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San Clemente, California

STATEMENT BY FORMER PRESIDENT RICHARD NIXON

SEPTEMBER 8, 1974

I have been informed that President Ford has granted me a full and absolute pardon for any charges which might be brought against me for actions taken during the time I was President of the United States. In accepting this pardon, I hope that his compassionate act will contribute to lifting the burden of Watergate from our country.

Here in California, my perspective on Watergate is quite different than it was while I was embattled in the midst of the controversy, and while I was still subject to the unrelenting daily demands of the Presidency itself.

Looking back on what is still in my mind a complex and confusing maze of events, decisions, pressures, and personalities, one thing I can see clearly now is that I was wrong in not acting more decisively and more forthrightly in dealing with Watergate, particularly when it reached the stage of judicial proceedings and grew from a political scandal into a national tragedy.

No words can describe the depth of my regret and pain at the anguish my mistakes over Watergate have caused the Nation and the Presidency --- a Nation I so deeply love, and an institution I so greatly respect.

I know that many fair-minded people believe that my motivations and actions in the Watergate affair were intentionally self-serving and illegal. I now understand how my own mistakes and misjudgments have contributed to that belief and seemed to support it. This burden is the heaviest one of all to bear.

That the way I tried to deal with Watergate was the wrong way is a burden I shall bear for every day of the life that is left to me.

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WATERGATE SPECIAL PROSECUTION FORCE
United States Department of Justice
1425 K Street, N.W.
Washington, D.C. 20005

October 12, 1974

Honorable William B. Saxbe
The Attorney General
U. S. Department of Justice
Washington, D. C.

Dear Mr. Saxbe:

Along with my letter of resignation, I beg to hand you herewith a copy of our latest interim report which reflects the principal activities of the Special Prosecutor's office to date.

Two of the results achieved relate to the mandate directed to this office to investigate allegations involving the President. Both are without precedent.

One is the extensive grand jury report on the involvement of Richard M. Nixon in Watergate cover-up activities, prepared for the grand jury by this office and sent to the House Judiciary Committee last March, after successful litigation through the trial and appellate courts. While the grand jury report, which presented the chain of evidence in detail, has not been published, I am informed that it served as a major guide for the staff and members of the Committee in the development of the presentation leading to the Articles of Impeachment.

The second involved the successful litigation of a trial subpoena for tape recorded evidence in the hands of the President of the United States. The Supreme Court's unanimous decision supporting the subpoena of the Special Prosecutor compelled the former President to release, among others, the tape recording of June 23, 1973, which served as a forerunner to his resignation.

Although not appropriate for comment until after the sequestering of the jury in United States v. Mitchell, et al., in view of suggestions that an indictment be returned against former President Richard M. Nixon questioning the validity of the pardon granted him, I think it proper that I express to you my views on this subject to dispel any thought that there may be some relation between my resignation and that issue.

As you realize, one of my responsibilities, not only as an officer of the court, but as a prosecutor as well, is not to take a position in which I lack faith or which my judgment dictates is not supported by probable cause. The provision in the Constitution investing the President with the right to grant pardons, and the recognition by the United States Supreme Court that a pardon may be granted prior to the filing of charges are so clear, in my opinion, as not to admit of doubt. Philip Lacovara, then Counsel to the Special Prosecutor, by written memorandum on file in this office, came to the same conclusion, pointing out that:

"...the pardon power can be exercised at any time after a federal crime has been committed and it is not necessary that there be any criminal proceedings pending. In fact, the pardon power has been used frequently to relieve federal offenders of criminal liability and other penalties and disabilities attaching to their offenses even where no criminal proceedings against the individual are contemplated."

I have also concluded, after thorough study, that there is nothing in the charter and guidelines appertaining to the office of the Special Prosecutor that impairs or curtails the President's free exercise of the constitutional right of pardon.

I was co-architect along with Acting Attorney General Robert Bork, of the provisions some theorists now point to as inhibiting the constitutional pardoning power of the President. The additional safeguards of independence on which I insisted and which Mr. Bork, on former President Nixon's authority, was willing to grant were solely for purposes of limiting the grounds on which my discharge could be based and not for the purpose of enlarging on the jurisdiction of the Special Prosecutor.

Hearings held by the Senate Judiciary Committee subsequent to my appointment make it clear that my jurisdiction as Special Prosecutor was to be no different from that possessed by my predecessor.

There was considerable concern expressed by some Senators that Acting Attorney General Bork, by supplemental order, inadvertently had limited the jurisdiction that previously existed. The hearings fully developed the concept that the thrust of the new provisions giving me the aid of the Congressional "consensus" committee were to insulate me from groundless efforts to terminate my employment or to limit the jurisdiction that existed. It was made clear, however, that there was no "redefining" of the jurisdiction of the Special Prosecutor as it existed from the beginning. There emerged from these hearings the definite understanding that in no sense were the additional provisions inserted in the Special Prosecutor's Charter for the purpose of either enlarging or diminishing his jurisdiction. I did stress, as I argued in the Supreme Court in U. S. v. Nixon, that I was given the verbal assurance that I could bring suit against the President to enforce subpoena rights, a point upheld by the Court. This, of course, has no bearing on the pardoning power.

I cannot escape the conclusion, therefore, that additional provisions to the Charter do not subordinate the constitutional pardoning power to the Special Prosecutor's jurisdictional rights. For me now to contend otherwise would not only be contrary to the interpretation agreed upon in Congressional hearings -- it also would be, on my part, intellectually dishonest.

Thus, in the light of these conclusions, for me to procure an indictment of Richard M. Nixon for the sole purpose of generating a purported court test on the legality of the pardon, would constitute a spurious proceeding in which I had no faith; in fact, it would be tantamount to unprofessional conduct and violative of my responsibility as prosecutor and officer of the court.

Perhaps one of the more important functions yet to be discharged relates to our final report. It is contemplated that this report will be as all-encompassing as the authority granted this office permits, consistent with the prosecutorial function as delineated by the American Bar Association Standards for Criminal Justice. While this report will be cast in final form subsequent to my term as Special Prosecutor, I will be available to the authors for such contributions and consultations as they deem advantageous.

You are aware, of course, of the position this office has taken regarding access to former President Nixon's White House materials for all remaining investigations and prosecutions. Legislation now pending, if enacted, will solve the problem. If not enacted, I shall continue to be available, to whatever extent my successor desires, for counseling on reaching a solution to this problem so that all relevant materials will be forthcoming.

My Deputy, Henry Ruth, and most of the other members of the staff have worked together since the creation of the office. Mr. Ruth has a familiarity with all matters still under investigation as well as those still to be tried. He has been in charge of all "milk fund" matters, in view of my recusal. I trust that you will not mind my offering the suggestion that he be given consideration to serve as my successor, thus permitting the unfinished matters to continue without interruption.

