

The President Testifies

President Ford's appearance before a House Judiciary subcommittee, commendable and historic though it was, failed to clear up the deep and troubling doubts raised by his precipitate pardon of former President Nixon.

While President Ford appeared open, candid and clearly in command of himself, the committee was no match for him, and never even got close to the heart of the matter.

Essentially the President retold and elaborated upon the story he and his aides had laid out in press conferences and briefings at the White House. Mr. Ford did say firmly and emphatically that the pardon was not the result of any deal struck by him and the former President or by any surrogates in their behalf. He indicated his belief that Mr. Nixon had in effect been found guilty in the House of obstruction of justice. He reiterated his assertion that the pardon was intended to benefit the nation—to heal its divisions and to move on to more urgent problems—rather than to benefit the former President.

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The trouble is, as Representative Kastenmeier of Wisconsin noted, the pardon did not heal the divisions, but only intensified them. In demonstrating that the pardon was not the product of a deal, Mr. Ford inadvertently emphasized some of the elements of the decision which were most troubling. According to his own testimony, he did not consult with the Attorney General about the pardon or with the Special Prosecutor or with anybody who might have tempered his impulses except for his own counsel, Philip Buchen, the lawyer from Grand Rapids. It was the secrecy and the lack of consultation, as well as basic evidence of poor judgment, that raised questions about Mr. Ford's capacity to govern and about whether this President's mode of making great decisions was really any more open or satisfactory than that of his predecessor.

On other major aspects of the decision, the President was either not persuasive or was inadequately interrogated yesterday. He asserted, for example, that the agreement on the White House tapes and documents was totally unrelated to the granting of the pardon. But the final conversations on both subjects took place at the same time and among the same parties. So questions linger even as Mr. Nixon starts a suit to force the White House to honor the agreement which would subject the records of the most monumental White House scandal in history to the control of the man whom even Mr. Ford agrees has virtually admitted guilt.

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The hearing skipped blithely past the fundamental question whether the pardon itself was valid. Despite the certitude expressed by the President, by some of his questioners and by Special Prosecutor Leon Jaworski, there is a respected body of scholarly legal opinion that this pre-emptive use of the pardoning power covering all crimes known and unknown over a five-year period was unwarranted and unjustified. It is also arguable that granting a pardon to a President who aborted the impeachment process by resigning violated at least the spirit of the Constitution, which excepts cases of impeachment alone from the President's pardoning power.

Thus, though Mr. Ford is to be lauded for his willingness to appear before the committee and for his adroitness in presenting his version of the pardon story, the hearing was hardly worthwhile. Nor by any means should it be deemed to have settled the issues. As Representative Holtzman of New York noted, the pardon raised sharp questions and deep suspicions. The President's appearance before the House Judiciary subcommittee has not set them to rest.