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Memorandum to Special
Prosecutor on behalf of
Richard Nixon

Memorandum to the
Special Prosecutor
on behalf of
Richard M. Nixon

This memorandum is submitted on behalf of Richard M. Nixon to bring to the attention of the Special Prosecutor facts and supporting legal authority which, we submit, warrant a decision not to seek indictment of the former President. We wish to emphasize that this memorandum focuses specifically on issues of law rather than policy. In so limiting this presentation we do not wish to imply that all other considerations are irrelevant or inappropriate. Indeed, we believe it is highly desirable and proper for the Special Prosecutor to weigh in his judgment the possible impact of such an indictment on the domestic spirit and on



international relations, as well as the more traditional policy considerations entrusted to prosecutorial discretion. ^{*/}

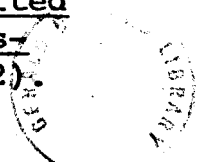
However, the purpose of this memorandum is solely to demonstrate that one -- and probably the most crucial -- legal prerequisite to indicting and prosecuting Mr. Nixon does not exist: the ability of this government to assure him a fair trial in accordance with the demands of the Due Process Clause of the Fifth Amendment and the right to trial by an impartial jury guaranteed by the Sixth Amendment.

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Such intangible but none-the-less critical factors as domestic and international relations certainly fall within the ambit of the prosecutor's discretion as expressed in the Standards Relating to The Prosecution Function and The Defense Function, ABA Project on Standards for Criminal Justice, March 1971, where it is stated that

" . . . The prosecutor may in some circumstances and for good cause consistent with the public interest decline to prosecute, notwithstanding that evidence exists which would support a conviction. ABA Standards § 3.9(b).

A decision to forego prosecution because of overriding concerns of the national interest is in keeping with similar prosecutorial decisions to forego prosecution rather than disclose confidential national security or law-enforcement information required as evidence. United States v. Andolchek, 142 F.2d 503 (2d Cir. 1944); United States v. Beekman, 155 F.2d 580 (2d Cir. 1946); Christoffel v. United States, 200 F.2d 734 (D.C. Cir. 1952).



I. The Events and Publicity Surrounding Watergate have Destroyed the Possibility of a Trial Consistent with Due Process Requirements.

Recent events have completely and irrevocably eliminated, with respect to Richard M. Nixon, the necessary premise of our system of criminal justice -- that, in the words of Justice Holmes, ". . . the conclusions to be reached in a case will be induced only by evidence and argument in open court, not by any outside influence, whether of private talk or public print." Patterson v. Colorado, 205 U.S. 454, 462 (1907). As reiterated by the Court in Turner v. Louisiana, 379 U.S. 466, 472 (1965):


"The requirement that a jury's verdict 'must be based upon the evidence developed at trial' goes to the fundamental integrity of all that is embraced in the constitutional concept of trial by jury."

Never before in the history of this country have a person's activities relating to possible criminal violations been subjected to such massive public scrutiny, analysis and debate. The events of the past two years and the media coverage they received need not be detailed here, for we are sure the Special Prosecutor is fully aware of the nature of the media exposure generated. The simple fact is that the



national debate and two-year fixation of the media on Watergate has left indelible impressions on the citizenry, so pervasive that the government can no longer assure Mr. Nixon that any indictment sworn against him will produce "a charge fairly made and fairly tried in a public tribunal free of prejudice, passion [and] excitement . . ." Chambers v. Florida, 309 U.S. 227, 236-37, (1940).

Of all the events prejudicial to Mr. Nixon's right to a fair trial, the most damaging have been the impeachment proceedings of the House Judiciary Committee. In those proceedings neither the definition of the "offense," the standard of proof, the rules of evidence, nor the nature of the fact-finding body, were compatible with our system of criminal justice. Yet the entire country witnessed the proceedings, with their all-pervasive, multi-media coverage and commentary. And all who watched were repeatedly made aware that a committee of their elected Representatives, all lawyers, had determined upon solemn reflection to render an overwhelming verdict against the President, a verdict on charges time and again emphasized as constituting "high crimes and misdemeanors" for which criminal indictments could be justified.



All of this standing alone would have caused even those most critical of Mr. Nixon to doubt his chances of subsequently receiving a trial free from preconceived judgments of guilt. But the devastating culmination of the proceedings eliminated whatever room for doubt might still have remained as the entire country viewed those among their own Representatives who had been the most avid and vociferous defenders of the President (and who had insisted on the most exacting standards of proof) publicly abandon his defense and join those who would impeach him for "high crimes and misdemeanors."

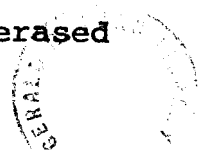
None of this is to say, or even to imply, that the impeachment inquiry was improper, in either its inception or its conduct. The point here is that the impeachment process having taken place in the manner in which it did, the conditions necessary for a fair determination of the criminal responsibility of its subject under our principles of law no longer exist, and cannot be restored.

Even though the unique televised congressional proceedings looking to the possible impeachment of a President leave us without close precedents to guide our judgments con-



cerning their impact on subsequent criminal prosecutions, one court has grappled with the issue on a much more limited scale and concluded that any subsequent trial must at minimum await the tempering of prejudice created by the media coverage of such events.

