The original documents are located in Box 122, folder "Nixon, Richard - Pardon: House Subcommittee Hearing - Materials Previously Submitted to Subcommittee" of the John Marsh Files at the Gerald R. Ford Presidential Library.

MATERIALS PREVIOUSLY SUBMITTED TO SUBCOMMITTEE ON CRIMINAL JUSTICE HOUSE JUDICIARY COMMITTEE

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A

FOR IMMEDIATE RELEASE September 8, 1974

Office of the White House Press Secretary

THE WHITE HOUSE

GRANTING PARDON TO RICHARD NIXON

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA

A PROCLAMATION

Richard Nixon became the thirty-seventh President of the United States on January 20, 1969 and was reelected in 1972 for a second term by the electors of forty-nine of the fifty states. His term in office continued until his resignation on August 9, 1974.

Pursuant to resolutions of the House of Representatives, its Committee on the Judiciary conducted an inquiry and investigation on the impeachment of the President extending over more than eight months. The hearings of the Committee and its deliberations, which received wide national publicity over television, radio, and in printed media, resulted in votes adverse to Richard Nixon on recommended Articles of Impeachment.

As a result of certain acts or omissions occurring before his resignation from the Office of President, Richard Nixon has become liable to possible indictment and trial for offenses against the United States. Whether or not he shall be so prosecuted depends on findings of the appropriate grand jury and on the discretion of the authorized prosecutor. Should an indictment ensue, the accused shall then be entitled to a fair trial by an impartial jury, as guaranteed to every individual by the Constitution.

It is believed that a trial of Richard Nixon, if it became necessary, could not fairly begin until a year or more has elapsed. In the meantime, the tranquility to which this nation has been restored by the events of recent weeks could be irreparably lost by the prospects of bringing to trial a former President of the United States. The prospects of such trial will cause prolonged and divisive debate over the propriety of exposing to further punishment and degradation a man who has already paid the unprecedented penalty of relinquishing the highest elective office in the United States.

NOW, THEREFORE, I Gerald R. Ford, President of the United States, pursuant to the pardon power conferred upon me by Article II, Section 2, of the Constitution, have granted and by these presents do grant a full, free, and absolute pardon unto Richard Nixon for all offenses against the United States which he, Richard Nixon, has committed or may have committed or taken part in during the period from January 20, 1969 through August 9, 1974.

IN WITNESS WHEREOF, I have hereunto set my hand this 8th day of September in the year of our Lord nineteen hundred seventy-four, and of the Independence of the United States of America the one hundred ninety-ninth.

GERALD R. FORD

# # #

B

FOR IMMEDIATE RELEASE SEPTEMBER 8, 1974

OFFICE OF THE WHITE HOUSE PRESS SECRETARY

THE WHITE HOUSE

REMARKS OF THE PRESIDENT
ANNOUNCING THE GRANTING OF A PARDON
TO FORMER PRESIDENT NIXON

THE OVAL OFFICE

11:05 A. M. PDT

Ladies and gentlemen, I have come to a decision which I felt I should tell you and all of my fellow American citizens, as soon as I was certain in my own mind and in my own conscience that it is the right thing to do.

I have learned already in this office that the difficult decisions always come to this desk. I must admit that many of them do not look at all the same as the hypothetical questions that I have answered freely and perhaps too fast on previous occasions.

My customary policy is to try and get all the facts and to consider the opinions of my countrymen and to take counsel with my most valued friends. But these seldom agree, and in the end, the decision is mine. To procrastinate, to agonize and to wait for a more favorable turn of events that may never come, or more compelling external pressures that may as well be wrong as right, is itself a decision of sorts, and a weak and potentially dangerous course for a President to follow.

I have promised to uphold the Constitution, to do what is right as God gives me to see the right, and to do the very best that I can for America.

I have asked your help and your prayers, not only when I became President, but many times since. The Constitution is the supreme law of our land and it governs our actions as citizens. Only the laws of God, which govern our consciences, are superior to it.

MORE

As we are a nation under God, so I am sworn to uphold our laws with the help of God. And I have sought such guidance and searched my own conscience with special diligence to determine the right thing for me to do with respect to my predecessor in this place, Richard Nixon, and his loyal wife and family.

Theirs is an American tragedy in which we all have played a part. It could go on and on and on, or someone must write the end to it. I have concluded that only I can do that, and if I can, I must.

