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Ford's Historic Appearance: Still Questions

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It was not, perhaps, as dramatic as Abraham Lincoln's solitary journey to a congressional committee more than 100 years ago. After Gerald Ford took his seat yesterday in the House Judiciary Committee room on Capitol Hill, the congressmen (and woman) expressed ritual politeness and praise. The President was equally appreciative and thankful at being given the opportunity to appear.

In the end, despite all the bows to the historic nature of the proceeding, probably few minds were changed about the controversy surrounding Mr. Ford's pardon of Richard Nixon. Virtually as many question remained unresolved as before.

What the President was asking, in effect, was for the Congress and the American people to trust his motives. He had not acted, he said, merely to spare Richard Nixon, but to save the country an ordeal that would keep its focus on the past rather than on the present and the future.

News Analysis

There had been no deal; the former President's health and state of mind weren't the key factors; the negotiations over Mr. Nixon's tape recordings and papers were also not decisive. Thus, the explanations.

"I hope at least that I have cleared the air," the President said after nearly two hours before Judiciary's subcommittee on criminal justice.

The Republicans seemed persuaded he had, the Democrats appeared unconvinced.

Several aspects of the President's testimony are certain to inspire further controversy and questions. The role of Gen. Alexander M. Haig, Jr., Mr. Nixon's chief of staff, stands at the center of them.

The President recounted, in narrative fashion, how he first learned of the fateful new evidence against Mr. Nixon. Early on the morning of Thursday, Aug. 1, Haig told him "in a general way about fears arising because of additional tape evidence" to be delivered to Judge John Sirica the following Monday.

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FORD, From A1

Mr. Ford apparently did not ask the specific nature of that evidence or how damaging it could be proved to be. Indeed, throughout Mr. Ford's recitation of those events he does not seem to have asked specific questions. As in so much else about the Watergate affair, he, too, almost seems to wish not to know all the details.

Later that same Thursday, Haig requested another and longer meeting. "The substance of this conversation was that the new disclosure would be devastating, even catastrophic, insofar as President Nixon was concerned," Mr. Ford recalled.

Again, he presumably did not ask and was not told the exact information that was contained on the tapes.

Haig told him of six possible courses of action then being considered by the White House. Half of them dealt with the use of presidential pardons.

These involved the question of whether the President could pardon himself; pardoning various Watergate defendants, then himself, and resigning; and a pardon to Mr. Nixon if he were to resign.

When Mr. Ford asked about a President's pardon power, Haig told him that a White House lawyer advised that a chief executive did have authority to grant a pardon even before criminal action had been taken against an individual.

The White House lawyer who gave that opinion was, again apparently, not named. James St. Clair, Mr. Nixon's principal Watergate lawyer, volunteered to Mr. Ford the next day that such an opinion did not come from him.

Knowing what he then did, Mr. Ford fulfilled previously scheduled public appearances that weekend in Mississippi and Louisiana—and continued to maintain his position that he believed Mr. Nixon was innocent of an impechable offense.

He explained the discrepancy between what he actually knew and what he said this way:

"In the previous eight months, I had repeatedly stated my opinion that the President would not be found guilty of an impeachable offense. Any change from my stated views or even refusal to comment further, I feared, would lead in the press to conclusions that I now wanted to see the President resign to avoid an impeachment vote in the House and probable conviction vote in the Senate.

"For that reason I remained firm in my answers to press questions during my trip and repeated my belief in the President's innocence of an impeachable offense."

Mr. Ford thereby laid himself open to the charge that he deliberately withheld the truth from the American people. In fact,

that he did not tell the truth.

His account of another controversial matter—whether he had specific knowledge of any formal criminal charges pending against Mr. Nixon—was also less than conclusive. Although his answer to that question was a flat "no," Mr. Ford again did not appear to have explored the subject fully himself. He did not seek out Watergate Special Prosecutor Leon Jaworski, nor did he consult with his Attorney General, William B. Saxbe.

In three other areas Mr. Ford's account raises unanswered questions.

