

The Constitutional Crisis

By Anthony Lewis

AT HOME ABROAD

LONDON, May 6—After the terrible battering their faith has suffered in the last ten years, Americans want desperately to believe in their country's institutions. And so it is natural to hear now, in the United States, how the eventual cracking of Watergate shows that the system does work.

Distance lends a clarifying disenchantment to that idea. British commentators ordinarily friendly to President Nixon express deep skepticism about him and the whole prospect. An example is Peregrine Worsthorne of The Sunday Telegraph, who writes that the nightmarish and still undisputed suspicions surrounding Nixon "are on a scale that would bring any other free government crashing into ruin."

The truth is that the constitutional system of the United States did not work in this case, and may not work now. We held an election last year with a choice influenced by fraud and with our knowledge clouded by official suppression of criminal evidence. And even after all that has come out, there is no assurance that we shall learn the whole truth or be able to cleanse our institutions sufficiently.

The attitudes that got the Nixon Government into trouble, apart from direct criminality, were hunger for centralized power, insistence on personal loyalty above independent ideas or vision and an arrogant contempt for the press, Congress and the courts. Is there any real evidence of change in those attitudes?

In the Watergate wreckage of his Administration, Nixon has so far made two principal appointments: of Elliot Richardson as Attorney General and Gen. Alexander Haig as acting chief of his White House staff. They have other honorable qualities, but it is notable that both come from inside and have demonstrated overriding loyalty to Richard Nixon. General Haig continues the tradition of White House men without independent ideas or political experience, staff agents in a centralized system.

Nixon has made a pass at improving relations with the press. But he and his fallen aides still project the "stupefying belief," as The Economist of London put it, that in the Watergate affair: "The only serious trouble lay in people's inquisitiveness." The symbol of the Nixon approach to the press is still there: Ronald Ziegler, a man whose reputation for competence and honorable dealing would have given him trouble trying to be a riverboat gambler on the Mississippi.

The old brazen attitude is evident in the President's attempt to keep present and former aides from testifying about his own knowledge of the Watergate crimes, and in his resistance to an independent prosecutor. There

could hardly be a more direct challenge to the co-equal constitutional authority of Congress and the courts than the expanded claim of Executive privilege. One must conclude, as did The London Sunday Telegraph, that it was "the gamble of a guilty and desperate man."

What is broadly at issue now is restoration of respect for law—of our American faith that we have a Government of laws and not of men. That puts an extraordinary weight on the shoulders of a single Cabinet officer: Richardson, the Attorney General designate. There has been nothing like the responsibility he bears, or the potential influence, for as long as we can remember.

Elliot Richardson has the highest credentials of intellect, background and experience: Harvard College and Law School, clerkships for Learned Hand and Felix Frankfurter, years in Washington and in elective office in Massachusetts, a public-spirited family and a wife who is one of the nicest, most genuine people in Washington. But the ultimate question about Elliot Richardson has still to be answered—the question of character.

He came to the Administration in the beginning as no Nixon man: He had been a Rockefeller supporter. Despite that, or perhaps because of it, Richardson has seemed to make loyalty to Nixon his bench-mark. Some of his old friends felt especially strongly that he put personal loyalty above faithfulness to law recently in making arguments for the constitutionality of the American war in Cambodia that he must have known were legally frivolous.

Richardson is an ambitious man: He would like to be President of the United States. That is a fair enough ambition, but it must almost certainly be tested in this case by a choice of loyalties—to Richard Nixon or to the law.

The historic motto of the American Attorney General, honored in the breach these last years, has it that his duty is more than to win cases. It is to see that justice is done. In the very largest sense that will be Elliot Richardson's standard of performance.

It will not be easy. Almost at once he may have to tell Congress whether he agrees with the shameless attempt to expand the Executive privilege doctrine to cover judicial proceedings and shield past Presidential employees. He will have general charge of an inquiry that, if it is honest, will inevitably threaten this President's continuance in office. It will not be easy, but in Elliot Richardson's duty lies our hope of saying that the system really can return the United States to decency.