

# Compassion and Justice

In parroting the view of Senate Minority Leader Hugh Scott that, since former President Nixon has "been hung . . . it doesn't seem . . . that in addition he should be drawn and quartered," Vice President-designate Rockefeller has beclouded the imperatives of a legal system grounded in justice and equity.

It betokens no absence of a decent sense of compassion to recognize the need for keeping firmly in mind the facts that led to the Nixon resignation. As the Republican minority in the House Judiciary Committee joined the Democratic majority in attesting, Mr. Nixon was neither hounded out of office nor was he hung. What led him to quit was the realization that he would be impeached by the full House and ordered removed by the Senate on the basis of incontrovertible evidence of obstruction of justice—much of it in the form of his own voice on White House tapes.

In making that choice, grave and humiliating though it was, Mr. Nixon avoided the possibility of even more severe consequences—the loss of his pension and other emoluments, which a guilty verdict in the Senate would have entailed. The manner of his departure also deprived the nation and history of the definitive judgment which would have flowed from a Senate decision based upon a full trial. Last March, Mr. Rockefeller himself asserted that resignation would leave "great and unresolved doubt." For his own part, Mr. Nixon, in leaving the White House, was at pains to avoid any personal acknowledgment of wrongdoing, citing nothing more than erosion of his "political base."

If the former President's resignation left the rest of the nation with deeply troubling questions, it left Special Prosecutor Leon Jaworski with problems which his duty as an officer of the courts makes it impossible for him to avoid, no matter how painful they may be. Mr. Jaworski has already established a record of convictions and guilty pleas; he has a pending prosecution against John Ehrlichman and other of Mr. Nixon's associates in connection with the Watergate cover-up. It is based in large measure on evidence on which a grand jury indicated it would also have indicted Mr. Nixon had he not then been in the White House. Mr. Jaworski also has continuing criminal investigations into possible violations of the Federal tax and gift statutes, in which Mr. Nixon and other of his close associates are pivotal figures.

On this record, the special prosecutor and others charged with enforcing the criminal statutes cannot carry forward the cases already under way and ignore Mr. Nixon's central role without doing basic violence to the rule of law and to their own sworn obligations to uphold the laws of the United States.

It is unpalatable and deeply disturbing to contemplate a former President of the United States in the dock. But to suggest as Mr. Rockefeller has, that Mr. Nixon be exempted from the legal consequences of his act because he was President would be to establish a perverse precedent that, the higher the public trust one violates, the greater the possibility of evasion of legal responsibility. The time for consideration of mitigating circumstances that might justify clemency is after the rule of law has been impartially applied to all the accused co-conspirators and a judgment made on the facts.