In Delaney v. United States, 199 F.2d 107 (1st Cir. 1952), a District Collector of Internal Revenue was indicted for receiving bribes. Prior to the trial a subcommittee of the House of Representatives conducted public hearings into his conduct and related matters. The hearings generated massive publicity, particularly in the Boston area, including motion picture films and sound recordings, all of which "afforded the public a preview of the prosecution's case against Delaney without, however, the safeguards that would attend a criminal trial." 199 F.2d at 110. Moreover, the publicized testimony "ranged far beyond matters relevant to the pending indictments." 199 F.2d at 110. Delaney was tried ten weeks after the close of these hearings and was convicted by a jury. The Court of Appeals reversed, holding that Delaney had been denied his Sixth Amendment right to an impartial jury by being forced to "stand trial while the damaging effect of all that hostile publicity may reasonably be thought not to have been erased from the public mind." Id. 114.



The Court of Appeals did not suggest that the hearings were themselves improper. Indeed, the court emphatically stated that ". . . [i]t was for the Committee to decide whether considerations of public interest demanded at that time a full-dress public investigation . . ." Id. 114 (emphasis added).

But the court continued,

"If the United States, through its legislative department, acting conscientiously pursuant to its conception of the public interest, chooses to hold a public hearing inevitably resulting in such damaging publicity prejudicial to a person awaiting trial on a pending indictment, then the United States must accept the consequence that the judicial department, charged with the duty of assuring the defendant a fair trial before an impartial jury, may find it necessary to postpone the trial until by lapse of time the danger of the prejudice may reasonably be thought to have been substantially removed."

The principle expounded by the court in Delaney is applicable here. Faced with allegations that the Watergate events involved actions by the President, the House of Representatives determined that not only was an impeachment inquiry required, but that the inquiry must be open to the public so that the charges and evidence in support thereof could be viewed and analyzed by the American people. We need not fault Congress in that decision. Perhaps -- in the interest of the country -- there was no other choice. But having pursued a

course purposely designed to permit the widest dissemination of and exposure to the issues and evidence involved, the government must now abide by that decision which produced the very environment which forecloses a fair trial for the subject of their inquiry.

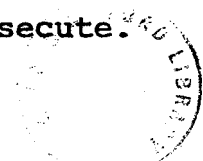
The foregoing view is not at all incompatible with the Constitution, which permits the trial of a President following impeachment -- and therefore, some might argue, condones his trial after his leaving office. Nothing in the Constitution withholds from a former President the same individual rights afforded others. Therefore, if developments in means of communication have reached a level at which their use by Congress in the course of impeachment proceedings forever taints the public's mind, then the choice must be to forego their use or forego indictment following impeachment. Here, the choice has been made.

Further demonstration of the wholly unique nature of this matter appears in the public discussion of a pardon for the former President -- which discussion adds to the atmosphere in which a trial consistent with due process is impossible.



Since the resignation of Mr. Nixon, the news media has been filled with commentary and debate on the issue of whether the former President should be pardoned if charged with offenses relating to Watergate. As with nearly every other controversial topic arising from the Watergate events, the media has sought out the opinions of both public officials and private citizens, even conducting public opinion polls on the question. A recurring theme expressed by many has been that Mr. Nixon has suffered enough and should not be subjected to further punishment, certainly not imprisonment.

Without regard to the merits of that view, the fact that there exists a public sentiment in favor of pardoning the former President in itself prejudices the possibility of Mr. Nixon's receiving a fair trial. Despite the most fervent disclaimers, any juror who is aware of the general public's disposition will undoubtedly be influenced in his judgment, thinking that it is highly probable that a vote of guilty will not result in Mr. Nixon's imprisonment. Indeed, the impact of the public debate on this issue will undoubtedly fall not only on the jury but also on the grand jury and the Special Prosecutor, lifting some of the constraints which might otherwise have militated in favor of a decision not to prosecute. Human nature could not be otherwise.

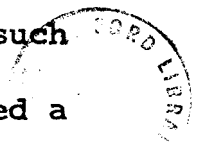


We raise this point not to suggest that the decision of whether to prosecute in this case cannot be reached fairly, but rather to emphasize that this matter -- like none other before it and probably after it -- has been so thoroughly subjected to extraneous and highly unusual forces that any prosecution of Mr. Nixon could not fairly withstand detached evaluation as complying with due process.

II. The Nationwide Public
Exposure to Watergate
Precludes the Impaneling
of an Impartial Jury

The Sixth Amendment guarantees a defendant trial by jury, a guarantee that has consistently been held to mean that each juror impaneled -- in the often quoted language of Lord Coke -- will be "indifferent as he stands unsworn." Co. Litt. 155b. See Irvin v. Dowd, 366 U.S. 717 (1961); Turner v. Louisiana, 379 U.S. 472 (1965). The very nature of the Watergate events and the massive public discussion of Mr. Nixon's relationship to them have made it impossible to find any array of jurymen who can meet the Sixth Amendment standard.