There are no historic or legal precedents to which I can turn in this matter, none that precisely fit the circumstances of a private citizen who has resigned the Presidency of the United States. But it is common knowledge that serious allegations and accusations hang like a sword over our former President's head, threatening his health as he tries to reshape his life, a great part of which was spent in the service of this country and by the mandate of its people.

After years of bitter controversy and divisive national debate, I have been advised, and I am compelled to conclude that many months and perhaps more years will have to pass before Richard Nixon could obtain a fair trial by jury in any jurisdiction of the United States under governing decisions of the Supreme Court.

I deeply believe in equal justice for all Americans, whatever their station or former station. The law, whether human or devine, is no respecter of persons, but the law is a respecter of reality.

The facts, as I see them, are that a former President of the United States, instead of enjoying equal treatment with any other citizen accused of violating the law, would be cruelly and excessively penalized either in preserving the presumption of his innocence or in obtaining a speedy determination of his guilt in order to repay a legal debt to society.

During this long period of delay and potential litigation, ugly passions would again be aroused. And our people would again be polarized in their opinions. And the credibility of our free institutions of Government would again be challenged at home and abroad.

In the end, the courts might well hold that Richard Nixon had been denied due process and the verdict of history would even more be inconclusive with respect to those charges arising out of the period of his Presidency, of which I am presently aware.

But it is not the ultimate fate of Richard Nixon that most concerns me, though surely it deeply troubles every decent and every compassionate person. My concern is the immediate future of this great country.

In this, I dare not depend upon my personal sympathy as a long-time friend of the former President, nor my professional judgment as a lawyer, and I do not.

As President, my primary concern must always be the greatest good of all the people of the United States whose servant I am. As a man, my first consideration is to be true to my own convictions and my own conscience.

My conscience tells me clearly and certainly that I cannot prolong the bad dreams that continue to reopen a chapter that is closed. My conscience tells me that only I, as President, have the constitutional power to firmly shut and seal this book. My conscience tells me it is my duty, not merely to proclaim domestic tranquility, but to use every means that I have to insure it.

I do believe that the buck stops here, that I cannot rely upon public opinion polls to tell me what is right.

I do believe that right makes might, and that if I am wrong, ten angels swearing I was right would make no difference.

I do believe, with all my heart and mind and spirit, that I, not as President, but as a humble servant of God, will receive justice without mercy if I fail to show mercy.

Finally, I feel that Richard Nixon and his loved ones have suffered enough and will continue to suffer, no matter what I do, no matter what we, as a great and good Nation, can do together to make his goal of peace come true.

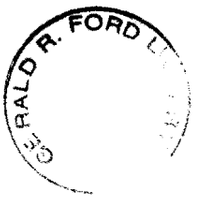
MORE

Now, therefore, I, Gerald R. Ford, President of the United States, pursuant to the pardon power conferred upon me by Article II, Section 2 of the Constitution, have granted and by these presents do grant a full, free and absolute pardon unto Richard Nixon for all offenses against the United States which he, Richard Nixon, has committed or may have committed or taken part in during the period from July (January) 20, 1969 through August 9, 1974.

(The President signed the Proclamation)

In witness whereof, I have hereunto set my hand this 8th day of September in the year of our Lord 1974, and of the independence of the United States of America, the 199th.

END (AT 11:16 A.M. EDT)



C

FOR IMMEDIATE RELEASE SEPTEMBER 8, 1974

OFFICE OF THE WHITE HOUSE PRESS SECRETARY

PRESS CONFERENCE
OF
PHILIP BUCHEN
COUNSELLOR TO THE PRESIDENT

THE BRIEFING ROOM

AT 12:12 P.M.

MR. TER HORST: Gentlemen, if you are ready for the briefing, we have Philip Buchen, the legal counsel of the White House to address your questions on the President's statement and on the documents you have in your hand.

As you know, he is the President's legal adviser. He was very much a participant in the preparation of this proclamation and so here is Mr. Buchen to take your questions.

I think he may have an opening statement which he may like to read first.

MR. BUCHEN: Thank you, Jerry.

I appreciate your all being here on this Sunday morning, or midday.

I wanted just to say a few things first, because it may answer questions in advance, and at the conclusion of these remarks, I will try to field the questions you throw this way.

