

A New Kind of Cover-up

By Tom Wicker

"If I am wrong," said Gerald Ford, cribbing from Lincoln in his effort to confer instant innocence on Richard Nixon, "ten angels swearing I was right would make no difference." Even a hundred angels caroling in unison on the steps of the White House could not rectify the horrendous blunder Mr. Ford made in giving Richard Nixon advance pardon for any and all criminal acts he may have performed from Jan. 20, 1969, through Aug. 19, 1974.

Advance pardon was a blunder in relation to the Nixon case for the reasons already stated here and in many other places—because no formal judgment on Mr. Nixon's conduct can now be obtained in the courts, because of the double standard erected as between him and those who have served time or face trial in the Watergate matter (not to mention defendants in other criminal cases), and because of the bad precedent established for the handling of any future Presidential misconduct.

Advance pardon was a blunder in relation to the pending Watergate cases, because lawyers for those defendants are already claiming, with much logic, (a) that their clients should not be tried if the principal for whom they acted as agents has been given immunity, and (b) that if widespread publicity would have prevented a fair trial for Mr. Nixon, as Mr. Ford said it would, it also prevents a fair trial for the Messrs. Haldeman, Ehrlichman et al. Either or both these arguments may yet negate the Watergate prosecutions.

Advance pardon was a blunder in relation to the Ford Presidency, so ably and encouragingly begun. Richard Nixon himself never governed more

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high-handedly than Gerald Ford did in this imperial act—conceived and negotiated in secrecy, ordained by one man alone without consultations with anyone outside his closed circle of advisers, carried out by surprise executive fiat, contradicting every public statement Mr. Ford had made on clemency—and on the way he intended to wield Presidential power.

Advance pardon was a blunder in relation to the 1976 election. With that televised stroke of his pen, Mr. Ford obliterated the opportunity he had appeared to be nourishing to go to the voters as a man of unchallenged probity and personal restraint, who in a time of crisis had restored honesty to government and limits to executive power. The Republican party can tear up its "Mr. Kleen" bumper strips and start worrying about a new kind of "cover-up" issue.

The Democrats, who had been put briefly on the defensive by the Nixon resignation, Mr. Ford's early popularity, and the removal of the Watergate mess as an overt campaign issue, now have the political right and the public obligation to make advance pardon an issue against the man who granted it without so much as a nod to Congress, the special prosecutor or public opinion. They do not need to charge any collusion between Mr. Ford and Mr. Nixon to raise the "cover-up" question again; whatever Mr. Ford's intention, he has seen to it that the public may never know the whole truth of the Nixon Administration. And the "cover-up" issue will be all the more potent if advance pardon results in the remaining Watergate defendants avoiding trial or getting convictions reversed.

It is possible, of course, but not likely that either Special Prosecutor Jaworski will seek an indictment, or that the Watergate grand jury will indict Mr. Nixon on its own, so that the constitutionality of advance pardon can be tested.

But the Democrats control Congress and can act, if they choose. Senate Majority Leader Mansfield says Mr. Jaworski ought to disregard the advance pardon and proceed with prosecution; Assistant Majority Leader Byrd says advance pardon is "injurious to the system" of justice. If they feel that way, and if they really want to restore Congress to a respected place in American government, they are in a position to act.

Resuming impeachment proceedings, as has been suggested in the House, is one possibility; apparently there are precedents for impeachment even of persons no longer in office. A vote on a formal Congressional censure of Mr. Nixon—once advanced by his supporters as a means of avoiding the impeachment issue—is another possibility. Either could provide at least an official verdict, by a jury of his peers, on Mr. Nixon's conduct.

Before Congress now, moreover, is Mr. Ford's request for \$850,000 in special appropriations for Mr. Nixon—over and above his \$60,000 annual pension, his \$96,000 annual staff allowance, and his entitlement to Federal office space and Secret Service protection. If Gerald Ford thought Richard Nixon so liable to criminal prosecution that he needed advance pardon, and if Mr. Nixon felt himself so liable to indictment that he accepted that pardon, why should the American people pay one penny more than the minimum required by law to this discredited man who tarnished their most cherished institution?

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