On numerous occasions the Supreme Court has held that the nature of the publicity surrounding a case was such that jurors exposed to it could not possibly have rendered a



verdict based on the evidence. See Sheppard v. Maxwell, 384 U.S. 333 (1966); Rideau v. Louisiana, 373 U.S. 723 (1963); Irvin v. Dowd, supra; Marshall v. United States, 360 U.S. 310 (1959). The most memorable of these was Sheppard v. Maxwell, in which the Court, describing the publicity in the Cleveland metropolitan area, referred time and again to media techniques employed there -- which in the Watergate case have been utilized on a nationwide scale and for a much longer period of time. The following excerpts from the Court's opinion are exemplary:

"Throughout this period the newspapers emphasized evidence that tended to incriminate Sheppard and pointed out discrepancies in his statements to authorities."
p. 340.

* * *

"On the sidewalk and steps in front of the courthouse, television and newsreel cameras were occasionally used to take motion pictures of the participants in the trial, including the jury and the judge. Indeed, one television broadcast carried a staged interview of the judge as he entered the courthouse. In the corridors outside the courtroom there was a host of photographers and television personnel with flash cameras, portable lights and motion picture cameras. This group photographed the prospective jurors during selection of the jury. After the trial opened, the witnesses, counsel, and jurors were photographed and televised whenever they entered or left the courtroom."
pp. 343-44.



* * *

"The daily record of the proceedings was made available to the newspapers and the testimony of each witness was printed verbatim in the local editions, along with objections of counsel, and rulings by the judge. Pictures of Sheppard, the judge, counsel, pertinent witnesses, and the jury often accompanied the daily newspaper and television accounts. At times the newspapers published photographs of exhibits introduced at the trial, and the rooms of Sheppard's house were featured along with relevant testimony." pp. 344-45.

* * *

"On the second day of voir dire examination a debate was staged and broadcast live over WHK radio. The participants, newspaper reporters, accused Sheppard's counsel of throwing roadblocks in the way of the prosecution and asserted that Sheppard conceded his guilt by hiring a prominent criminal lawyer." p. 346.*

The Sheppard murder was sensational news and the media reacted accordingly. In the course they destroyed the state's ability to afford Sheppard a fair trial.

The sensation of Watergate is a hundredfold that of the Sheppard murder. But the media techniques remain the

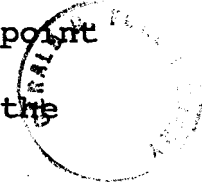
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The prejudicial publicity in Sheppard commenced well before trial, even before charges were brought, and continued throughout the duration of the prosecution. Although Mr. Nixon has not been criminally tried, the press coverage of the impeachment proceedings and Watergate related criminal trials reflect obvious similarities to the Sheppard coverage.

same and the destruction of an environment for a trial consistent with due process has been nationwide. The Supreme Court should not -- upon an appeal by Mr. Nixon -- have to recount for history the unending litany of prejudicial publicity which served to deprive the President of the rights afforded others.

The bar against prosecution raised by the publicity in this case defies remedy by the now common techniques of delaying indictment or trial, changing venue, or scrupulously screening prospective jurors. Although the court in Delaney, supra, could not envision a case in which the prejudice from publicity would be "so permanent and irradicable" that as a matter of law there could be no trial within the foreseeable future, 199 F.2d, at 112, it also could not have envisioned the national Watergate saturation of the past two years.

Unlike others accused of involvement in the Watergate events, Mr. Nixon has been the subject of unending public efforts "to make the case" against him. The question of Mr. Nixon's responsibility for the events has been the central political issue of the era. As each piece of new evidence became public it invariably was analyzed from the viewpoint of whether it brought the Watergate events closer to "the

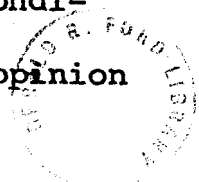


Oval Office" or as to "what the President knew and when he knew it." The focus on others was at most indirect.

In short, no delay in trial, no change of venue, and no screening of prospective jurors could assure that the passions aroused by Watergate, the impeachment proceedings, and the President's resignation would dissipate to the point where Mr. Nixon could receive the fair trial to which he is entitled. The reasons are clear. As the Supreme Court stated in Rideau v. Louisiana, 373 U.S. 717, 726 (1963):

For anyone who has ever watched television the conclusion cannot be avoided that this spectacle, to the tens of thousands of people who saw and heard it, in a very real sense was . . . [the] trial . . . Any subsequent court proceedings in a community so pervasively exposed to such a spectacle could be but a hollow formality.

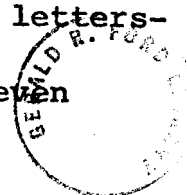
Not only has the media coverage of Watergate been pervasive and overwhelmingly adverse to Mr. Nixon, but nearly every member of Congress and political commentator has rendered a public opinion on his guilt or innocence. Indeed for nearly two years sophisticated public opinion polls have surveyed the people as to their opinion on Mr. Nixon's involvement in Watergate and whether he should be impeached. Now the polls ask whether Mr. Nixon should be indicted. Under such conditions, few Americans can have failed to have formed an opinion



as to Mr. Nixon's guilt of the charges made against him. Few, if any, could -- even under the most careful instructions from a court -- expunge such an opinion from their minds so as to serve as fair and impartial jurors. "The influence that lurks in an opinion once formed is so persistent that it unconsciously fights detachment from the mental processes of the average man." Irvin v. Dowd, 366 U.S. 717, 727 (1961). And as Justice Robert Jackson once observed, "The naive assumption that prejudicial effects can be overcome by instructions to the jury, . . . all practicing lawyers know to be unmitigated fiction." Krulewitch v. United States, 336 U.S. 440, 453 (1949) (concurring opinion). See also Delaney v. United States, 199 F.2d 107, 112-113 (1st Cir. 1952).

