

Elder

By Arthur Krock

WASHINGTON—The odorous assortment of malfeasances known as the "Watergate scandals," committed by Republicans with the morals and methods of the lowest form of private detectives, is a nasty piece of political business. Until and unless the full account unexpectedly carries conviction to the public that Richard M. Nixon was neither the easy dupe of the inner circle of men in whom he reposed the highest confidence, nor the President who betrayed the public trust by using the powers of the first office in the land to prevent exposure of the facts, the damage to his Presidency will be enduring.

In any event, the most resilient politician of the age, whose triumph over underprivileged beginnings and electoral disasters made him an incarnation of the American Dream, nevertheless is confronted by the prospect of entering history with the tag of "the Watergate President." After all, the regimes of Grant and Harding are chiefly remembered for the corruption committed by those in whom they placed their trust against gathering evidence of betrayal.

But, despite the doomsaying going the rounds, nothing has yet been proved that will prevent the President from salvaging enough of the damage to enable the executive department to exercise its full share of the constitutional separation of powers on which orderly government and even the national security depend. The likelihood of this, supported by previous reactions of the American people to sabotage of their governing system, will be the greater if Mr. Nixon takes the reassuring, and politically prudent, step of appointing a special investigator of Watergate. The leading precedent for this means of restoring public confidence in government was provided in 1905 when, as special investigator of the life insurance scandals in New York State, Charles Evans Hughes exposed and ended them.

When the Republicans devised the scheme of the Electoral Commission, by means of which Samuel J. Tilden was robbed of the Presidency he had won at the polls in 1876, the American people quietly accepted Tilden's decision that the result be uncontested in the public interest, and the executive function was carried out unimpaired in the four years served by President Hayes. When there was evidence of Democratic vote-tampering in the Presidential poll of 1960 strong enough for a contest in which the small percentage by which John F. Kennedy defeated Richard M. Nixon could have been reversed, the American people again quietly accepted a similar decision by Mr. Nixon. And again the executive function was fully

exercised—this time with high and enthusiastic hopes for the occupant of the White House.

And only the other day the historic speech by Henry Kissinger, speaking for the President and designed to initiate procedure for the release of tensions that have arisen among the United States and its principal allies in Europe and Asia, served as a reminder of the necessity that the fate of the free world rests heavily on the continuing standing of the American President in office as his country's spokesman in foreign affairs.

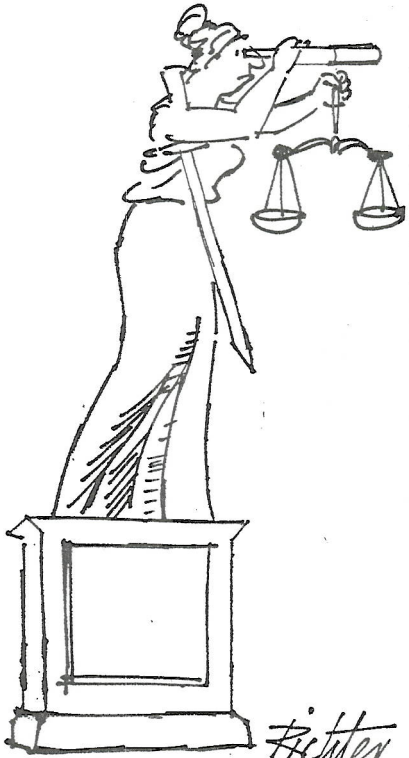
But if the framers of the Constitution had not, two weeks before they completed the national charter, finally reversed an electoral formula for the Presidency they twice had devised, the public wrath over Watergate might have led to precipitate reprisals by which the foreign and domestic problems of the United States would have been consigned to chaos.

The fear of excessive executive power had so dominated the Constitutional Convention of 1787 that on the two occasions referred to it was decided the President should be elected, not by popular choice, but by the Congress, and be ineligible for re-election. This would have made the Chief Executive the creature of the Congress, and destroyed the principle of the separation of powers which generally has worked pretty well. Given the power to choose the President, Congress could at any time undo what it had done. And the purely partisan politicians and hotheads who are always disposed to punish an erring President by impeachment would be dangerously active in that direction today in a Congress with a majority of the party in opposition to the President's.

But because the President is elected by the people (though the formal process is the vote of a majority of the Electoral College), and overwhelmingly re-elected, no serious invocation of the impeachment power is foreseeable until Mr. Nixon has had a full opportunity to salvage what he can of the damage to him and, more important, the Presidency, that some of his trusted aides have inflicted by dishonest merchandising of his re-election. Moreover, a prospective President Agnew brings pause to impeachment impulses. And unless he has lost, or never had, the political sagacity his career implies, Mr. Nixon will furnish the people with measures of reparation that will insure his continuance in office until, in 1974, the Congressional elections will serve as a national referendum on his record and that of the Republican party.