One of the questions put to him by a House resolution asked whether Haig referred to or discussed a pardon either with Mr. Nixon personally or with his representatives.

"My answer to that question is: not to my knowledge," the President said yesterday.

The answer is puzzling, for it again seems to indicate Mr. Ford did not attempt—and still has not attempted—to determine all the facts behind the pardon question.

He also dealt with a conflict between his public position that he would make no commitment one way or another on a pardon until seeing what the special prosecutor and the courts would do and his subquent granting of the pardon before due process had even begun. His basic explanation is that shortly after making that statement he "became greatly concerned" that a prolonged Nixon prosecution and trial would "seriously disrupt the healing of the country."

He did not explan what brought these concerns so forcefully to his mind.

A third area of controversy involves questions about Mr. Nixon's health, both physical and mental.

In announcing the Nixon pardon to the nation, Mr. Ford added a statement that the former President's health was seriously threatened. His comment immediately led to speculation that he had received dire reports about Mr. Nixon's condition. There was talk, openly discussed at the White House, about a possible Nixon suicide.

Yesterday, Mr. Ford said he received "no such report" about Mr. Nixon from a physician or psychiatrist. All he knew about the President's health and state of mind was what he himself had observed in those last days of the Nixon presidency. Mr. Nixon, he said, was thinner and paler and drawn.

He did add yesterday that he had "observations reported to me . . . from others that had later seen or talked with him."

There was an implicit irony in the timing and setting of yesterday's encounter between the President and the Congress.

Only 13 weeks before, in that same room, the House had begun its first presidential impeachment proceedings in more than a century. Now, with impeachment and history behind them, many of those same members of Congress were still dealing with questions surrounding Richard Nixon. But this time the passion and tension had gone out of the room.

They were questioning an old congressional colleague who now happens to be President, and their inquiries were generally deferential and gentle. The President, for his part, seemed entirely at ease, poised, relaxed and earnest. He showed neither anger nor other emotion, even when the day's hardest questions were put to him by Elizabeth Holtzman of New York.

Miss Holtzman expressed her dismay at the format, the lack of time for proper questioning, the lack of witnesses and documents. It was, she said, a forum ill suited to permit the full truth to be made known to the public. And she spoke of the "very dark suspicions" that had arisen in the minds of many about the pardon.

In a series of questions, the New York Democrat asked the President to explain a number of apparent discrepancies—and then put the harshest query of the day to Mr. Ford. Suspicions had been raised, she went on, about possible tape recordings of conversations between Mr. Ford and Mr. Nixon, implying that the pardon was the price of not revealing those conversations. She wondered if the President would not be willing to release those conversations to put to rest the suspicions.

The President was not ruffled—but neither did he directly answer her question. Those tapes he said belong to Mr. Nixon although they are still under the control of the Ford White House.

It fell to Lawrence J. Hogan of Maryland, a Republican to defend Mr. Ford. Hogan, whose own political fortunes have fallen since the summer when he was the first committee Republican to come out for Mr. Nixon's impeachment, said ht was "amazed" at the gentle lady's "accusatory speech."

Then, sounding more like a job applicant than a congressional inquisitor, he asked Mr. Ford a few leading questions.

Didn't the President agree that the committee impeachment vote was tantamount to finding Mr. Nixon guilty? Yes. Didn't he agree that the former President's acceptance of a pardon was tantamount to an acknowledgement of guilt? Yes.

Perhaps the single most effective question came from James Mann of South Carolina. Following up an equal-justice-under-the-law theme of Don Edwards of California, he asked Mr. Ford: If criminal conduct were alleged against a bank president, a governor or the chief justice, would they be entitled to treatment not accorded ordinary citizens?

The President replied that that was a hypothetical question, one he felt inappropriate for comment.

Then Mann, speaking in such soft tones that he had to repeat the question, asked:

"You have heard the maxim that the law is no respector of persons. Do you agree with that?"

The President paused a moment, and said: "Certainly it should be."

Mann hestitated, then murmured:

"Thank you, Mr. President."