ford's style and inner thoughts in speeches. Ford talked out his reasons and his beliefs, and the two men went off to put them into a brief personal statement. Hartmann finished it overnight.

Kind of Early. On Sunday morning, Ford went alone to early services at St. John's Episcopal Church, across Lafayette Park from the White House. He sat in pew 54, "the President's pew," which had been occupied by many Chief Executives before him. There was no sermon. Along with some 50 other worshipers, the President knelt and received Communion. After the 25-minute service, Ford, looking solemn, climbed back into his limousine and returned to the White House.

Joining Hartmann in the Oval Office, Ford twice read the speech aloud, wrote in a few changes to make it flow more easily, and added the line referring to Nixon's health. Then he moved to a small adjoining office and began phoning congressional leaders; he had not previously informed them—or Jaworski—of the highly secret decision to pardon.