

Why We Are Shaken

By Anthony Lewis

WASHINGTON, Oct. 28—In answering the first question at his press conference Friday, President Nixon brought up the case of Aaron Burr as a precedent to support his continued withholding of Presidential papers. He said:

"You remember the famous case involving Thomas Jefferson where Chief Justice Marshall, then sitting as a trial judge, subpoenaed a letter which Jefferson had written which Marshall thought or felt was necessary evidence in the trial of Aaron Burr. Jefferson refused to do so, but it did not result in a suit. What happened was, of course, a compromise in which a summary of the contents of the letter which was relevant to the trial was produced by Jefferson. . . ."

The historical facts are as follows: The letter at issue was not from Jefferson but to him, from Gen. James Wilkinson. Jefferson did not refuse to cooperate in the matter; indeed he offered to be examined under oath in Washington. And he did not produce a mere "summary" of the letter. He gave the entire original letter to the U.S. Attorney, George Hay, who offered it to the court for copying and use of "those parts which had relation to the cause."

In short, Mr. Nixon's account was a farrago of untruths. It may seem a minor matter in a press conference that also saw him falsely imply that Elliot Richardson had "approved" his course of action on the tapes. But the President's misuse of the Burr case is interesting precisely because it was so unnecessary, so minor, so gratuitous.

Why did he introduce such an historical episode into his discussion and then so gravely distort it? Did he consciously intend to deceive his audience? Or is there in him some unconscious process that reshapes the truth to his ends?

Those questions are not put down to suggest that there can be sure answers. What is disturbing is that the public cannot be sure. Even on so small a matter we cannot trust the President of the United States.

Trust is fundamental to the functioning of a free government. Those

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who wrote the American Constitution understood that, and therefore tried to make sure that faith in our system of democracy would survive mistaken leadership. To that end they created institutions—in shorthand, government of laws, not men.

That Richard Nixon has made it impossible for the country to trust in him is not the worst he has done as President. The more grievous harm has been to damage trust in our institutions. Consider some examples.

The police are a particularly sensitive barometer of trust in any society.

The most respected American police institution has been the Federal Bureau of Investigation. In 1970 President Nixon sought to involve the F.B.I. in a program of illegal wiretapping, surveillance and burglaries. After protests from J. Edgar Hoover, the program was allegedly canceled, but the White House plumbers carried out some of the illegal activities. Americans' confidence that Federal law-enforcement institutions will respect the law has certainly been damaged.

The Central Intelligence Agency is another sensitive institution. The evidence indicates that Mr. Nixon's top assistants, almost certainly on the orders of the President, sought to involve the C.I.A. in the cover-up of Watergate.

Our military institutions suffered a painful loss of public confidence as a result of Mr. Nixon's secret bombing of Cambodia. It is not surprising that people should be shaken if our powerful forces can be used in secret, without the consent or even the advice of Congress, and with military men joining in a conspiracy to deceive Congress and the public by false reports.

It hardly needs to be said that the courts have been abused by this President, or that Congress has suffered as an institution from the attitude of open contempt displayed toward it by this White House.

Finally, one must mention a sordid episode in which Mr. Nixon did not hesitate to soil the institution of the Presidency itself—by innuendo directed at a dead President. At a press conference on Sept. 16, 1971, he said the United States had got into Vietnam "through overthrowing Diem and the complicity in the murder of Diem." We have no evidence of any such complicity. Mr. Nixon's remark came shortly after his White House consultant, E. Howard Hunt, tried to forge some—a "cable" made to look as if it had come from the Kennedy Administration.

These assaults on our institutions and on our trust have left the country in a state of nervous exhaustion. Before we can recover, we shall have more to endure. Investigating a President, and judging him, will require us to face hard questions of law and policy and politics. But there is no other way.

As we proceed, we should remember above all that we are trying to heal wounded institutions. That means that the whole process of investigation, impeachment and, hopefully, political accommodation must be carried forward with a deep concern for institutional regularity. We must answer disrespect for institutions with respect, lawlessness with law.