In addition to the major developments of this morning when President Ford granted a pardon to former President Nixon, I have two other legal developments to announce which occurred prior to the issuance of the proclamation of pardon.

The first involves the opinion of Attorney General William B. Saxbe and President Ford dealing with papers and other records, including tapes, retained during the Administration of former President Nixon in the White House offices.

In this opinion, the Attorney General concludes that such materials are the present property of Mr, Nixon; however, it also concluded that during the time the materials remain in the custody of the United States, they are subject to subpoenas and court orders directed to any official who controls that custody. And in this conclusion, I have concurred.

MORE

This opinion was sought by the President from the Attorney General on August 22.

Q When you say the President, you mean President Ford?

MR. BUCHEN: That is right.

The reason for seeking the opinion was the conflict created between Mr. Nixon's request on the one hand for delivery to his control of the materials, and on the other hand, the pending court orders and subpoenas directed at the United States and certain of its officials.

The court orders have required that the custody of the materials be maintained at their present locations. And both the orders and subpoenas have called for the identification and production of certain materials allegedly relevant to court proceedings in which the orders and subpoenas originated.

In addition, we were advised of interests of other parties in having certain records disclosed to them under warning that if they were to be removed and delivered to the control of Mr. Nixon, court action would be taken to prevent that move and to protect the claimed rights to inspection or disclosure.

Therefore, it became fully apparent that unless this conflict was resolved, the present Administration would be enmeshed for a long time in answering the disputed claims over who could obtain information from the Nixon records, how requested information could, as a practical matter, be extracted from the vast volume of records in which it might appear, and how, and by whom its relevancy in any particular court proceeding could be determined, and at the same time to try satisfying the claims of Mr. Nixon that he owned the records.

Within a week of the request by the Attorney General for an opinion made by President Ford, I was advised informally of what its general nature would be. From that time on, I realized that the opinion itself would not provide a practical solution to the handling and management of the papers so as to reconcile rights and interest of private ownership with the limited but very important rights and interest of litigants to disclosure of selected relevant parts of the materials.

Thus I initiated conversations with the Attorney General's Office, Special Prosecutor Jaw rski, with attorneys for certain litigants seeking disclosure, and with Herbert J. Miller, as soon as he became attorney for Mr. Nixon.

The purpose of these conversations was to explore ways for reconciling these different interests in records of the previous Administration so that this Administration would not be caught in the middle of trying on a case-by-case basis to resolve each dispute over the right of access or disclosure.

The outcome of these conversations was the conclusion on my part that Mr. Nixon, as the principal party in interest, should be requested to come forth with the proposal for dealing satisfactorily with Presidential material of his Administration in ways that offered reasonable protection and safeguards to each party who has a legitimate court-supported right to production of particular materials relevant to his case.

Mr. Nixon and his attorney then agreed to pursue this approach and in company with White House Counsel, they were able to accomplish the second of the developments which I am announcing today.

And that is the letter agreement, of which you have copies, between former President Nixon and Arthur F. Sampson, Administrator of the General Services Administration.

These two developments are, of course, much less significant than the one you have learned about earlier. President Ford has chosen to carry out a responsibility expressed in the Preamble to the Constitution of ensuring domestic tranquility, and has chosen to do so by exercise of a power that he alone has under the Constitution to grant a pardon for offenses against the United States.

About a week ago, President Ford asked me to study traditional precedents bearing on the exercise of his right to grant a pardon, particularly with reference to whether or not a pardon could only follow indictment or conviction. The answer I found, based on considerable authority, was that a pardon could be granted at any time and need not await an indictment or conviction.

President Ford also asked me to investigate how long it would be before prosecution of former President Nixon could occur, if it were brought, and how long it would take to bring it to a conclusion.

On this point, I consulted with Special Prosecutor Jaworski and he advised me as follows, and has authorized me to quote his language, and I quote:

"The factual situation regarding a trial of Richard M. Nixon within Constitutional bounds is unprecedented. It is especially unique in view of the recent House Judiciary Committee inquiry on impeachment, resulting in a unanimous adverse finding to Richard M. Nixon on the article involving obstruction of justice.

