

A Cloud Over Capital

Discussions Center on What 'Deals' A Resigning President Can Negotiate

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By CLIFTON DANIEL AUG 7 1974
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WASHINGTON, Aug. 6—The possibility of President Nixon's resignation hung like an uncertain rain cloud over Washington today—a cloud that could burst at any moment but very well might not.

News

Analysis

Talk of resignation persisted, despite the President's renewed denial to his Cabinet today, and much of the talk turned on the question of what kind of "deal" the President could make if he did want to quit.

There was a general assumption that Mr. Nixon would not voluntarily leave office without an assurance against criminal prosecution as a private citizen.

In his statement yesterday, the President all but pleaded guilty to obstruction of justice. He conceded that his impeachment was a foregone conclusion. He threw himself on

the mercy of the court—the United States Senate.

But for the immunity afforded him by the Constitution, Mr. Nixon was deemed by many lawyers to have placed himself in jeopardy of a criminal trial, if not conviction.

Just like any other potential defendant, with some conspicuous differences attributable to his position, Mr. Nixon had several courses open to him. The one that he said he had chosen was to fight the charges.

The others, according to legal authorities, included the following:

Just as other Watergate defendants have done, Mr. Nixon, through his lawyers, could approach the Watergate special prosecutor, Leon Jaworski. The

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lawyers could propose that, if the President were granted immunity from prosecution, he would resign his office and testify in the cases of others charged with Watergate offenses.

There has been no suggestion from anybody in Washington that the special prosecutor has been approached or is even likely to be. However, it is common knowledge that Mr. Jaworski is approachable and is willing to listen to anybody's proposition. With a view to expediting the disposition of Watergate cases, Mr. Jaworski has already accepted several negotiated pleas.

From President Nixon's viewpoint, the trouble with a plea is that it would involve an admission of guilt. That is something he has so far assiduously avoided, even though he has acknowledged, as he did yesterday, that the evidence against him is damaging.

While the special prosecutor is manifestly receptive to pleas, the presumption here is that he would not accept one as important as the President's without seeking a consensus in favor of it.

He would surely consult the leadership of Congress, which represents the people and which has the sole right to impeach the President and remove him from office.

Prosecutor's Charter

There are other alternatives for President Nixon if he wants to resign and insulate himself against further prosecution.

He could ask the Attorney General to amend the special prosecutor's charter to deprive him of jurisdiction over acts of the President. The special prosecutor's authority would then revert to the Attorney General, who could exercise it as he and the President saw fit.

However, the order establishing the special prosecutor's office provided that his jurisdiction could not be limited without the approval of the majority and minority leaders of the House and Senate and the chairmen and ranking minority members of the House and Senate Judiciary Committees.

It is questionable whether they would give their approval to limiting Mr. Jaworski's juris-

dition and even more questionable that they would approve discharging him.

After the firestorm of public criticism stirred up by the President's dismissal of the first special prosecutor, Archibald Cox, there is no thought here of dismissing the second one "except for extraordinary improprieties," as his charter specifies.

Still other alternatives have been suggested: That Vice President Ford could promise to pardon Mr. Nixon if he were convicted after leaving office, that Congress could pass an act of immunity, or even that President Nixon himself, exercising his power under the Constitution "to grant reprieves and pardons for offenses against the United States," could pardon himself in advance.

All these devices seem dubious as to legality, morality or political acceptability. How, for example, would Vice President Ford justify a promise of clemency that served to promote him to the Presidency?

No Public Outcry

As for a Congressional act of immunity, Representative Robert J. Rhodes of Arizona, the House minority leader, said today, "I have never felt Congress had the constitutional authority to grant immunity to anybody for anything."

While a deal for President Nixon might be difficult to arrange, Washington hears no public outcry to deny him one.

Robert P. Griffin of Michigan, the assistant Republican leader of the Senate, said today that President Nixon's alleged offenses were not so serious that people wanted to see him in jail.

A growing majority would apparently like to have the President out of office. The latest public opinion poll, by the National Broadcasting Company, shows 62 per cent favoring impeachment and 50 per cent favoring removal from office. That is scarcely a mandate for a lynching.

If a deal could then be made with the special prosecutor, sanctioned by the Congressional leadership, lesser hazards for the President might still remain.

No other Federal prosecutor or grand jury could threaten the President if he were granted immunity by Mr. Jaworski, because the special prosecutor currently has exclusive jurisdiction over the Watergate case.

State prosecutors might look for violations of state laws, but the case of former Vice President Spiro T. Agnew is instructive: Maryland authorities dropped their investigation of him after he pleaded no contest to a Federal charge and resigned from office Oct. 10, 1973.

Mr. Agnew, incidentally, insisted up to the day of his resignation that he had no intention of resigning. Then the cloud burst.