Arthur Krock is the retired Washington correspondent of *The Times*.

Statesmen Speak Out



By Alf M. Landon

TOPEKA, Kan.—The ramifications of the Watergate criminal conspiracy are far-reaching and deep with scattered reputations and distressed families.

The great constitutional questions between the executive and legislative functions involved, which have existed since the birth of our great and beloved Republic, have once again been solved by mutual agreement without resorting to a Supreme Court decision.

The constitutional question is not a simple confrontation between the Congress and the President on the matter of executive privileged communications.

It would be impossible to conduct an efficient Administration if either the President or his subordinates were subject to the beck and call of Congressional committees. Every Chief Executive in our history has rightfully asserted that position.

On the other hand, the right of investigation by the Congress is a precious one and must be maintained. The President and Senator Sam Ervin, chairman of the Senate committee investigating Watergate, have successfully linked these two together by arranging for the voluntary appearance of any of the executive staff before the Senate committee. It is simply reaching a satisfactory accommodation which has often occurred in the past on this ticklish question between Presidents and Congressional committees to avoid the long delay of

settling a constitutional question in the courts. I think the same questions have arisen in relations between governors and their state legislatures.

In 1964 when Senator Fulbright, after the Manila conference in which President Johnson assumed the guardianship of all Asia, persistently attempted to get Secretary of State Rusk to appear before the Senate Foreign Relations Committee to answer questions as to the extent of our foreign commitments all over the world, he declined. It was finally settled by an informal agreement limiting the scope of the committee's questions such as is in the case of Watergate.

There are, of course, grave legal questions involved. What right does anyone have to "bug" someone else's property by breaking and entering the same? That's just like going into someone's office when he's out—searching his files to get valuable information in a business affair or to embarrass him in some other way. That's simply a matter of theft and invasion of privacy, which was the charge in the Watergate trial.

The President properly referred the Watergate skulduggery to the judicial process.

As far as the failure of the President to speak out more definitely is concerned, he could not make statements on a subject matter which was involved in grand jury proceedings. He could not say anything because he would be rightfully criticized for influencing pending decisions in the judicial process. Senator Ervin, former trial judge and justice of the Supreme Court in South Carolina, has recognized the duty of the investigating committee to carefully guard and maintain at all hazards the precious right of any individual concerned to a fair trial and his day in court.

Public understanding of the fundamental threat to our democratic processes which concerns us all in the shocking Watergate arrangements by a handful of President Nixon's appointees, was further complicated by glib reporting evaluating our President's positions relative to Congressional investigations as grabbing for more power.

Over-all, it is the growing righteous indignation of the public to sordid political usage. Illegal Watergate activities are exploding all over the place. It was lightly referred to as a "caper" by cynical Washington news media and in some other quarters as the way of politicians. Common sense rejects that kind of stuff and nonsense.

The inherent moral questions are getting worse and worse and worse. The question of character is coming in more and more all the time.

We have the then Attorney General of the United States, with more power

than J. Edgar Hoover had in his prime, finally admitting that he participated in three conferences where the bugging of Democratic National Committee headquarters in the Watergate was discussed. He could have flatly put a stop to it by simply saying, in the first conference, if you fellows ever go ahead with your proposed stupid, immoral and illegal plans, I'll throw the book at you, either as crooks or as "nuts."

Instead, John Mitchell apparently pussyfooted around with two more conferences. He knew who was involved when it happened. He should have had them prosecuted the next day. The astounding contradictions in his own statements have shaken and alarmed our citizenry. At the least an Attorney General of the United States has lowered the ethical standards of his high position and his profession by his conduct, betraying the confidence of the President of the United States.

Also, it can be said that by the prestige of his high office, in even personally participating in three meetings and listening to the discussion and planning of a criminal act, he gave the color of safe conduct to others directly or indirectly familiar with it.

John Mitchell's motives in this high scandal are a mystery. His actions uncovered so far by grand jury proceedings are not. His record will haunt him as long as he lives and his reputation in history thereafter. At least the due processes of the law promptly started and properly by the positive direction of the President are involving the higher-ups. That is healthy for both political parties and the public, for at the conclusion of the jury trials the mark of the Watergate case will be in the verdict of the American conscience. The real damage is the diminished public confidence in, and respect for, our highest public office in the United States of America.

There is not the slightest indication that the President is involved. There is no evidence that he knew anything of this illegal going-on in campaign planning.

History reveals that was the experience of other Presidents of our country with the constant increase of heavy and complex burdens, political as well as governmental, of that office. It should be recognized by objective-minded folks that a President cannot be held responsible for campaign planning as he can, and is, for his national policies. There are simply not enough hours in the day for that. There are hardly enough hours for his main job of running the Government.

Alf M. Landon, former Governor of Kansas, was the Republican Presidential candidate in 1936.