

Charles McCabe

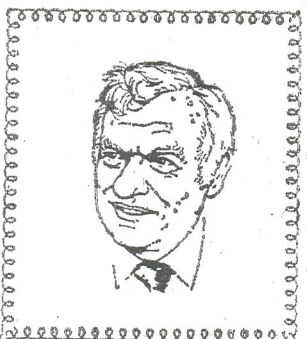
Himself

The Pardon (2) (1), 25 Sep 74.

CURIOSLY, the "scenario" which Mr. Ford employed to pardon Mr. Nixon appears to have been worked out by the Nixon Administration. It was rejected by Mr. Nixon himself, as being too bold for even his notorious chutzpah.

A "Nixon Postscript" was written before the pardon was announced by John Osborne, the distinguished White House correspondent of The New Republic. The Nixon Administration's view of the pardon matter was analyzed. To pardon, as you may imagine, considerable thought had been given.

For months before Mr. Nixon resigned, according to Osborne, his lawyers had been discussing the President's possible criminal involvement, at precisely the time when his spokesmen, notably James St. Clair, were openly proclaiming his total innocence.



The pivotal point of these legal discussions was the idea that a President may pardon a person before the person had been charged with anything. These discussions were about Mr. Nixon, principally. Reported Osborne:

"The consensus developed in the discussions was, roughly, that Mr. Nixon COULD pardon himself. He COULD save himself from direct accusation by pardoning certain of the Watergate defendants who had been variously indicted, pleaded guilty or been convicted.

"Weaving through the White House discussions was the thought that the Watergate pardons might be made palatable to the public, or at least rendered tolerable, if they were somehow linked with amnesty for Vietnam deserters and draft dodgers.

"This thought continued to permeate discussion, public and private, on the subject after Mr. Nixon resigned. The discussions reported here, however, preceded the resignation by weeks and months and foundered upon a quandary that nobody participating in them could resolve. The quandary was where to stop with the Watergate pardons."

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IN THE END the aides' legal consensus was that Mr. Nixon's legal problems would not be solved, or anything like solved, by the use of the pardoning power. More precisely, by its use when he was in office.

If Mr. Nixon elicited a promise of total pardon from Mr. Ford before he resigned, there was only one real way he could enforce that promise. He would have to confront Mr. Ford, after Mr. Ford had taken office as President, with a tape which would unmistakably show that the promise had been made. Such knowledge would have been catastrophic to the Ford presidency.

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THE WAY the pardoning got done, in the end, was precisely the way the Nixon people had wanted to do it, but had decided against because their client was still in the White House.

It is possible, of course, that Mr. Ford never made that promise of an unconditional, predated pardon. It is possible that he is merely the party hack he seemed to be for so many years in the House, a man never offered by the Republicans for election to the highest, or even the second highest, office in the land. Maybe Mr. Ford pardoned Mr. Nixon simply because he was a crony and a Republican.

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MAYBE, but I don't buy it. The gap between what Mr. Ford said about pardons at his first press conference — that they would be considered only after there had been action against Mr. Nixon by courts and by juries — and his precipitate whitewash of his predecessor a scant two weeks later, is too much to take.

Gerald Ford was made somehow to see the light. The gun was pointed to his back. And Watergate, which could have ended in the courts, albeit painfully for all concerned, will continue to trouble our minds forever.