"The massive publicity given the hearings and the findings that ensued, the reversal of judgment of a number of Members of the Republican Party following the release of the June 23rd taperecording, and their statements carried nationwide. And, finally, the

resignation of Richard M. Nixon require a delay before selection of a jury is begun of a period from nine months to a year, and perhaps even longer.

"This judgment is predicated on a review of the decisions of the United States courts involving prejudicial pre-trial publicity."

Q Is that the end of the quotes?

MR. BUCHEN: No, I am going on to indicate something else that will be of interest to you. That is the end of that quote.

Another quote from his communication to me is as follows: "The situation involving Richard M. Nixon is readily distinguishable from the facts involved in the case of United States versus Mitchell, et al, set for trial on September 30th.

"The defendants in the Mitchell case were indicted by a grand jury operating in secret session. They will be called to trial, unlike Richard M. Nixon, if indicted, without any previous adverse finding by an investigatory body holding public hearings on its conclusions."

That is the end of the quotation.

Q Would you end that last sentence again?

MR. BUCHEN: Yes. It is an important one. "They," meaning the defendants, "will be called to trial, unlike Richard M. Nixon, if indicted, without any previous adverse finding by an investigatory body holding public hearings on its conclusions."

Except for my seeking and obtaining this advice from Mr. Jaworski, none of my discussions with him involved any understandings or commitments regarding his role in the possible prosecution of former President Nixon, or in the prosecution of others.

President Ford has not talked with Mr. Jaworski, but I did report to President Ford the opinion of the Special Prosecutor about the delay necessary before any possible trial of the former President could begin.

I would also like to add on another subject, no action or statement by former President Nixon, which has been disclosed today, however welcome and helpful, was made a pre-condition of the pardon.

That is a negative because of the word "no" at the beginning. I might add that whether or not it was disclosed today, it was not a pre-condition.

Q There were no secret agreements made?

MR. BUCHEN: That is right.

President Ford in determining to issue a pardon acted solely according to the dictates of his own conscience. Moreover, he did so as an act of mercy not related in any way to obtaining concessions in return.

Q Would you go over the last phrase?

Q After "mercy".

MR. BUCHEN: Mercy not related in any way to obtaining concessions in return. However, my personal view --

Q Is that yours or Ford's?

MR. BUCHEN: Mine. -- is that former President Nixon's words, which I have had a chance to read, as you have, that followed the granting of a pardon, constitute a statement of contrition which I believe will hasten the time when he and his family may achieve peace of mind and spirit and will much sooner bring peace of mind and spirit to all of our citizens.

Q Would you review that sentence?

MR. BUCHEN: Yes.

However, my personal view -- these are my own words -- is that former Presidon Nixon's words expressed upon his learning of the pardon, constitute a statement of contrition which I believe will hasten the time when he and his family may achieve peace of mind and spirit and will much sooner bring peace of mind and spirit to all of our citizens.

Now I have only one other paragraph that I would like to bring out in conclusion. I want to express for the record my heartfelt personal thanks and appreciation to a dear firend of the President's and of mine. He is Benton Becker, a Washington attorney, who has served voluntarily as my special and trusted consultant and emissary in helping to bring about the events recorded today.

Q Emissary to Mr. Jaworski or Mr. Nixon?

MR. BUCHEN: To Mr. Miller and Mr. Nixon, not to Mr. Jaworski.

MORE

I also acknowledge with deep gratitude the services of William Casselman, II, who is the highly valued counsel -- who was the highly valued counsel to Vice President Ford for his whole tenure in that office, and is now my close associate in the service of the President of the United States.

Q Who informed President Nixon that he was getting a pardon, and also is President Ford basing this pardon only on the fact that it would have taken a long time to try the Presidency in his own conscience?

MR. BUCHEN: Let me take the first question first.

When Mr. Becker went to San Clemente on Thursday evening, he was authorised to advise the former President that President Ford was intending to grant a pardon, subject, however, to his further consideration of the matter because he wanted to reserve the chance to deliberate and ponder somewhat longer, but he was authorized to say that in all probability a pardon would be issued in the near future.

The second question?

Q The second question is: There is no admission of guilt here at all and despite your assumptions that it is contrition, there is no actual admission of guilt. Do you agree?

MR. BUCHEN: Well, my interpretation is that it comes very close to saying that he did wrong, that he did not act forthrightly.

Q Mr. Buchen, what is the linkage between the agreement between Mr. Sampson and Mr. Becker's negotiations at San Clemente?