Sincerely,



LEON JAWORSKI
Special Prosecutor

TIME MAGAZINE

September 30, 1974

THE PRESIDENCY/HUGH SIDNEY

A Loyalist's Departure

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*The Pardon of Nixon
Was Timely, Legal,
Jaworski Believes*

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He Says Nixon's Acceptance
Clearly Shows His Guilt
And More Evidence Is Due

By KAREN J. ELLIOTT



THE WHITE HOUSE
WASHINGTON

October 14, 1974

MEMORANDUM FOR: PHIL BUCHEN
FROM: KEN LAZARUS ✓
SUBJECT: House Judiciary Subcommittee Hearing
On Pardon: Anticipated Questions For
The President.

Set forth below are a number of questions which I anticipate may be raised at the hearing on Thursday and some rather cryptic notes which may be of assistance to you in this regard. Hopefully, the President will have the opportunity to consider these and all other questions which may be anticipated prior to his appearance.

I. QUESTIONS OF LAW

A. Basis of the Pardon Power

1. What is the Constitutional basis of the President's pardoning power?

Article II, section 2, cl. 1: ". . . and he shall have Power to Grant Reprieves and Pardons for Offenses against the United States, except in Cases of Impeachment."

2. Who has the power to pardon and is the exercise of that power exclusive?

a. Only the President may exercise the power to pardon.

- (1) Ex Parte Wells, 59 U.S. (18 How.) 307 (1855): at p. 309 "Under this power, the President has granted reprieves and pardons since the commencement of the present government . . . No statute has ever been passed regulating it in cases of conviction by the civil authorities. In such cases, the President has acted exclusively under the power as it is expressed in the constitution."

- (2) Ex Parte Garland, 4 Wall. 333, 380 (1867): "This power of the President is not subject to legislative control. The benign prerogative of mercy reposed in him cannot be fettered by any legislative restrictions."
 - (3) Ex Parte Grossman, 267 U.S. 87, 120 (1924): "The Executive can reprieve or pardon all offenses . . . conditionally or absolutely, and this without modification or regulation by Congress."
 - (4) The Laura, 114 U.S. 411, 414 (1885): The President's ". . . constitutional power in these respects cannot be interrupted, abridged, or limited by any legislative enactment."
 - (5) See also, United States v. Klein, 13 Wall. 128 (1872) and Knote v. United States, 95 U.S. 149 (1877), both stating that the President has the power to grant a full pardon.
 - (6) Thompson v. Duehay, 217 Fed. 484, 487 (W.D. Wash. 1914) affd. 223 Fed. 305 (9th Cir. 1915); Bozel v. United States, 139 F.2d 153 (6th Cir. 1943); United States v. Kawkita, 108 F.Supp. 627 (S.D. Cal. 1952); United States v. Jenkins, 141 F.Supp. 499 (S.D. Ga. 1956).
 - (7) 20 Op. A.G. 668 (1893), stating that ". . . the pardoning power of the President is absolute, and is not a subject of legislative control." 41 Op. A.G. 251 (1955), stating "Nor do I believe that the parole laws and regulations can be regarded as a limitation upon the President's pardoning power vested in him by the Constitution. The books are replete with statements that Congress can neither control nor regulate the action of the President in this regard." At p. 254.
- b. May the President delegate his power to pardon to other officials or agencies within the Executive Branch?

- (1) In light of the above cases, it would appear that the power to pardon is nondelegable. To support this premise, 19 Op. A. G. 106 (1888) states that "This grant of power to pardon offenses against the United States to the President alone forbids the exercise of it by any one else . . . But it is to be presumed Congress passed law (permitting an officer to pardon after general court-martial) in subservience to and not in violation of the Constitution." Since the ability to remit punishment was limited solely to punishment and not to the offense itself, which is the essential object of a pardon, the President's pardoning power was not impinged. The Opinion went on to state, however, "But when the law has finally pronounced its judgment /and an offense has been established/, it /Congress/ could not and did not intend to grant the power to pardon the offense against the United States." At p. 108 "If the power of the officer to pardon existed at any time after the final judgment, and could be exercised after the offender had paid a large part of the penalty of the law, he might be again prosecuted, convicted, and twice punished for the same offense." At p. 109.
- (2) But see dictum in Solesbee v. Balkcom, 339 U. S. 9 (1950) which states that the "power of executive clemency has traditionally rested in governors or the President, although some of that power is often delegated to agencies such as pardon or parole boards. Seldom has this power of executive clemency been subjected to review by the courts."
- (3) I believe that 41 Op. A. G. 251 (1955) disposes of the issue that the parole statutes in any measure detract from the President's pardoning power. Viewing the dictum stated above as relating solely to the act of parole, it is clear that judicial review of the decision to parole has been denied the courts.

c. Does the Congress have any power to pardon?

- (1) From a reading of the Debates of the Constitutional Convention, it appears that the Framers of the Constitution specifically omitted the Congress from participation in the exercise of the President's pardoning power. By a vote of 1 to 8 the following clause including the Senate

in the participation of the Executive's pardoning power was omitted: " . . . power to grant reprieves . . . and pardons with consent of the Senate." (emphasis supplied) 2 M. Farrand, Records of the Federal Convention of 1787, 419 (1937).

In one of the debates, Rufus King of Massachusetts made the following observation: "It would be inconsistent with the constitutional separation . . . of powers to let the prerogative [of pardon] to be exercised by the legislature -- a legislative body is utterly unfit for the purpose. They are governed too much by the passions of the moment." 2 M. Farrand, supra, at p. 626.

(2) The power to pardon has been committed exclusively by the Constitution to the President of the United States. See Ex Parte Wells, supra; Ex Parte Garland, supra; Ex Parte Grossman, supra.

(3) In 22 Op. A. G. 36 (1898), it is stated that:

"The power thus conferred is unlimited with the exception stated (except in cases of impeachment). It extends to every offense known to the law, either before legal proceedings are taken, or during their pendency, or after conviction and judgment. This power of the President is not subject to legislative control. Congress can neither limit the effect of his pardon nor exclude from its exercise any class of offenders. The benign prerogative of mercy reposed in him cannot be fettered by any legislative restrictions."

(4) Cases of general grants of amnesty, or immunity from prosecution can be distinguished from the exercise of the pardoning power reposed exclusively in the President.

In Brown v. Walker, 161 U. S. 591 (1896), the Court held that a statute granting witnesses testifying before the Interstate Commerce Commission immunity from prosecution was virtually a grant of amnesty and therefore a witness could not be excused from testifying on the ground that he might incriminate himself. The granting of immunity to witnesses before prosecution on a quid pro quo basis seems readily distinguishable from the grace concept intrinsic in amnesty. Immunity statutes

have the limited and special purpose of obviating the constitutional privilege against self-incrimination. Brown should not be read as support for the proposition that Congress can pass a general amnesty statute which in effect is an exercise of the pardoning power. See distinction discussed in Burdick v. United States, 236 U.S. 79, 94-95 (1915).

