

NYTimes Nixon's 'Mistakes'

SEP 10 1974

By Fred M. Hechinger

In explaining his decision to grant an unconditional pardon to Richard Nixon, President Ford fell back on the popular explanation that "the buck stops here." The trouble with the application of Harry Truman's famous definition of Presidential responsibility to the case at hand is that the buck had not yet reached its proper stopping place in the Oval Office.

The timing of Mr. Ford's action is nothing short of incomprehensible. It overturned his own lucid explanation of Aug. 28 that he should not act until the judicial process had taken its course. It was an explanation that had gained wide acceptance.

The President's sudden reversal can only have the effect of establishing a link between Watergate and the Ford Administration. At the very least, it will be seen as appeasement of those intensely partisan Republicans who always preferred cover-up to any disclosure that, by implicating Mr. Nixon, might hurt the G.O.P. The joyous reaction from that quarter suggests that Mr. Ford, after his initial impressive appeal to unity, has earned his way back into his old status as one of the party's boys.

Whatever comfort, Mr. Ford's action may presently give to inner-sanctum Republicans. It has pulled the President down from the nonpartisan mountain-top he had so deliberately and prudently scaled. It is appropriate to recall how effectively the initial sense of nonpartisan national cohesion had allowed Lyndon Johnson to respond to serious domestic problems. Mr. Ford's action now has frittered away a similarly priceless leadership advantage. The effect of the pardon on the prevailing sense of national cohesion may be even more damaging to his Administration than the doubts it raises about his judgment.

These practical political questions, though important, should be dismissed if the pardon could be justified on ethical grounds. Yet, Mr. Ford's course stands ethics on their head. The President accurately stated that he had no precedent to follow; but the precedent he has now created is an assault to the very foundation of governmental ethics. It says, in effect, that a President may ignore the laws and the Constitution, evade the impeachment process and escape judgment, if he can arrange to pardon-bargain with his chosen successor.

Vague as the Constitution is concerning the Presidential pardon, legal logic and the English language suggest that a pardon should apply to an act of wrongdoing that has either been proved or admitted. Given Mr. Nixon's situation, it would be difficult to imagine that he was bargaining from a position of ethical, political or legal strength. The very minimum to be demanded by the American people as a result of such bargaining might have been a clear and irreversible

statement on Mr. Nixon's part that he was guilty of some of the charges leveled against him by the House Judiciary Committee.

It is not vindictiveness that should have made such an admission a crucial precondition to any pardon. It is rather, that such a plea would have prevented the Watergate cover-up from being turned into a far more serious historic cover-up and an invitation to Nixonian revisionists.

It is a relevant aside that that Spiro Agnew has recently made public statement to the effect that he was not really treated leniently when he was allowed to resign his office and plead "no contest" to a minor offense, despite the Justice Department's carefully documented charges against him. Thus, the process of rewriting Mr. Agnew's history is well under way.

Mr. Nixon's pardon is far more generous than Mr. Agnew's. Mr. Nixon pointedly confessed only that he made "mistakes and misjudgments." Thus, Mr. Nixon admits nothing. "Mistakes and misjudgments" are, after all, not impeachable offenses. Moreover his actions, in his view, were not even real mistakes and misjudgments. They merely contributed, Mr. Nixon took pains to stress, to the "belief" on the part of "many fair-minded people"—note the adherence to the Nixon tactic of implying a slur but wrapping it in magnanimity—that "my motivation—and actions in the Watergate affair were intentionally self-serving and illegal."

It was President Ford who said that he was trying to do the right thing on behalf of his predecessor "and his loyal wife and family." Mr. Nixon, by contrast, said that he was accepting the pardon in the hope that President Ford's compassionate act will contribute to lifting the burden of Watergate from our country." The words are clearly intended to sound as if an innocent bystander applauded a kindness done, not to him, but to the American people.

On limited but practical step to block the historical whitewash as a sequel to the criminal cover-up would be for the Senate to reassert its role in keeping the proper check on the powers of the executive. It could still do so by voting approval of the Articles of Impeachment voted by the House Judiciary Committee and of the committee's unanimous declaration that Mr. Nixon would have been impeached, had he not resigned.

Such action could not undo the harm done by the Presidential pardon, at least to Mr. Ford himself. But unless some effort is made to establish clearly the nature of the crimes that are covered by the pardon, future generations, when asked to believe that the system works, will be tempted to say that, yes, for the likes of Richard Nixon it works overtime.

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