MR. BUCHEN: The initiative for getting an agreement that would help solve our problems came from me and I advised Mr. Miller as attorney for Mr. Nixon that that was my desire. I so advised him before I knew anything about a contemplated pardon.

Q Mr. Buchen --

MR. BUCHEN: May I finish, please?

However, as we purused talks on what to do with the papers, I made it very clear to Mr. Miller that I wanted the initiative to come from him and his client as to the specifics of what he and his client would be willing to do regarding the management and ultimate disposition of the papers and tapes.

MORE

Q Mr. Buchen, what will this mean as far as former President Nixon's role as a witness in the upcoming trials are concerned?

MR. BUCHEN: It would have no effect on that. If the documents do get transferred in a timely fashion, it may permit him to review the pertinent material more adequately so far as his testimony is concerned.

MORE

Q Mr. Buchen, doesn't this pardon eliminate any possibility that the former President might invoke the Fifth Amendment to testify?

MR. BUCHEN: I think you better ask his own lawyer that. As you know, this applies only to offenses against the United States. It does not apply to possible offenses against State law.

Q But regarding offenses against the United States, he would have no Fifth Amendment rights now that he has been pardoned; is that correct?

MR. BUCHEN: I don't know that you can separate them when you plead.

Q Mr. Buchen, why did the President decide to do this now at a time before the jury has been sequestered in the September 30th trial?

MR. BUCHEN: That will have to be information that will have to come from his statement. I have nothing to add.

Q Can you tell us if the President has assured himself that former President Nixon is not guilty or liable to accusation of any very serious charges that have not been made public so far, that there is no other time bomb ticking away?

MR. BUCHEN: I don't think he said that.

Q No, no, I am saying, has President Ford done anything to assure himself that there is no evidence of any more serious criminality committed by former President Nixon than what is generally out in the House Judiciary Committee report and this sort of thing?

MR. BUCHEN: So far as I know, he has made no independent inquiries. If he had wanted to satisfy himself as to the content of the evidence still in the White House, of course, that would have been an insurmountable task, as you have no idea of the huge volumes.

Q Did you assure yourself --

MR. BUCHEN: Just a minute. There are huge volumes. However, I did personally consult with Mr. Jaworski as to the nature of the investigation being conducted and I was able to tell the President that so far as I was able to learn through that inquiry, there were no time bombs, as you call them.

MORE

Q Mr. Buchen, what was the President's reaction when Mr. Becker conveyed this message to him?

MR. BUCHEN: I don't know that it was done in person. I don't think he was necessarily in the room, so I don't believe he can --

Q Did you get any reaction from the President, even if it was by mail or through counsel, did the President say he was grateful for this?

MR. BUCHEN: The only reaction we have gotten is the statement that came over the wire.

Q Are you saying that Ziegler got the word from Becker and that President Nixon was not informed personally at any time by Ford or by any emissary?

MR. BUCHEN: I think you will have to ask Mr. Becker that. My understanding is that initially the talks went through Mr. Ziegler, but there were also face-to-face meetings between Mr. Becker and the President and what occurred by one method, and one by the other, I don't know.

Q There was no personal contact between Ford and Nixon?

MR. BUCHEN: None at all.

Q You refer to Becker as an emissary and you talk about one meeting out there Thursday to notify him. What were the reasons for his previous trips back and forth? What was discussed?

MR. BUCHEN: Becker only went once.

Q Only on Thursday?

MR. BUCHEN: Yes. And not only to discuss that, they had to work out the details of that letter agreement because Miller and Becker were in negotiation and Miller had to consult his client and they had to make modifications. And they had to call back to see whether that fit in correctly with what General Services Administration could feasibly do. So, that involved a lot of the time he was out there.

Q Mr. Buchen, did Mr. Jaworski inform you that an indictment, or indictments, against former President Nixon were expected?

MR. BUCHEN: No, he did not.

MORE

Q May I follow that, then? Isn't the granting of a pardon at this stage an admission that an indictment was expected and that conviction was probable?

MR. BUCHEN: I think you have to recall that word came out that the Grand Jury at one time wanted to name the former President, or then President, as a co-conspirator and that is one evidence that something more would have happened.

