

The Dilemmas Facing the New Attorney General

Washington

THE NEW ATTORNEY GENERAL of the United States, Elliot L. Richardson, is an elegant man of elaborate, almost ostentatious serenity, and you could never tell by watching him these days that he is under more pressure now than ever before in his varied service to the federal government.

What will he do if his U.S. Attorney in Baltimore recommends the indictment of Vice President Agnew on charges of criminal extortion, conspiracy, etc. — support it or reverse it?

What position will he take on Richard Nixon's assertion that a president must first be impeached, convicted, and removed from office before he can be tried in court on criminal charges? And would Richardson's position be the same on the vice president in the Baltimore case — namely that Agnew would have to be removed from office before he had to stand trial on criminal charges?



James Reston

A prudent man facing such questions on a new job might be expected to take refuge in silence, even in isolation. Richardson instead is both available and voluble. He sees reporters as if he had all the time in the world, doodles and talks with meticulous care, smokes big black cigars in the morning, and says absolutely nothing — on the points at issue, but says nothing with admirable eloquence and unflinching courtesy.

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STILL, THE DAYS of putting political managers at the head of the Justice Department — Herbert Brownell, Robert Kennedy, John Mitchell — are now over, and Richardson's dilemma is that he has to protect the civil rights of Agnew against leaks and unproven charges, while at the same time being faithful to the law as it applies to the two top officials of his party and the nation.

Few attorneys general of the United States have ever had to face such a tangle of legalities and loyalties in the first weeks of their work, and Richardson, after Watergate, is making clear that the integrity of the Justice Department, and even of the government is likely to depend, not on what he says, but on the performance of his duties.

His dilemmas are fairly obvious. If he supports a criminal indictment against the Vice President, no matter what the evidence, he will be accused by many members of his party with being disloyal to the Republicans; and if he doesn't follow a recommendation to indict, he will be accused of being more loyal to his party than to the law.

If he decides that the President is not subject to criminal charges until impeached and removed from office, he will go against his own special prosecutor, Archibald Cox, and if he sides with Cox, he will have to go against the President.

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NEITHER THE President nor the Vice President has made Richardson's task very easy. The President has said publicly that the time has come to leave the Watergate mess to the courts, but at the same time, he has denied the courts the power to compel release of the tapes that might contain the critical evidence of criminal activity.

There is another awkward situation. Speaking of the Watergate investigation on last April 17, the President said:

"If any person in the Executive branch or in the government is indicted by the grand jury, my policy will be to immediately suspend him. If he is convicted, he will, of course, be automatically discharged."

This is the President's principle and promise, but would he, or could he, apply it to Agnew if the latter were indicted in the Baltimore case? This would not be Richardson's problem, but the President's, and though the Vice President is clearly "in the Executive branch," it is not at all clear that the President could either suspend him if indicted or discharge him if convicted.

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THESE QUESTIONS, of course, are not up for immediate decision, but they have to be very much on the minds of the President, the Vice President, and the Attorney General, for they cannot control the various actions of the district attorneys, the prosecutors, or the courts, and they have to anticipate the serious constitutional questions that could be placed before them in the coming weeks and months.

This is obviously harder on the President and the Vice President, who face the possibility of being accused, while Richardson merely has to anticipate the problem of being the accuser, but whatever Richardson decides, he is not likely to avoid the most severe criticism from one side or another.

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