In The Laura, 114 U.S. 411 (1885), the Supreme Court upheld the remission of a fine by the Secretary of the Treasury acting pursuant to Congressional authorization. the Court observed that the President's power to pardon offenses and remit penalties is not exclusive, the case indicates that the statutory authority accorded the Secretary of the Treasury was placed wholly within his discretion and that a remission could not have occurred without his concurrence. Under such circumstances, the degree of Congressional encroachment on the Executive's power to pardon was minimal, given the predominant role accorded Executive discretion by the statute.

- d. Does the judicial branch have the power to pardon?
 - (1) This issue has been addressed by the Supreme Court in Ex Parte United States, 242 U.S. 27 (1916). In this case, the Court held that courts possess the right to impose punishment provided by law. But this right affords no ground for the contention that ". . . the power to enforce begets inherently a discretion to permanently refuse to do so. Authority to define and fix punishment is legislative and includes the right to bring within judicial discretion in advance elements of consideration which would be otherwise beyond the scope of judicial authority; but that the right to relieve from the punishment, fixed by law, belongs to the executive department."
3. Must the recipient of an offer of pardon accept it?
- a. Yes, without acceptance, an offer of pardon lapses.
 - (1) United States v. Wilson, 32 U.S. (7 Pet.) 150 (1833) which states that a pardon is a "deed" to the validity of which delivery is essential and is not complete without acceptance.

Commit

- X (2) Burdick v. United States, 236 U.S. 79 (1915), holding that acceptance is essential to a pardon's validity.
- (3) Biddle v. Perovich, 274 U.S. 480, 486 (1927), distinguishes a commutation which needs no acceptance from a pardon which does.
- (4) 11 Op. A.G. 227 (1865) at p. 230 states that "After the pardon has been accepted, it becomes a valid act, and the person receiving it is entitled to all its benefits." See also 41 Op. A.G. 251, 254-258 (1955).
- (5) In re DePuy, 7 Fed. Cas. 507 (Cas. No. 3814, 1869); Ex Parte Perovich, 9 F.2d 124 (D. Kan. 1925).

127 (1915)

4. Does acceptance of a pardon imply an admission of guilt?

- a. Yes.
- b. 6 Op. A.G. 20 (1853) states that a pardon before trial and conviction is proper ". . . because the act of clemency and grace is applied to the crime itself, not to the mere formal proof of the crime by process of law. But there must be satisfactory evidence of some kind as to the guilt of the party. And it has been held unwise and inexpedient, as a general rule, to interpose the pardoning power in anticipation of trial and condemnation, although particular circumstances may exist to justify such an exceptional act on the part of the President. Mr. Wirt's opinion, March 30, 1820; Mr. Berrien's opinion, October 12, 1829; Mr. Taney's opinion, December 28, 1831." 6 Op. A.G. at 21.

11 Op. A.G. 227, 228 (1865) states that "There can be no pardon where there is no actual or imputed guilt. The acceptance of a pardon is a confession of guilt, or of the existence of a state of facts from which a judgment of guilt would follow."

Burdick v. United States, 236 U.S. 70 (1915) states that a pardon carries an imputation of guilt; acceptance a confession of it. But legislative immunity has no such imputation or confession, being the unobtrusive act of the law given protection against a sinister use of the witnesses'; compelled testimony.

5. May a pardon be void ab initio?

- a. Yes.

- b. 11 Op. A. G. 227 at 229 (1865) states that "A pardon procured by fraud or for a fraudulent purpose, upon the suppression of the truth or the suggestion of falsehood, is void. It is a deed of mercy given without other fee or reward than the good faith, truth and repentance of the culprit. On the other hand, as an act of grace freely given, when obtained without falsehood, fraud, and for no fraudulent use, it should be liberally construed in favor of the repentent offender."
6. May the President grant a pardon without first investigating the facts upon which the pardon operates to relieve an individual from punishment?
 - a. Yes.
 - b. 1 Op. A. G. 359 (1820) stating with respect to the suggestion that the President must either grant a new trial because of the petitioners' submission of new facts upon which to base the pardon or to accept without question the explanation of the petitioners that "I do not think that the power of pardon either requires or authorizes him to do the one or the other of these things; but that, on the contrary, to do either would be an abuse of that power." Distinguish that right to do something from the judgment whether something which one has the right to do should be done in a particular manner.

B. Form of the Pardon

1. Must a pardon have a particular form or designation?
 - a. Yes.
 - b. Ex Parte Wells, 59 U. S. (18 How.) 307, 310 (1855)

"Such a thing as a pardon without a designation of its kind is not known in the law. Time out of mind, in the earliest books of the English law, every pardon has its particular denomination. They are general, special, or particular, conditional or absolute, statutory, not necessary in some cases, and in some grantable of course."

- c. It appears that there is a difference between a full and unconditional pardon for an offense which has been specified in the preamble of the pardon statement, and a "general" pardon.

See Stetler's Case, 22 Fed. Cas. (Cas. No. 13,380, 1852) where the Court distinguished between a full and unconditional pardon, which was there involved, and a general pardon. The Court held that the pardon which was full and unconditional was valid for the offense recited in the preamble but that this was not a general pardon for other crimes.

8 Op. A. G. 281 (1857) also made specific reference to the fact that the form of the pardon was significant. As an example, the Opinion stated "a 'general' pardon restores the competency of a party as a witness but that effect may not follow a special remission merely of the residue of a sentence i. e., commutation."

- d. President Ford referred to Mr. Nixon's pardon as "full, free and absolute" and covering the period of his term in office.
2. Must the form of the pardon include a statement which indicates the intent of the President with respect to the offenses encompassed by the pardon?
 - a. Stetler's Case, supra, states that the "effect of the preamble /of the pardon statement/ reciting a single offense limits the general words of the grant of pardon."
 - b. Where the scope of the pardon is ambiguous, 11 Op. A. G. 227 at 229 (1865) suggests that since the pardon is essentially an act of grace, "when obtained without falsehood, fraud, and for no fraudulent use, it should be liberally construed in favor of the repentent offender."
 3. If there is any ambiguity regarding the President's intent in specifying the offenses which are the subject of the pardon, may he be required to specify his intent?
 - a. No.
 - b. So long as the offenses covered or which may be covered are in some manner treated by the terms of the pardon, i. e., "during the period from January 20, 1969 through August 9, 1974."
 - c. Somewhat bearing on this consideration is the comment in 11 Op. A. G. 227, 232-233 (1865) which suggests that it would be proper for the judiciary to determine in each

particular case the adequacy of the recipients' acceptance of the terms of a pardon. Apparently, ambiguity with respect to acceptance is a subject of judicial determination, permitting a court to review the expression of intent in a pardon as the way of gauging the adequacy of the acceptance.