And I think it is very likely, from all we have read, that there would be people who would want him prosecuted and would intend to do so, although I don't say that that was Mr. Jaworski's view.

Q Was Mr. Jaworski ever consulted about this pardon, ever asked about this?

MR. BUCHEN: No.

Q Did Jaworski agree to what was done today?

MR. BUCHEN: He has no voice in it.

Q Do you know what his mood or sentiment was?

MR. BUCHEN: You will have to ask him. I want to get to Peter, here.

Q I wanted to follow up that line. You know we are not able to get a response from Mr. Jaworski's office and it would really help us for you to tell us all you can about the status of the investigation against the President, former President Nixon?

MR. BUCHEN: I don't have that information, Peter. That is kept in his shop.

Q But in that regard, why was he not consulted about what kind of action he contemplated against the President before the pardon was issued?

MR. BUCHEN: We didn't think that was relevant.

Q You assumed he would be prosecuted; is that right?

MR. BUCHEN: We assumed that he may be prosecuted.

Q When was Jaworski told?

MR. BUCHEN: About the pardon?

Q About the pardon.

MR. BUCHEN: I called him about three-quarters of an hour before I knew the President was going to announce it so that he would know it.

Q Today?

MR. BUCHEN: Yes.

Q What was his reaction?

Q When was that?

MR. BUCHEN: He thanked me for advising him in advance of his hearing it over the radio or TV.

Q And he did not object?

MR. BUCHEN: He didn't. He didn't say anything one way or the other.

Q As we read this statement, which does not admit guilt whatsoever, what is to prevent the former President from going out, say six months hence, and saying that nothing was really ever proven against him and he was hounded out of office?

MR. BUCHEN: I guess he has the right to say that because, until an indictment and conviction, I think that would be true in his case as well as anybody else's case who is under a cloud of suspicion.

Q But President Ford spoke of the historical aspects of this and what is going to keep history from getting more muddled than ever?

MR. BUCHEN: I think the historians will take care of that.

Q Mr. Buchen, does President Ford plan to grant a similar pardon to the former President's subordinates who are scheduled to go on trial later this month?

MR. BUCHEN: To my knowledge, he has not given that matter any thought.

Q Can you clarify, was the agreement reached with the GSA about the disposal of the tapes and documents? Was the pardon contingent on that?

MR. BUCHEN: Neither.

Q They are not together?

MR. BUCHEN: Right.

Q Number two, why did he choose 10:30, Sunday morning, to make the announcement?

MR. BUCHEN: I think you will have to ask him that. He figured that this was a very solemn moment that exemplified, I think, an act that was one of high mercy and it seemed appropriate, I think, to him that it should occur on a day when we do have thoughts like that, or should.

Q Mr. Buchen, I don't understand why you contrast the treatment of Nixon with the treatment of Mitchell coming up. If I understand your statement right, you said that Mitchell has not had the publicity and the action by a hearing as Nixon had before the House Judiciary Committee.

MR. BUCHEN: That was Mr. Jaworski's statement. That was not mine.

Q I don't understand this and maybe you can explain what you think he means there. Mitchell certainly had the hearing with conclusions and explanations of conclusions of a hearing by the Watergate Committee.

MR. BUCHEN: There was a hearing, but I don't know how conclusive the findings were.

Q There was a hearing and Mitchell testified. There was a public hearing and there were conclusions and recommendations on that, and a press conference on that, and great publicity.

MORE

MR. BUCHEN: I would judge that Mr. Jaworski does not find those conclusions prejudicial to Mr. Mitchell's upcoming case.

Q Mr. Buchen, the President, in his statement this morning, referred to this matter threatening the former President's health. Do you have any further details on that? Do you know anything about the former President's health that we don't?

MR. BUCHEN: No, I didn't go out there, so I didn't see the man.

Q Do you know what he meant by that?

MR. BUCHEN: I think it is generally known that this man has suffered a good deal. I think you people who saw him more recently than I have can form your own conclusions.

Q Has Mr. Ford and Mr. Nixon talked this morning?

MR. BUCHEN: No, not to my knowledge, but I do not believe they did.

Q Do you know, was the President in a depression and has the President threatened to commit suicide or anything like that?

MR. BUCHEN: I have no knowledge.

Q You say that you looked into this matter from a constitutional standpoint for the President, and I am sure you looked into the history of it. Has any President ever granted a pardon before in history to anyone prior to that person being charged with a crime formally?