CONCLUSION

The media accounts of Watergate, the political columnists' debates, the daily televised proceedings of the House Judiciary Committee, the public opinion polls, the televised dramatizations of Oval Office conversations, the newspaper cartoons, the "talk-show" discussions, the letters-to-the-editor, the privately placed commercial ads, even



bumper stickers, have totally saturated the American people with Watergate. In the process the citizens of this country -- in uncalculable numbers -- from whom a jury would be drawn have formulated opinions as to the culpability of Mr. Nixon. Those opinions undoubtedly reflect both political and philosophical judgments totally divorced from the facts of Watergate. Some are assuredly reaffirmations of personal likes and dislikes. But few indeed are premised only on the facts. And absolutely none rests solely on evidence admissible at a criminal trial. Consequently, any effort to prosecute Mr. Nixon would require something no other trial has ever required -- the eradication from the conscious and subconscious of every juror the opinions formulated over a period of at least two years, during which time the juror has been subjected to a day-by-day presentation of the Watergate case as it unfolded in both the judicial and political arena.

Under the circumstances, it is inconceivable that the government could produce a jury free from actual bias. But the standard is higher than that, for the events of the past two years have created such an overwhelming likelihood



of prejudice that the absence of due process would be inherent in any trial of Mr. Nixon.^{*/} It would be forever regrettable if history were to record that this country -- in its desire to maintain the appearance of equality under law -- saw fit to deny to the former President the right of a fair trial so jealously preserved to others through the constitutional requirements of due process of law and of trial by impartial jury.

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"It is true that in most cases involving claims of due process deprivations we require a showing of identifiable prejudice to the accused. Nevertheless, at times a [procedure] employed by the State involves such a probability that prejudice will result that it is deemed inherently lacking in due process." Estes v. Texas, 381 U.S. 532, (1965).



Cabinet Meeting 8/6/74



Cabinet meeting
6 Aug '74

GENTLEMEN,

AT THE OUTSET I WOULD LIKE TO MAKE SEVERAL POINTS.

FIRST, EVERYONE HERE RECOGNIZES THE DIFFICULT POSITION
I AM IN, I AM A PARTY IN INTEREST.

SECOND, NO ONE REGRETS MORE THAN I DO THIS WHOLE
TRAGIC EPISODE. I HAVE DEEP PERSONAL SYMPATHY FOR YOU
MR. PRESIDENT, AND YOUR FINE FAMILY.

THIRD, I WISH TO EMPHASIZE THAT HAD I KNOWN AND HAD
IT BEEN DISCLOSED TO ME WHAT HAS BEEN DISCLOSED IN REFERENCE
TO THE WATERGATE AFFAIR IN THE LAST TWENTY-FOUR HOURS, I
WOULD NOT HAVE MADE A NUMBER OF THE STATEMENTS THAT I HAVE
MADE, EITHER AS MINORITY LEADER OR AS VICE PRESIDENT OF
THE UNITED STATES.

FOURTH, I DO NOT EXPECT TO MAKE ANY RECOMMENDATION
TODAY TO THE PRESIDENT AS TO WHAT HE SHOULD DO AND NEITHER
DO I EXPECT TO MAKE ANY SUCH RECOMMENDATION TO ANY OF THE
OTHERS AT THIS MEETING.

(MORE)



FIFTH, WHETHER THE FULL DISCLOSURES WILL MEET THE
CONSTITUTIONAL DEFINITION OF AN IMPEACHABLE OFFENSE IS A
MATTER THAT CAN ONLY BE FINALLY RESOLVED BY THE UNITED STATES
SENATE IN A PROCEEDING AS PROVIDED FOR IN THE CONSTITUTION.

FINALLY, LET ME ASSURE YOU THAT I EXPECT TO CONTINUE
TO SUPPORT FULLY THE ADMINISTRATION'S FOREIGN POLICY AND
FIGHT AGAINST INFLATION.



VP Press Conference
8/3/74 (Hattiesburg)



VICE PRESIDENT FORD'S PRESS CONFERENCE, AUGUST 3, 1974
HATTIESBURG, MISSISSIPPI

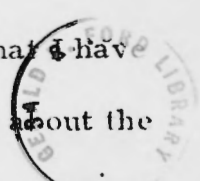
Vice President:people here and I welcome the old folks back again. Thank you; it's an opportunity that I look forward to to answer any questions. Yes.

Ques: Mr. Vice President. This morning in the local news here, there was a comment about the resolution introduced by Republican Paul Finley calling for a censure measure rather than impeachment. Have you ever seen anything like this happenthan go through the long ordeal of the impeachment process for the nation?