C. Timing of the Pardon

1. May a pardon precede indictment and conviction?
 - a. Yes.
 - b. During the debates of the Constitutional Convention, a motion was made to insert the words "after conviction" after the words "reprieves and pardons". Mr. James Wilson of Pennsylvania objected to this proposal on the grounds that "pardon before conviction might be necessary in order to obtain the testimony of accomplices." The motion was then withdrawn. 2 M. Farrand, supra, at 422, 426.
 - c. 6 Op. A. G. 20, 21 (1853) permits the offer of a pardon before trial and conviction " . . . because the act of clemency and grace is applied to the crime itself, not to the mere formal proof of the crime by process of law. "
 - d. Ex Parte Garland, 71 U.S. (4 Wall.) 333 (1866) states that the pardoning power may be exercised at any time after its commission, either before legal proceedings are taken, or during their pendency, or after conviction and judgment.
 - e. 8 Op. A. G. 281 (1857) states "He may pardon before trial and conviction. He may pardon at any time either anterior to prosecution or pending the same or subsequent to the executions -- subject in the latter case only to the limits of legal, moral, or physical possibilities.
 - f. Stetler's Case, supra, states that "the President has constitutional authority to pardon an offense so long as any of its consequences remain. "
2. May a pardon include offenses which have neither been discovered, nor listed in the pardon statement at the time of its issuance?
 - a. Yes.

- b. If the pardon statement designates that the pardon will be general or if by its terms the pardon states that it includes "all" offenses which have been committed by the recipient, knowledge of the precise types of crimes involved is irrelevant. A pardon is essentially directed to the nullification of the legal consequences flowing from an offense. Such an effect is not dependent on knowledge or enumeration of the offenses involved. 22 Op. A.G. 36 (1898) Since the Congress cannot limit the President's power to pardon, "the inquiry arises as to the effect and operation of a pardon, and on this point all the authorities concur. A pardon reaches both punishment prescribed for the offense and the guilt of the offender; and when the pardon is full it releases punishment and blots out of existence the guilt, so that in the eye of the law the offender is as innocent as if he had never committed the offense."

D. Challenge and Review of a Pardon

1. Who has standing to challenge the pardon?

- a. The President

Matter of DePuy, 7 Fed. Case. No. 3814 (1869) states that the President has the right to arrest a pardon, but only before it has been delivered and accepted by the grantee.

- b. Leon Jaworski, Special Prosecutor, has standing to challenge the pardon. Ordinarily, of course, a prosecutor is subject to the President's control, so the basis of his challenge would not be that the incumbent President acted improperly. But here, the understanding between the Department of Justice, the President and the Special Prosecutor contained in Order No. 551-73 (Nov. 2, 1973), 38 Fed. Reg. 30738, provided

"that the President will not exercise his constitutional powers to effect the discharge of the Special Prosecutor or to limit the independence that he is hereby given." The President further agreed not to remove him from his duties except for extraordinary improprieties on his part and without the President's first consulting the majority and the minority leaders and chairmen and ranking minority members of the Judiciary Committees of the Senate and House of Representatives and ascertaining that their consensus is in accord with his proposed action."

Note the decision in Nader v. Bork, ___ F. Supp. ___ (D. D. C. 1973) 42 L. W. 2262, which apparently does not address the standing question, but did hold that Acting Attorney General Bork's firing of Special Prosecutor Cox was illegal.

From newspaper reports of September 9, 1974, Mr. Jaworski had decided not to challenge the pardon. New York Times, p. 1 col. 4 states that "The special prosecutor 'accepts the decision' . . . 'He thinks it's within the President's power to do it. His feelings is that the President is exercising his lawful power, and he accepts it.'"

The challenge would have to be based on the grounds discussed above -- notably, fraud in the inducement. There is no Federal case law which will indicate that obtaining it by inducement contrary to public policy (e. g., a "deal" for Nixon's resignation) would constitute invalidating fraud. Obviously, however, care should be taken to eliminate any such speculation. It is difficult to argue that the pardon violates the agreement with Jaworski. It does not "effect /his/ discharge" or "limit his independence" or "remove him from his duties." But obviously, questions can be expected on this point.

2. May the President revoke a pardon once it has been accepted?
 - a. No.
 - b. In re DePuy, 7 Fed. Cas. 507 (Cas. No. 3814, 1869). In reviewing a pardon by the President, the Court stated that "when a pardon is complete there is no power to revoke it, any more than there is power to revoke any other completed act." Once a pardon has been accepted, it becomes a completed act and cannot be revoked.
 - c. This situation should be distinguished from the case where the pardon is conditional and the recipient fails to fulfill the terms of the condition. See Lupo v. Zerbst, 92 F. 2d 362 (5th Cir. 1937).

3. Can Congress challenge a pardon?
 - a. No.
 - b. United States v. Klein, 13 Wall. 128, 143, 148 (1872):
"Now it is clear that the legislature cannot change the effect of such a pardon any more than the executive can change a law."
4. See discussion of fraud as a basis for challenging a pardon, supra at (A)(5) of the outline discussing 11 Op. A. G. 227 (1865).
5. May courts review a grant of a pardon?
 - a. Yes.
 - b. Judicial review may not extend to the propriety of the President's exercise of the pardoning power. However, the courts have reviewed such issues as whether the offense pardoned falls within the category of an offense against the United States (Ex Parte Grossman, supra); whether the conditions imposed are valid (i. e., Hoffa v. United States (most recent example); Ex Parte Wells, supra; United States v. Klein, supra); whether the grantor of the pardon has the authority to issue the pardon (The Laura, supra; 22 Op. A. G. 36, supra; 19 Op. A. G. 106, supra); whether the terms of the pardon are ambiguous; and whether at the time of the issuance of the pardon the President was constitutionally able to exercise the pardoning power by reason of the Twenty-fifth Amendment.
6. Can a recipient of an invalid pardon claim estoppel if he is prosecuted for an offense covered by a pardon allegedly granted to him?
 - a. Yes, However, there is no case law on this point.
 - b. It is reasonable that if in reliance on the grant of a pardon (where the pardon might be phrased in ambiguous terms), the recipient "waives" his Fifth Amendment protection against self-incrimination by making incriminating statements, subsequent prosecution would be estopped. The recipient because of his reliance on the pardon in making those statements would effectively be prevented from obtaining a fair trial by an impartial jury, guaranteed him by the Sixth Amendment.

