

On Accountability

By Anthony Lewis

ABROAD AT HOME

BOSTON, March 3—Imagine a large corporation with a powerful president, one who makes it company policy to keep ultimate control of operations in his own hands. Over a year, 16 of this president's close associates are charged with serious crimes.

His personal lawyer, the company's former counsel and two members of the president's staff plead guilty. So does the vice president. Two other staff members are tried and convicted. Nine more are indicted, among them his top personal assistants and the heads of two major subsidiaries.

At a stockholders' meeting the president says he knew nothing of these affairs. He deprecates them, he says, but his duty is to get on with the company's business; legal questions are for the courts. When a group of stockholders asks to see the records of his own corporate dealings, he says no: That might prejudice the trial of his associates; and besides, such disclosure is against company policy.

That simple analogy may help to clarify the great principle at stake in the effort to make President Nixon face the legal and political consequences of Watergate. That is the principle of accountability.

When there is evidence that a corporation has been in the hands of a criminal gang, we see easily enough that its president cannot escape personal responsibility. We understand that he must make an accounting to the shareholders.

Is democracy more important in a corporation than in a country? Does a company president have a greater duty to account to his source of authority, his citizens, than does the President of the United States? The propositions are absurd, and especially so in a country whose whole system of government was designed to assure accountability.

In the first Congress to sit under our Constitution one of its principal framers, James Madison, argued successfully that a President should be able to dismiss subordinate government officials. That power, Madison said, would make him "responsible for their conduct, and subject him to impeachment himself, if he suffers them to perpetrate with impunity high crimes or misdemeanors, against the United States, or neglect to superintend their conduct so as to check their excesses."

The notion that a President need not answer to anyone for massive wrongs in his Administration—not to Congress, not to the courts, not to the people—is utterly alien to the American system. Yet that is the precise end to which the Catch 22 strategy

of President Nixon and his lawyers is designed to lead.

Mr. Nixon says first that he is beyond the jurisdiction of any court: He cannot be indicted while in office, he cannot be questioned by a grand jury and he cannot even be made to provide evidence. All last summer he strenuously resisted a subpoena for tapes and documents, even trying to evade a court order and finally complying only under the compulsion of public outrage. Now again he is refusing to supply evidence to the Special Prosecutor.

The next step in the strategy is the argument that a President can be impeached only for criminal offenses. Mr. Nixon's lawyer, James St. Clair, narrowed it some more last week, claiming that impeachment is limited to criminal offenses "of a very serious nature committed in one's governmental capacity."

It is sad to see a lawyer who knows better make so shoddy an argument, one so devoid of support in history or logic. Under the stated St. Clair view, the makers of our Constitution ordained that nothing could be done about a President who committed murder in broad daylight on the Capitol steps.

But Mr. St. Clair will raise obstacles to an impeachment even on his narrow grounds. For one thing, he will probably try to keep the House Judiciary Committee from getting the evidence already collected by the Special Prosecutor, Leon Jaworski. For another, the suggestion is heard that the inquiry should do nothing that might affect the trials of those indicted. Translated, that means do nothing — for months and probably years.

In short, the underlings charged with attempting to corrupt the institutions of our Government are to be tried while we do nothing about the man in the name of whose power they allegedly acted. It is an ingenious strategy, but the contrivances show. Americans have too much common sense to let the man whom our system makes responsible escape an accounting that way. They will see that there is no greater constitutional interest, no greater national interest, than resolving the doubts about this President.

What Richard Nixon and his lawyers really argue for is a four-year absolute monarchy — the power of kings before they were made subject to constitutions. At our Constitutional Convention Gouverneur Morris of Pennsylvania said of the President: "This Magistrate is not the King but the prime minister. The people are the Kings."