Vice President: If I had my druthers, I would rather have the House of Representatives vote as I think the facts justify which is acquittal. But if you have no alternative, except a vote for impeachment or censure, certainly I would prefer the censure.

Ques: Mr. Vice President. In the past weeks there have been numerous editorials and news stories suggesting very politely that it's time for you to shut up. You have now been to three cities here in Mississippi today. On all of the occasions you did not talk about the President's impeachment problems. Have you decided to heed this advice and retire to the sidelines?

Vice President: Well, as you have noticed, I'm sure, on each of the three places I spoke in Mississippi: Golden Triangle, Jackson and here in Hattiesburg and Laurel I have spoken out very strongly on behalf of the President as the architect of peace and that he has achieved something that no other President has accomplished. In the limited time that I have in these engagements, I think that it is vitally important to speak about the



affirmative things which I have done. I don't want anybody to get the wrong impression. My views are just as strong today as they were two days ago. I believe the President is innocent of any impeachable offense and I haven't changed my mind.

Ques: Are you going to continue saying this or are you going to retire to the sidelines at their suggestion?

Vice President: Well, I am going to do as I have done here in Mississippi - to come and talk with people or listen to people. If I'm asked as you have asked me, I will answer the questions on this occasion as I have in the past that I think the President is innocent but in the limited time (and I think they gave me five minutes or maybe six minutes) I had to decide what was the more important thing to say. But, I don't want any impression created that I have changed my mind about the President's innocence.

Ques: Mr. Vice President. In May of this year you stated that you thought the vote of the House would be about fifty-fifty for or against impeachment. How do you feel about it today?

Vice President: I think the situation in the House has eroded considerably. The odds are significantly changed.

Ques: Mr. Vice President. In spite of the strategy of our own Congressmen, the Southern strategy has definitely been drastically damaged by Watergate. A good example is the pro-impeachment vote of Representative Walter Flowers of Alabama. If the President is convicted in the Senate, do you feel that you can regain this loss to Southern support and if so, how will you do it?

Vice President: I've always had a great many friends in the south and the



House, both democratic as well as republican. During the period that I served in the House, we went from no republicans in the ten or eleven states to, I think, 33 or 34 at the present time. I like to believe that maybe I helped in this process. I can assure you that I'm going to maximize my efforts as I think I've done today to work to elect and reelect republican members of the House. I think it's important, I think it's vital, that we have some balance in every state between democrats and republicans in the Congress. I think it's good; I think it's healthy for America.

Ques: You stated that you think the President had eroded, had lost his strength, as I understood it, in the House.

Vice President: That's right.

Ques: Do you now think he will be impeached?

Vice President: I suspect that the odds are such, unless there's some change, then he may be.

Ques: You had a meeting the other day with General Haig. Afterwards your Press Secretary, Mr. Miltich said that you had discussed impeachment and so forth and he also said that you had been doing a lot of thinking with regard to your position on impeachment and when the proper time comes you're going to make your views known. Has the proper time come?

Vice President: I have met with Al Haig. I don't think this is unusual because I meet with him, I would say, at least twice a week every week. We did on this occasion, as we have in the past, met to discuss our impressions on what the situation was in the House, what could be done if anything to convince the members of the House that the President was innocent as both of us feel. Now, I don't think that what you reported one of my staff members said was

accurate as to my feelings. I never told a staff member on my part that I was changing my position as to the innocence or guilt of the President. I still believe the President is innocent of any impeachable offense and anybody on my staff who thinks I've changed is wrong. Now, perhaps there comes a time when it is advisable under the circumstances for me to say I have this viewpoint; I'm not going to say any more but don't come to the conclusion, by my lack of speaking, that I have backed off. I have not.

Ques: You have come to that time where

Vice President: No, I don't think I've come to that time.

Ques: When was the last time you saw the President?

Vice President: About ten days ago.

Ques: In San Clemente?

Vice President: Yes.

Ques: Governor Wallace said he couldn't be here because he had a prior engagement that could have been broken if this had been an official visit rather than a political visit. What do you feel about this?

Vice President: I would never under any circumstances criticize any local public official or state public official. I understand very well the problem of commitments, speaking commitments, or other commitments that somebody in public life has and let me assure you and the Governor that I would be delighted to see him either in Washington or when I come back. I just understand the practical problems that he has.

Ques: In the event that you are elevated to the Presidency through impeachment processes, what are your plans for the Cabinet?

Ans: Well, I think it's inappropriate for me to talk about those specifics.

Ques: Now that your political struggle was recently used to describe the impeachment proceedings against President Nixon, with the President being the underdog, do you believe that this is adequate description of what is happening in Washington at the present.

Vice President: I think the President is being attacked in a partisan way by a segment of the members of the Congress. I've said it before and I reiterate it here. The eight members on the committee on judiciary that voted against me had no moral or ethical or other reasons for voting against me except that they didn't agree with my political philosophy. The thirty-five in the House who voted against me had the same reasons. They had no other reason. They're sort of the hard core of this element, and I think it' partisan.

Ques: You stated that this trip would be both a political visit to Mississippi and recreational. Do you plan to take off some time after your visit to our State?

Vice President: Well, I'm going on from here to New Orleans. I'm going to make a speech there this evening and I hope to play, maybe, some golf tomorrow.