E. Extent of the Pardoning Power

1. Can the pardoning power affect either state criminal jurisdiction or civil liability to third parties?
 - a. No.
 - b. (Angle v. Chicago, St. P.M. & O.R. Co., 151 U.S. 1 (1893); Osborn v. United States, 91 U.S. 474 (1875). As to third parties (see also 5 Op. A.G. 532 (1852)), stating "this power of granting pardons does not confer an unlimited power The power of granting pardons does not extend to the release of the portion of fines, penalties, and forfeitures which, by United States law, are directed to be distributed by the individual. Such would deprive individuals of their interests . . . and they would suffer loss."
 - c. Ex Parte Grossman, supra, at page 121 which states "neither in this country nor in England can [a pardon] interfere with the use of coercive measures to enforce a suitor's rights."
 - d. Look to the express terms of Article II, Section 2, cl. 1 which limits the power to offenses against the United States.
2. What are offenses against the United States?
 - a. Ex Parte Grossman, supra
 - (1) A pardon of the president is meant to operate on offenses against the United States as distinguished from offenses against the States.
 - (2) Offenses against the United States include, but are not limited to, crimes and misdemeanors defined and announced by Congressional acts.
 - (3) The words of the pardon clause were not meant to exclude therefrom common law offenses in "the nature of contempts against the dignity and authority of United States courts." Criminal, but not civil, contempts are subject to pardon.
 - (4) The term offenses is used in the Constitution in a more comprehensive sense than are the terms "crimes" and "criminal prosecution".

- b. A state felony (i. e., assault and violation of traffic regulations) is not an offense against the United States. In re Bocchiaro, 49 F. Supp. 37 (W. D. N. Y. 1943)
- c. The pardon power is sufficient to remit a fine imposed on a citizen for contempt for neglecting to serve as a juror. 4 Op. A. G. 317 (1844)
- d. The pardon power extends to all penalties and forfeitures, as well as other punishments. 8 Op. A. G. 281 (1857)
- e. Proceedings instituted by the United States for punishment of criminal contempt committed by a violation of an injunction is an offense against the United States. United States v. Goldman, 277 U. S. 229 (1928).

F. Equal Protection Argument

1. Can others who allegedly have committed the same offenses as co-conspirators or accomplices sustain a claim that they have been denied equal protection when one of their number has been pardoned?
 - a. No. The act of pardoning is essentially an act of executive grace, specifically directed usually at one particular person. Moreover, there is no equal protection argument possible where there is a rational basis upon which a distinction can be made.

Even if equal protection considerations were raised, it is arguable that considerations, other than those strictly legal, may validly distinguish one co-conspirator from another, i. e., health, position, effect of a trial on the national conscience and morale, as well as the extent of the recipient's participation.

Since this power is ultimately designed to function as a stress point in our Constitutional fabric to which no citizen has a right, failure to accord the grace to all involved in a particular offense does not violate equal protection.
2. May the pardon of Mr. Nixon be considered in the sentencing by judges presiding over trials involving Watergate-related offenses?

- a. Yes. The sentencing power of the judge is wholly discretionary and subject to very little review so long as the terms of the sentences are within the statutory limits.

G. Prospective Application of the Pardoning Power.

1. Can a Presidential pardon be prospective in application to offenses against the United States committed after the offer of the pardon?
 - a. No. 22 Op. A.G. 36, 39 (1898).

H. Effect of Pardon.

1. Can President Nixon refuse to testify in future Watergate trials by claiming his Fifth Amendment right against self-incrimination?
 - a. No. He has been granted immunity from federal criminal prosecution. He may refuse to testify on matters which would involve State criminal liability since he has not been given immunity with respect to State liability. Jaworski could give him such immunity.
2. If Nixon testifies at Watergate trials and is shown to have lied under oath and if he is then charged with perjury can he raise President Ford's pardon as a bar to liability for perjury? No. A pardon is limited in this case to crimes completed as of the date of Mr. Nixon's resignation, August 9, 1974.
3. Does Nixon face the possibility of criminal tax liability for tax fraud in California? Yes.
4. Would Nixon be subject to civil suits? Yes.

I. Executive Privilege: Congressional Demands.

1. How does Executive Privilege operate in response to Congressional demands?

Congressional demands for material may be grouped into four categories:

- a. Some Presidents have acknowledged that a demand for material pursuant to an impeachment inquiry would require production for any and all executive material. See Washington's statement, 5 Annals of Congress 710-12 (1796).
 - b. Particularized Congressional demands for materials pursuant to a legislative mission may be rejected on the basis of Executive Privilege where it is deemed by the President that the production of such material would be detrimental to the functioning of the Executive Branch.
 - c. Particularized Congressional demands for sensitive materials have at times been met with certain restrictions on access, e. g., examination by only the Chairman and ranking Republicans on a committee.
 - d. Non-particularized claims for general access with no compelling indication of need are routinely rejected.
2. Does a former President have the authority to invoke Executive Privilege for materials or conversations arising during his Presidency?

Yes. The rationale behind the privilege and the interest it serves compels an affirmative response. The invocation of Executive Privilege is not so much to protect the content of the particular discussions demanded as it is to protect the expectation of confidentiality which enables future discussions to be free and frank. Principle recognized as early as 1846. Richardson, Messages and Papers of the Presidents, Vol. IV, 433-34.

Former President Truman in 1953, having returned to public life, asserted privilege in response to House committee subpoena concerning matters which transpired while he was in office. The House committee accepted the letter and did not attempt to enforce the subpoena.

3. Does the Congress itself protect a sphere of confidentiality in its internal deliberations?

Yes. At least four precedents can be given in this regard.

- a. In 1962, certain staff members of the Senate Rackets Committee were allowed to testify in a criminal proceeding against Jimmy Hoffa but they were forbidden from making available

any documents in the hands of the Senate and from testifying about information that they gained while employed in the Senate. 108 Cong. Rec. 3626 (1962). In explaining the resolution to the Senate, Senator McClellan said in part: "The Senate recognizes it has certain privileges as a separate and distinct branch of government which it wishes to protect." Id. at 3627.

- b. In 1970, the House Committee on Armed Services refused to comply with a request from counsel for Lieutenant William Calley for the production of testimony given to the committee by Calley in closed session. The chairman of the committee, Rep. Hebert, indicated that ". . . only Congress can direct the disclosure of legislative records." See 116 Cong. Rec. 37652 (1970).
- c. In 1972, the United States Senate by resolution refused a judicial subpoena for documentary evidence in the criminal case of United States v. Brewster, then pending in the D. C. District Court. 118 Cong. Rec. 766 (1972):
- d. In 1974, the Senate passed a resolution allowing a Senate staff member to testify in a criminal proceeding but limited the scope of the testimony by providing that ". . . he shall respectfully decline to provide information concerning any and all other matters that may be based on knowledge acquired by him in his official capacity . . ." S. Res. 338, passed June 12, 1974.

