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## Closing Doors On Watergate

WITH THE REFUSAL of the Supreme Court to review their case, John N. Mitchell and H. R. Haldeman probably will soon be on their way to some federal prison. Their convicted co-conspirator, John D. Ehrlichman, will remain in his. At long last the doors of the courts are closing on "the pipsqueak Watergate thing" and only routine formalities remain to be disposed of before the last of the top men of the Nixon presidency pass through the gates of confinement.

In the meantime, however, their unindicted co-conspirator, fortified by the proceeds of his television broadcasts, presumably will go on to finish writing his memoirs and polishing his unique, self-justifying theory of the constitutional irresponsibility of the Presidency.

IN THE DAVID FROST interview last week, the former President was asked:

Q. So what in a sense you're saying is that there are certain situations... where the President can decide that it's in the best interests of the nation or something, and do something illegal.

A. Well, when the President does it, that means that it is not illegal.

Q. By definition.

A. Exactly. Exactly. If the President, for example, approves something because of the national security, or in this case because of a threat to internal peace and order of significant magnitude, then the President's decision in that instance is one that enables those who carry it out, to carry it out without violating a law. Otherwise they're in an impossible situation.

Richard Nixon once otherwise phrased his theory of criminal immunity for an illegal act of the President in these words: "... there are certain inherently government activities, which, if undertaken by the sovereign in protection of the interest of the nation's security, are lawful, but which if undertaken by private persons, are not."

SURELY, if the Nixon theory is correct, neither he, nor Mitchell, Haldeman and Ehrlichman, could be found guilty of a criminal act in conspiring to obstruct justice through the Watergate coverup.

It would be of some consolation to us, and perhaps even to Mitchell, Haldeman and Ehrlichman, if it were possible to conclude from the Supreme Court's dismissal of these appeals that it had dismissed, denied and repudiated the monstrous contention that the President and the Presidency are above the law. But of course the court has not said what it thinks of that thesis; in fact it said nothing to Mitchell, Haldeman and Ehrlichman except that it would not hear their pleas. It left their future in the hands of Judge John Sirica.

THERE CAN BE no doubt, though, that if the court were to pronounce judgment it would utterly repudiate the Nixonian notion that the "sovereign", as he rather magniloquently referred to himself, can do no wrong, and that others carrying out his orders are protected from accountability for illegal acts.