Ques: Monday, House Minority Leader John Rhodes.....
.....he was going to hold a press conference presumably to offer his thoughts on the impeachment question. Do you view this, if he does go for impeachment, as a serious setback to the White House strategy?

Vice President: Since I don't know what John Rhodes is going to say, I don't think I should speculate. What he says are his words and I don't think I should forecast or speculate as to the impact of them so with that observation, I think I'll wait to hear what John says.

Ques: Today in your address you noted the efforts of the President in Foreign relations. Do you feel that the impeachment proceedings have somewhat affected our foreign relations?

Vice President: I don't think the impeachment proceedings thus far have had an adverse impact on the conduct of our foreign affairs. After all we have been extremely successful. The President ended a war, brought back our POWs got involved in and successfully ended the war in the Middle East. I can't see any evidence of any adverse impact so far. But, it is conceivable and it is possible that the prolongation of this process could have an adverse impact on our problems both overseas as well as at home. I hope not but it is conceivable.

Ques: Why is it that when supporters of the President go around talking, are seen on television,they always totally skirt the domestic side. We know the President's forte is foreign policy, what is going on here? The President came to Jackson tomeasure upeconomy in the secondand everybody who

Vice President: Let me ask this question. I understand that unemployment in the state of Mississippi is the lowest of almost any state and that you're very proud of it. I understand that you're moving into an industrial development here in Mississippi; that you're very proud of it. Are you saying that Mississippi is unhappy?

Answer: No, I'm not saying that Mississippi is unhappy. I'm not saying that the Federal Government deserves credit for that either.



Vice President: Well, I happen to believe from what I hear that Mississippi is just going like mad and I'm proud of them.

Answer: Inaudible.

Vice President: I would rather have, and I think the country would rather have, jobs rather than a Federal program. I think it's far better for a person to work for either the local Government or private enterprise than for some program. There's nothing sacrosanct about a Federal program. The quicker we get rid of them all the better off we'll be. And, the point I try to make is I want people who used to work for Federal programs to have a job in private enterprise and that's what we need and that's what I understand you're doing in Mississippi.

Ques: Inaudible.

Answer: Well, my words today are the same as they were from October 12th. I have no intention of being a candidate for any political office in 1976 and I can't look down the road that far. I'll just repeat what I've said in the past.

Ques: Thank you Mr. Vice President.

Vice President: Thank you very much. See you all later.



VP Press Conference
8/3/74 (New Orleans)



Ques: Inaudible.

Vice President: I'll simply repeat what I've said. I think the situation has eroded and the possibility is that the vote will be unfavorable to the President.

Ques: Inaudible.

Vice President: In none of the meetings was there any discussion of the resignation of the President. I did meet with Mr. Simons, Secretary of the Treasury, because the day after he got back from his trip to the Middle East he called and wanted to fully brief me on what he observed and what his views were on the oil problem and related matters. Because of the jammed up schedule I didn't have a chance to see Mr. Ash. We scheduled him, I think, either Monday or Tuesday. I met with Bill Timmons and the others on the legislative programs. Unfortunately, Bill could not be there but the other were so the meetings other than the one with Al Haig were the routine meetings that I have with the President's legislative representatives, cabinet officers, who whenever they think they have a message to give me, they call and we get together. Yes.

Ques: Inaudible.

Vice President: I think the strategy is what it has always been; that the facts should get out, be debated and on the basis of the facts the President and his advisors feel that he is not guilty of an impeachable offense. I think it's a straightforward strategy now as it has been in the past.

Ques: Inaudible.

Vice President: My trips out were planned some months ago and just happened to coincide with the President's situation in the House



Representatives. There was no coordination between this trip and the current situation in the House of Representatives.

Ques: Inaudible.

Vice President: Well, the full discussion of the evidence before the committee, the full discussion of any and all evidence that's available and to get through Chuck Wiggins, Dave Dennis, Charlie Sandman (sp) and others of the debate on the President's point of view.

Ques: Inaudible.

Vice President: No, there was no discussion of my travels. The White House gets a copy of my travel schedule. They know where I'm going and there was no discussion of any change in that regard. There was no discussion of any change in my role in the program to try and get the best foot forward as far as the President's concerned.

Ques: Inaudible.

Vice President: Well, we're a long way from any final action in the Congress on matters now or to be presently before the House. I can only repeat under these circumstances my oft-said statement that I have no intention of running for any political office in 1976. Yes.

Ques: Inaudible.

Vice President: Number 1, Mr. Treen had nothing to do whatsoever with Watergate. So, what's happened as far as individuals are concerned, Mr. Treen has no connection whatsoever with Watergate. Mr. Treen can run on his fine service to his constituents. He can be a candidate in support of what I think are the sound policies of the Nixon Administration in achieving peace, maintaining it and building for peace in the future and

Mr. Treen stands for the policies which I think are sound for peace and a solid economy and if he continues the fine service to his constituents personal interest in their problems, I think Mr. Treen has a good record

Ques: Inaudible.

Vice President: I don't understand.