II. QUESTIONS OF FACT

- A. Introductory Notes: This hearing presents a real opportunity for the President. At the same time, however the open-ended nature of the factual inquiry must be limited to ensure a responsible search for the truth regarding the pardon. Although the President need not assume a defensive posture, potential for political mischief must be minimized.
1. Ground Rules. The ground rules which have been agreed upon with the subcommittee may be summarized as follows:

- a. Opening Statement. No time limitations but statement should be responsive to each of the formal inquiries raised by H. Res. 1367 and H. Res. 1370.
 - b. Scope of Inquiry. The understanding has been reached that the inquiry shall be limited by the scope of the two formal resolutions of inquiry.
 - c. Time Limitations. Each of the nine members sitting with the subcommittee shall have the opportunity to question the President for two periods of five minutes each. Thus, there will be a total of 90 minutes of questioning.
 - d. Television. Consent has been given to live television coverage of the hearing.
2. Thoughts on ground rules. In my opinion, further consideration should be given to the ground rules in the following respects:
- a. Time Limits. If possible, the agreement reached on the period for questioning should be reopened and substantially reduced. Perhaps, a total of 1/2 hour to be controlled by and divided between the chairman and ranking Republican. Alternatively, only 5 minutes per member might be allowed for a total of 45 minutes. Ninety minutes is simply too long.
 - b. Order of questioning. The order of questioning should alternate from Democrat to Republican and from senior to junior. The Democrats should not be allowed to exhaust their time prior to the allotment of time to the Republicans.
 - c. Nixon-GSA Agreement. It should be clearly understood that the tapes agreement is beyond the scope of this inquiry, except to the extent that it might impact upon the grant of the pardon.
 - d. Prior Executive's Discussions and Materials which are presumptively privileged. It should be understood that President Ford will not infringe upon any claim of Executive Privilege which former President Nixon may want to assert with regard to materials or conversations arising prior to

August 9th. This position can be substantially strengthened by a letter to Jack Miller, counsel to the former President, inquiring as to whether he intends to assert a privilege on behalf of the former President. Assuming Miller will not consent to any waiver, documentation of this position will then be available.

- e. Presumptively Privileged Discussions and Materials Arising after August 9th. Two ground rules should be established in this regard:
 - (1) President Ford will not make available members of the White House staff for further examination on the subject of the pardon; and
 - (2) Formal requests or demands for documents of the Ford Presidency will not be complied with unless of a public nature -- this is not to say, however, that such materials may not be made available pursuant to informal requests by the committee. The point in this latter regard is that release in this context is a Presidential prerogative.
 - f. Role of the Chairman. Chairman Hungate should assume the following responsibilities:
 - (1) Channel all appropriate informal requests for materials to the White House;
 - (2) Strictly enforce time limitations and ground rules on relevancy and privilege; and
 - (3) Rule clearly repetitious questions out of order.
3. Need For Certainty. If equitable ground rules for this hearing cannot be firmly established prior to Wednesday, the President might give thought to postponing his appearance until an agreement reflecting a good faith effort on both sides can be reached.

PRESS CONFERENCE NO. 1

of the
PRESIDENT OF THE UNITED STATES

2:30 P.M. EDT
August 28, 1974
Wednesday

In the East Room
At the White House
Washington, D.C.

THE PRESIDENT: Please sit down. Good afternoon.

At the outset, I have a very important and a very serious announcement. There was a little confusion about the date of this press conference. My wife, Betty, had scheduled her first press conference for the same day. Obviously, I had scheduled my first press conference for this occasion. So, Betty's was postponed.

We worked this out between us in a calm and orderly way. She will postpone her press conference until next week, and until then, I will be making my own breakfast, my own lunch and my own dinner. (Laughter)

Helen.

QUESTION: Mr. President, aside from the Special Prosecutor's role, do you agree with the Bar Association that the law applies equally to all men, or do you agree with Governor Rockefeller that former President Nixon should have immunity from prosecution, and specifically, would you use your pardon authority, if necessary?

THE PRESIDENT: Well, let me say at the outset that I made a statement in this room in the few moments after the swearing-in, and on that occasion I said the following: That I had hoped that our former President, who brought peace to millions, would find it for himself.

Now, the expression made by Governor Rockefeller, I think, coincides with the general view and the point of view of the American people. I subscribe to that point of view. But let me add, in the last ten days or two weeks I have asked for prayers for guidance on this very important point.

In this situation, I am the final authority. There have been no charges made, there has been no action by the courts, there has been no action by any jury, and until any legal process has been undertaken, I think it is unwise and untimely for me to make any commitment.

MORE

Q Mr. President, you have been in office 19 days now, and already some of your naturally conservative allies are grumbling that you are moving too far to the left. Does this trouble you?

THE PRESIDENT: I don't think I have deviated from my basic philosophy nor have I deviated from what I think is the right action. I have selected an outstanding person to be the Vice President. I have made a decision concerning amnesty, which I think is right and proper -- no amnesty, no revenge -- and that individuals who have violated either the draft laws or have evaded Selective Service or deserted can earn their way, or work their way, back. I don't think these are views that fall in the political spectrum right or left.

I intend to make the same kind of judgments in other matters because I think they are right and I think they are for the good of the country.

Q Mr. President, may I follow that with one more example, possibly, that is there is a report the Administration is considering a \$4 billion public works program in case the inflation rate gets higher than it is, say six percent. Is that under consideration?

THE PRESIDENT: I think most of you do know that we have a public service employment program on the statute books which is funded right today, not for any major program, but to take care of those areas in our country where there are limited areas of unemployment caused by the energy crisis or any other reason.

There is a recommendation from some of my advisers saying that if the economy gets any more serious, that this ought to be a program, a broader, more expensive public service program. We will approach this problem with compassion and action if there is a need for it.

Q Sir, two political questions: Do you definitely plan to run for President in 1976, and if so, would you choose Governor Rockefeller as your running mate, or would you leave that choice up to the Convention's free choice?

THE PRESIDENT: I will repeat what has been said on my behalf, that I will probably be a candidate in 1976. I think Governor Rockefeller and myself are a good team, but of course, the final judgment in this matter will be that of the delegates to the national Convention.

MORE

QUESTION: May I just follow up on Helen's question: Are you saying, sir, that the option of a pardon for former President Nixon is still an option that you will consider, depending on what the courts will do.

THE PRESIDENT: Of course, I make the final decision. And until it gets to me, I make no commitment one way or another. But I do have the right as President of the United States to make that decision.

QUESTION: And you are not ruling it out?