MR. BUCHEN: Oh, yes, there are lots of precedents for that.

Q Like what?

MR. BUCHEN: Well, one of your colleagues, named Mr. Burdick, was pardoned before he was asked to testify regarding some alleged criminality involving the Customs Service during the Wilson Administration and he was given a pardon.

Q He was a newsman?

MR. BUCHEN: He was a newsman.

And, of course, the pardons granted by President Lincoln, for example -- the pardons granted after the Whiskey Rebellion and other insurrections, were applied to people who were not indicted.

Q Mr. Buchen, I am a little confused at your words, more or less dismissing the question of whether or not the President would grant pardons to Mr. Haldeman, Mr. Ehrlichman, Mr. Mitchell and the others who will go on trial September 30th. Is it not fairly clear to you, or at least do you not, here in the White House, admit the possibility that their defense now, in light of the action of President Ford today, will be that the President has pardoned the man under whose orders they were operating and what is your reaction to this possible line of defense or line of appeal by the defendants in that trial?

SureLy, this must have been given some consideration and I again would ask you what you think is going to happen, what you think the President would do when confronted with this question?

MR. BUCHEN: Well, I question your broad characterization that the acts for which they are being charged were necessarily --

Q I am just suggesting this may be their defense.

MR. BUCHEN: This may be their defense. Now, that will become Mr. Jaworski's problem and, of course, the judge's problem. You have already seen that Mr. Jaworski apparently assumes that the situation in their case is far different from the situation in the former President's case.

Q Phil, can I ask you this: Did this process that led up to the pardon today start a week ago when the President came to you?

MR. BUCHEN: Yes.

Q Was there something that happened just prior to his coming to you that got his interest working in doing this thing just now?

MR. BUCHEN: If there was, I don't know what it was, Ron.

Q Have they talked on the phone at any time this week, or immediately prior to this week?

MR. BUCHEN: They have not talked on the phone since Jack Miller became his attorney.

MORE

Q Did this process start after last Sunday's publication of the Gallup poll that said that the majority of the public wanted to see Mr. Nixon prosecuted?

MR. BUCHEN: Let me figure my dates. That was Labor Day week-end, was it? I worked all Labor Day week-end so it came before that.

Q To what extent did the transition team look ahead to the problem of a pardon, and have you done any work at all --

MR. BUCHEN: They didn't consider that. They had far too much else to consider.

Q As a matter of equal justice under law, we have now had the two top officials of the United States, both allegedly involved in crimes, namely, Vice President Agnew and Mr. Nixon, who have been freed of criminal charges. Both of them are entitled to go around the country and represent themselves as being innocent. What is a citizen to make of that situation when ordinary criminals, including the aides involved in this, have to be tried?

MR. BUCHEN: Of course I cannot speak at all for the treatment of former Vice President Agnew because this Administration was not in any way involved. But I think you have to understand -- and maybe it is a good time on Sunday to think about it -- that there is a difference between mercy and justice.

I don't think that you can assume that mercy is equally dispensed or how it could be equally dispensed.

Q Mr. Buchen, is there any pardon being considered for the aides who performed their acts allegedly in the name of and in behalf of Richard Nixon?

MR. BUCHEN: I have already spoken to that question.

Q I don't think you have, Mr. Buchen. I am actually talking about those now in prison, not Mr. Nixon. John Dean and others?

MR. BUCHEN: So far as I know, no thought has been given to that.

Q Mr. Buchen, is it now possible under the agreement on the custody of Presidential tapes and papers for any tape made during the Nixon Administration to be subpoenaed even though it is not now the subject of a subpoena?

MR. BUCHEN: It is possible. In order to get a subpoena, or court order, of course, certain showings would have to be made. It is also possible, of course, for the owner of the tapes to interject objections.

Q A follow up to that. If the owner of those tapes doesn't want to give them up -- he has now been pardoned of everything -- what is the leverage?

MR. BUCHEN: It doesn't affect the court orders or subpoenas, and he is subject to the consequences of not obeying a valid court order or subpoena.

Q In other words, that would come under the expiration date of August 9 in the pardon; is that right?

MR. BUCHEN: That is right.

Q Do you feel the agreement with Mr. Sampson has insured that the Ford Administration cannot be implicated in any Watergate cover-up? Was that one of your considerations?