Ques: (Inaudible)

Vice President: Well, I think that Mr. Treen running^{on}/his own of a record of fine service with no connection whatsoever with people involved in Watergate, I'm delighted to be here to speak up on his behalf. Well, I don't think the American people are going to blame every republican just because of the misdeeds of a few. Just for example, there are some members of Congress on the democratic side who in one way or another, appear to be involved in some illegal, unethical (whichever you want to call it) campaign funding. I don't blame every democrat just because some seem to have made a mistake. I don't think the American people will either. Yes.

Ques: Inaudible.

Vice President: Well, I meet rather frequently with General Haig. We have a number of matters, a number of things, that we frequently discuss: legislation, the situation as far as Watergate is concerned. It was not an extraordinary meeting, if that's what you want me to say. It was an ordinary meeting of the kind that we frequently have and has no extraordinary implications.

Ques: Inaudible.

Vice President: I'm not going to speculate on that. That's too far down the road.

Ques: Inaudible.

Vice President: Well, I got a telephone call from Senator Bob Griffin concerning a local Michigan matter. Yes.

Ques: Inaudible.

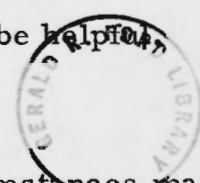
Vice President: Well, I think it would be a tragedy because of the fine job that Dave Treen's done. Mr. Treen ran in a district that has been held by a democrat for almost a century or more. He won by, as I recall, 54- or 55 per cent. That's not what you would call a big margin, but having won and having done a good job, I'm not going to speculate on whether it's backlash. I just think it would be a tragedy because he's been on one of the most important committees, the Committee on Armed Services, that has a great connection with this area and having done a good job I just think it would be most unfortunate.

Ques: Inaudible.

Vice President: It is because of the fine quality of Dave Treen and the fact that he was elected in 1972 as the only republican in this area. I think Dave Treen is an extraordinarily able member of the Congress and I'm delighted to come down here to participate in any way I can to be helpful.

Ques: Inaudible.

Vice President: I can't say for sure on that because the circumstances may vary but today, because of the limited time in the three areas where I spoke there were other things that I thought were more important. I haven't made a decision on the particular question that you asked.



Ques: Inaudible.

Vice President: I have read most if not all of it and on the basis of what I have read and what I have heard, I've come to the conclusion as I've said many times that I think the President is innocent of an impeachable offense.

Ques: Inaudible.

Vice President: Let me say those transcripts don't confer sainthood on anybody and I don't like some of the things that were done and some of the things that happened but that's quite different from an impeachable offense. I don't like some of the things that were done under previous democratic as well as republican presidential administrations, but despite my disapproval of those things, that doesn't mean that that president should have been impeached. There's a very severe and serious difference between what I don't like as to an administration whether it's Johnson or Truman or Eisenhower or Kennedy. There's some things I didn't like. And I don't like some things that happened as reflected in the tapes, but that's quite different. Seriously different from an impeachable offense.

Ques: Inaudible.

Vice President: My view is that censure is less serious. Therefore, if the alternative was presented and if I were in the House I would favor it, but I can't tell you how it's going to turn out because it's something that I have no part of not being in the House.

Qu s: Inaudible.

Vice President: Well, I think some of the comments that have been made in the committees, some of the news media observations, some of the public



expression. I think that the President has been well informed that some of the things that took place, some of the comments in the transcripts, were not to the public's liking I think the message has.....(could be "has gotten there").

Ques: Inaudible.

Vice President: You mean the 64 that are being..... Well, I have read or heard or heard about all the evidence that went to the committee. I have not heard of the 64 that are in the process of being delivered to Judge Sirica.

Ques: Inaudible.

Vice President: If that was the alternative to impeachment, yes. But I (unfinished)

Ques: Inaudible.

Vice President: No, I would prefer that over the other because I think that does reflect some of the things that the public don't approve of the way the office was run.

Ques: Inaudible.

Vice President: Well, you so surprised me by the fact that we are getting off a one-track mind here that I'm hardly prepared.....thank you very much.....



STATEMENT BY VICE PRESIDENT GERALD R. FORD

OFFICE OF THE VICE PRESIDENT

WASHINGTON, D.C.

FOR IMMEDIATE RELEASE
Monday, August 5, 1974

CONTACT:
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I have not listened to the tapes nor have I read the transcripts of the President's conversations with Mr. Haldeman. Without knowing what was said and the context of it my comment would serve no useful purpose and I shall have none.

Indeed, I have come to the conclusion that the public interest is no longer served by repetition of my previously expressed belief that on the basis of all the evidence known to me and to the American people the President is not guilty of an impeachable offense under the Constitutional definition of "treason, bribery or other high crimes and misdemeanors." Inasmuch as additional evidence is about to be forthcoming from the President, which he says may be damaging, I intend to respectfully decline to discuss impeachment matters in public or in response to questions until the facts are more fully available.

The whole truth should be the objective of the trial before the Senate. Under the Constitution the Vice President is relieved of his role as Presiding Officer of the Senate when it sits to try a President on impeachment charges. The wisdom of this provision is obvious, for the Vice President regardless of his personal feelings is a party of interest as the Constitutional successor if a President is removed from office. Since President Andrew Johnson was himself Vice President who succeeded to the Presidency upon the death of



Abraham Lincoln, and no provision then existed for filling a vacancy in the Vice Presidency, there are no precedents to guide me except my own common sense and my conscience. Both tell me to let my widely known views on the impeachment issue stand until I have reason to change them and to refuse further comment at this time.