THE PRESIDENT: I am not ruling it out. It is an option and a proper option for any President.

QUESTION: Do you feel the Special Prosecutor can in good conscience pursue cases against former top Nixon aides as long as there is the possibility that the former President may not also be pursued in the courts?

THE PRESIDENT: I think the Special Prosecutor, Mr. Jaworski, has an obligation to take whatever action he sees fit in conformity with his oath of office, and that should include any and all individuals.

QUESTION: What do you plan to do as President to see to it that we have no further Watergates?

THE PRESIDENT: Well, I indicated that, one, we would have an open Administration. I will be as candid and as forthright as I possibly can. I will expect any individuals in my Administration to be exactly the same. There will be no tightly controlled operation of the White House staff. I have a policy of seeking advice from a number of top members of my staff. There will be no one person, nor any limited number of individuals, who make decisions. I will make the decisions and take the blame for them or whatever benefit might be the case.

I said in one of my speeches after the swearing in, there would be no illegal wiretaps or there would be none of the other things that to a degree helped to precipitate the Watergate crisis.

QUESTION: Do you plan to set up a code of ethics for the Executive Branch?

THE PRESIDENT: The code of ethics that will be followed will be the example that I set.

MORE

QUESTION: Mr. President, do you have any plans now for immediate steps to control and curtail inflation, even before your summit conference on the economy?

THE PRESIDENT: We have announced that as far as fiscal control is concerned, we will spend less in the Federal Government in the current fiscal year than \$300 billion. That is a reduction of \$5 billion 500 million at a minimum.

This, I think, will have two effects: Number one, it will be substantively beneficial, it will make our borrowing from the money market less, freeing more money for housing, for the utilities to borrow, and in addition, I think it will convince people who might have some doubts that we mean business.

But in the meantime, we are collecting other ideas from labor, from management, from agriculture, from a wide variety of the segments of our population to see if they have any better ideas for us to win the battle against inflation.

QUESTION: Mr. President, as you know, a number of people have questioned your opposition to a return to wage and price controls. Gardiner Ackley, a University of Michigan economist that you have listened to in the past, recently testified before Congress that if we are really frightened about inflation, we ought to think about returning to wage and price controls.

Can you foresee any circumstances under which you would be willing to do that and make them work?

THE PRESIDENT: I foresee no circumstances under which I can see the reimposition of wage and price controls. The situation is precisely this: This past week I had a meeting with the Democratic and Republican leadership, plus my own advisers in the field of our national economy.

There was an agreement, number one, that I would not ask for any wage and price control legislation. There was agreement by the leadership on both sides of the aisle that there was no possibility whatsoever that this Congress in 1974 would approve any such legislation. Number three, labor and management almost unanimously agree that wage and price controls at the present time or any foreseeable circumstances were unwise.

Under all those circumstances, it means that wage and price controls are out, period.

MORE

Q Can you give us your present thinking on how best you might use Mr. Rockefeller as Vice President once he is confirmed?

THE PRESIDENT: I have a lot of ideas. Until Congress confirms Mr. Rockefeller, we are sort of in a honeymoon period. I really shouldn't make any commitments until we actually get married.

But to be serious, if I might, I think Governor Rockefeller can be extremely important in the new Administration as my teammate in doing effective work in the area of the Domestic Council. We have to prepare legislative proposals that will go to the Congress when the new Congress comes back in January.

I believe that Governor Rockefeller will take over my responsibilities heading the subcommittee of the Domestic Council on privacy. Governor Rockefeller, with his vast experience in foreign policy, can make a significant contribution to some of our decision-making in the area of foreign policy. Obviously, in addition, he can be helpful, I think, in the political arena under certain guidelines and some restrictions.

Q Mr. President, you just ruled out wage and price controls, but I just would like to ask you why Mr. Nixon, when he was President, felt he was compelled to go back to them because the situation was getting out of hand? Can you just reinforce what you told Mr. Brokaw, why you think the situation is that much out of hand yet?

THE PRESIDENT: I can only refer you to the circumstances and the decision of President Nixon in August of 1971. That was a decision he made under quite different circumstances. We are in totally different circumstances today. We have gone through a 3-year period, more or less. I think we have learned a few economic lessons that wage and price controls in the current circumstances didn't work, probably created more dislocations and inequities. I see no justification today, regardless of the rightness or wrongness of the decision in 1971, to reimpose wage and price controls today.

Q Mr. President, you are still working with the same team of economic advisers who advised your predecessor. As a matter of putting your own stamp on your own Administration, perhaps spurring confidence, do you plan to change the cast of characters?

THE PRESIDENT: There is one significant change. Just within the last 48 hours, Herb Stein, who did a superb job for President Nixon, is going back to the University of Virginia, and Alan Greenspan is taking over and he has been on board, I think two days.

MORE

That is a distinct change. I think Mr. Greenspan will do an excellent job. We are soliciting, through the economic summit, the views of a great many people from the total spectrum of the American society. Their ideas will be vitally important in any new, innovative approaches that we take. So, I think, between now and the 28th of September, when I think the second day of the summit ends, we will have the benefit of a great many wise, experienced individuals in labor, management, agriculture, et cetera, and this will give us, I hope, any new approaches that are wise and beneficial.

MORE

QUESTION: Some oil governments and some commercial cartels, notably Aramco in Saudi Arabia are restricting oil production in order to keep oil prices artificially high. Now the U.S. can't do anything about Venezuela, but it can conceivably vis a vis cartels like Aramco. What steps and actions do you plan to take in this regard?

THE PRESIDENT: I think this points up very vividly the need and necessity for us to accelerate every aspect of Project Independence, I think it highlights the need and necessity for us to proceed with more oil and gas drilling, a greater supply domestically. I believe it points up the requirements that we expedite the licensing processes for new nuclear reactors. I think it points up very dramatically the need that we expand our geothermal, our solar research and development in the field of energy.

In the meantime, it seems to me that the effort that was made several months ago to put together a group of consumer-industrial nations requires that this group meet frequently and act as much as possible in concert, because if we have any economic adverse repercussions because of high oil prices and poor investment policies, it could create serious economic problems throughout the industrial world. So it does require, I believe, the short-term action by consumer nations and the long-term actions under Project Independence.

QUESTION: Mr. President, to further pursue Helen's inquiry, have there been any communications between the Special Prosecutor's office and anyone on your staff regarding President Nixon?

THE PRESIDENT: Not to my knowledge.

QUESTION: Mr. President, the beneficial effects of budget cutting on inflation will take some time to dribble down to the wage earner. What advice would you give the wage earner today who is having trouble stretching his dollar over his needs.

THE PRESIDENT: I think every wage earner has to realize we are going through a serious economic problem with inflation in double digits, not as bad as people in many Western European countries, but it will require him or her to follow the example of their Federal Government which is going to tighten its belt and likewise for an interim period of time watch every penny.