There is another compelling reason for my decision. When I was nominated by the President to be Vice President ten months ago, I promised the Congress that confirmed me that I would do my very best to be a calm communicator and ready conciliator between the Executive and Legislative branches of our Federal government. I have done so. But in the impeachment process the President and the Congress are now in an adversary relationship which as deeply divides the legislators as it does the people they represent.

There are many urgent matters on America's agenda in which I hope to continue to serve this great country as a communicator and conciliator. The business of government must go on and the genuine needs of the people must be served. I believe I can make a better contribution to this end by not involving myself daily in the impeachment debate, in which I have no Constitutional role.

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AUGUST 5, 1974

Office of the White House Press Secretary
-----THE WHITE HOUSE

STATEMENT BY THE PRESIDENT

I have today instructed my attorneys to make available to the House Judiciary Committee, and I am making public, the transcripts of three conversations with H. R. Haldeman on June 23, 1972. I have also turned over the tapes of these conversations to Judge Sirica, as part of the process of my compliance with the Supreme Court ruling.

On April 29, in announcing my decision to make public the original set of White House transcripts, I stated that "as far as what the President personally knew and did with regard to Watergate and the cover-up is concerned, these materials -- together with those already made available -- will tell it all."

Shortly after that, in May, I made a preliminary review of some of the 64 taped conversations subpoenaed by the Special Prosecutor.

Among the conversations I listened to at that time were two of those of June 23. Although I recognized that these presented potential problems, I did not inform my staff or my Counsel of it, or those arguing my case, nor did I amend my submission to the Judiciary Committee in order to include and reflect it. At the time, I did not realize the extent of the implications which these conversations might now appear to have. As a result, those arguing my case, as well as those passing judgment on the case, did so with information that was incomplete and in some respects erroneous. This was a serious act of omission for which I take full responsibility and which I deeply regret.

Since the Supreme Court's decision twelve days ago, I have ordered my Counsel to analyze the 64 tapes, and I have listened to a number of them myself. This process has made it clear that portions of the tapes of these June 23 conversations are at variance with certain of my previous statements. Therefore, I have ordered the transcripts made available immediately to the Judiciary Committee so that they can be reflected in the Committee's report, and included in the record to be considered by the House and Senate.

In a formal written statement on May 22 of last year, I said that shortly after the Watergate break-in I became concerned about the possibility that the FBI investigation might lead to the exposure either of unrelated covert activities of the CIA, or of sensitive national security matters that the so-called "plumbers" unit at the White House had been working on, because of the CIA and plumbers connections of some of those involved. I said that I therefore gave instructions that the FBI should be alerted to coordinate with the CIA, and to ensure that the investigation not expose these sensitive national security matters.

That statement was based on my recollection at the time -- some eleven months later -- plus documentary materials and relevant public testimony of those involved.

MORE

(OVER)



The June 23 tapes clearly show, however, that at the time I gave those instructions I also discussed the political aspects of the situation, and that I was aware of the advantages this course of action would have with respect to limiting possible public exposure of involvement by persons connected with the re-election committee.

My review of the additional tapes has, so far, shown no other major inconsistencies with what I have previously submitted. While I have no way at this stage of being certain that there will not be others, I have no reason to believe that there will be. In any case, the tapes in their entirety are now in the process of being furnished to Judge Sirica. He has begun what may be a rather lengthy process of reviewing the tapes, passing on specific claims of executive privilege on portions of them, and forwarding to the Special Prosecutor those tapes or those portions that are relevant to the Watergate investigation.

It is highly unlikely that this review will be completed in time for the House debate. It appears at this stage, however, that a House vote of impeachment is, as a practical matter, virtually a foregone conclusion, and that the issue will therefore go to trial in the Senate. In order to ensure that no other significant relevant materials are withheld, I shall voluntarily furnish to the Senate everything from these tapes that Judge Sirica rules should go to the Special Prosecutor.

I recognize that this additional material I am now furnishing may further damage my case, especially because attention will be drawn separately to it rather than to the evidence in its entirety. In considering its implications, therefore, I urge that two points be borne in mind.

The first of these points is to remember what actually happened as a result of the instructions I gave on June 23. Acting Director Gray of the FBI did coordinate with Director Helms and Deputy Director Walters of the CIA. The CIA did undertake an extensive check to see whether any of its covert activities would be compromised by a full FBI investigation of Watergate. Deputy Director Walters then reported back to Mr. Gray that they would not be compromised. On July 6, when I called Mr. Gray, and when he expressed concern about improper attempts to limit his investigation, as the record shows, I told him to press ahead vigorously with his investigation -- which he did.

The second point I would urge is that the evidence be looked at in its entirety, and the events be looked at in perspective. Whatever mistakes I made in the handling of Watergate, the basic truth remains that when all the facts were brought to my attention I insisted on a full investigation and prosecution of those guilty. I am firmly convinced that the record, in its entirety, does not justify the extreme step of impeachment and removal of a President. I trust that as the Constitutional process goes forward, this perspective will prevail.

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