QUESTION: Mr. President, you said last March in an interview, I think in Seapower magazine, that you came down quite strongly in favor of establishing a U.S.-Indian Ocean fleet with the necessary bases to support it. Do you still stand by that and do you favor the development of Diego Garcia?

MORE

THE PRESIDENT: I favor the limited expansion of our base at Diego Garcia. I don't view this as any challenge to the Soviet Union. The Soviet Union already has three major naval operating bases in the Indian Ocean. This particular proposed construction, I think, is a wise policy and it ought not to ignite any escalation of problems in the Middle East.

Yes, Sarah.

MORE

QUESTION: I want to ask about this new veterans benefits bill which Congress passed in the last hours. I understand this is a bill that you favored and maybe spurred the Congress to pass. It saves \$200 million.

My question is: Is that a real savings when it gives the disabled man less money than an able man and disrupts completely the veterans going to college in September?

THE PRESIDENT: I had no part in just how that House action was taken. I did discuss, coming back from the VFW meeting in Chicago, with a number of Members of the House and Senate, the problem that I faced with the bill that came out of conference, which would have added \$780-some million over and above the budget for this year and a substantial increase for a number of succeeding years.

But that particular compromise was put together and brought to the Floor of the House without any participation by me. I think there are some good provisions in that particular House action. It does tend to equalize the benefits for Vietnam veterans with the benefits that were given to World War II and to Korean veterans.

There are some, I think, inequities, and you probably pointed out one. I hope when the Congress reconvenes within a week or so that they will go back to conference, take a good look and hopefully eliminate any inequities and keep the price down because it is inflationary the way it was and it may be the way it was proposed by the House.

QUESTION: Mr. President, concerning the Federal budget, will domestic social programs have to bear the whole brunt of the anti-inflation fight or can some money come out of the defense budget, and if so, how much?

THE PRESIDENT: No budget for any department is sacrosanct, and that includes the defense budget. I insist, however, that sufficient money be made available to the Army, the Navy and the Air Force so that we are strong militarily for the purpose of deterring war or meeting any challenge by any adversary. But if there is any fat in the defense budget, it ought to be cut out by Congress or eliminated by the Secretary of Defense.

In the meantime, all other departments must be scrutinized carefully so that they don't have any fat and marginal programs are eliminated.

Mrs. Tufty?

MORE

QUESTION: Mr. President, you have given top priority to inflation. Do you have a list of priorities and if so, what is number two?

THE PRESIDENT: Well, of course, public enemy number one, and that is the one we have to lick, is inflation. If we take care of inflation and get our economy back on the road to a healthy future, I think most of our other domestic programs or problems will be solved.

We won't have high unemployment. We will have ample job opportunities. We will, I believe, give greater opportunities to minorities to have jobs. If we can lick inflation, and we are going to try, and I think we are going to have a good program, most of our other domestic programs will be solved.

QUESTION: Do you have any plans to revive the Office of Economic Opportunity, and if so, in what areas?

THE PRESIDENT: As I am sure you know, the old poverty program has been significantly changed over the last several years. The Headstart program has been taken out of OEO and turned over to the Department of HEW. The health aspects of the old poverty program are also over in HEW.

The Congress just approved, and Mr. Nixon approved, a Legal Services Corporation, which was another part of the old poverty program. So, we end up really with just CAP, the Community Action Program.

I think most people who have objectively looked at the Community Action Program and the model cities program and maybe some of the other similar programs, there is duplication, there is overlapping.

And under the new housing and urban development bill, local communities are given substantial sums to take a look at the model cities programs and related programs, and they may be able to take up the slack of the ending of the Community Action Programs.

MORE

QUESTION: Mr. President, my question applies to a 1972 statement in which you said that an impediment to a regional peace settlement is an impediment to preserve the fiction that Jerusalem is not the capital of Israel. My question, sir, is would you, now that you set foreign policy, request that the Embassy be shifted from Tel Aviv to Jerusalem along with 17 other national Embassies?

THE PRESIDENT: Under the current circumstance and the importance of getting a just and lasting peace in the Middle East, I think that particular proposal ought to stand aside. We must come up with some answers between Israel and the Arab nations in order to achieve a peace that is both fair and durable.

QUESTION: Mr. President, do you contemplate any changes in our policy with Cuba?

THE PRESIDENT: The policy that we have toward Cuba today is determined by the sanctions voted by the Organization of American States and we abide by those actions that were taken by the members of that organization.

Now if Cuba changes its policy toward us and toward its Latin neighbors, we, of course, would exercise the option depending on what the changes were to change our policy. But before we made any change, we would certainly act in concert with the other members of the Organization of American States.

QUESTION: Mr. President, you have emphasized here your option of granting a pardon to the former President.

THE PRESIDENT: I intend to.

QUESTION: You intend to have that option. If an indictment is brought, would you grant a pardon before any trial took place?

THE PRESIDENT: I said at the outset that until the matter reaches me, I am not going to make any comment during the process of whatever charges are made.

QUESTION: Mr. President, two questions related, how long will the transition last, in your opinion, and, secondly, how soon would it be proper and fair for Democrats on the campaign trail this fall to hold you accountable for the economic policy and the economic problems the country faces?

THE PRESIDENT: I can't judge what the Democrats are going to say about my policies. They have been very friendly so far and very cooperative. I think it is a fair statement that our problems domestically, our economic problems, are the joint responsibility of Government. As a matter of fact, I think the last poll indicated that most Americans felt that our difficulties were caused by Government action and that, of course, includes the President and the Democratic Congress. So we are all in this boat together along with labor and management and everybody else. I don't think making partisan politics out of a serious domestic problem is good politics.

MORE

QUESTION: Mr. President, in your fight against inflation, what, if anything, do you intend to do about the next Federal pay raise?

THE PRESIDENT: I have made no judgment on that yet, the recommendation has not come to my desk.

QUESTION: Mr. President, when do you expect the SALT talks to resume? Is there disagreement over our position in the Pentagon and the State Department and other agencies?

THE PRESIDENT: At the present time, there is an effort being made to bring the Department of Defense, the State Department and any others together for a resolution of our, the United States position regarding SALT 2. This decision will be made in the relatively near future. I don't think there is any basic difficulties that cannot be resolved internally within our Government. I believe that Secretary Kissinger is going to be meeting with representatives from the Soviet Union in the near future, I think in October, if my memory is correct, and we, of course, will then proceed on a timetable to try and negotiate SALT 2. I think a properly negotiated effective strategic arms limitation agreement is in the best interests of ourselves, the Soviet Union and a stable international situation.

THE PRESS: Thank you, Mr. President.

END (AT 2:59 P.M. EDT)