MR. BUCHEN: That was not involved because I don't think that is a relevant issue.

Q Is there any change in the rules of access to documents by former White House aides?

MR. BUCHEN: The problem is that there would, of course, be an interim before the Nixon-Sampson letter agreements can be fully implemented. How we will handle the interim arrangements, I am sure can be worked out with Jack Miller as attorney for Mr. Nixon.

MORE

Q As you recall, in the Agnew case, a paper prepared by the Justice Department listing the law violations by the former Vice President was presented in court on the theory that the American people were entitled to have the full story in addition to the specific charge to which the former Vice President pleaded?

In President Ford's preparation for today, what thought did he give to the presentation of an analysis by Special Prosecutor Jaworski of the full extent of President Nixon's role in the Watergate case, and is there any understanding at this point of eliminating Special Prosecutor Jaworski's ability to pursue that type of investigation?

MR. BUCHEN: There is no limitation on what Mr. Jawerski can do except, of course, the putative defendant has the defense now of pardon.

On the first part of your question, there is a distinct difference between asking a man to plead guilty to a limited offense and the treatment of Mr. Agnew, of course, was done under very different circumstances by the system of justice. In this case, it was reliance entirely on the pardon powers which involve acts of mercy.

Q You said earlier that you had assumed that Mr. Nixon may have been prosecuted, is that as far as you are willing to go on that issue? Did you all think it was likely that he would be prosecuted?

MR. BUCHEN: If you mean tried or indicted?

Q Indicted?

MR. BUCHEN: I think it would be very likely that he would be indicted. How and when he could be tried was still an open question.

Q This likelihood, is that on the strength of your conversation with Mr. Jasorski that you think it was very likely?

MR. BUCHEN: No, it was largely on the basis of what the Grand Jury apparently intended to do on the basis of less evidence than is now available.

Q Mr. Buchen, if the ex-President retains the sole right of access to the documents and as I understand this GSA agreement, can even limit access by the Archivist of the United States and his staff, why should the United States remain as custodian of the documents at all?

MR. BUCHEN: There is a double-key arrangement. In other words, access can't be obtained by either the former President or the General Services Administration except by their concurrent acts.

Q But he could conceivably, to prevent himself from embarrassment, limit access -- no one could see these documents during the three years the United States agrees to act as custodian.

MR. BUCHEN: Unless there is a court order or subpoena.

Q What about the court orders or subpoenas that are outstanding?

MR. BUCHEN: We will have to take this agreement to the courts involved in those proceedings and seek relief from the present processes and subpoenas on the basis of the current agreement.

Q Mr. Buchen, did you and the President give much consideration to the fact that a criminal trial could have cleared Mr. Nixon of the charges of possible guilt, could have cleared him, cleared his name?

MR. BUCHEN: We certainly recognized that as a possibility. Whether it was given any consideration, I don't know.

Q I mean by you or the President?

Q Well, you were there. What was your own view?

MR. BUCHEN: My own view is that that was a possibility. If that was what the former President wanted to do, he certainly would have told us. He didn't have to accept the pardon.

Q Did you recommend the pardon?

MR. BUCHEN: I had nothing to do with recommending it or disrecommending it.

Q Did you ever discuss the political implications of this pardon with the President?

MR. BUCHEN: I did not.

Q Mr. Buchen, to follow up on some of these other questions, it seems that President Ford has an interest in building into the public record a record of Mr. Nixon's alleged criminality for the same reasons that Mr. Agnew's alleged criminality was made a part of the record, to prevent him from saying that he was driven out by political opponents, et cetera. Is President Ford satisfied that former President Nixon's record of wrongdoing is sufficiently in the public record now?

MR. BUCHEN: All I can tell you is that he knows nothing that you don't know.

Q Mr. Buchen, does the pardon in any way affect Mr. Nixon's payment of back income taxes?

MR. BUCHEN: Not at all. This does not apply to civil liabilities.

Q Let's get back to this double-key arrangement. This is just so much lawyer's language.

MR. BUCHEN: I know that is complicated.

Q Does that double-key arrangement prevent the President from going in there and destroying some of those tapes if he wanted to?

MR. BUCHEN: Yes, it does.

Q So, there is adequate safeguards?

MR. BUCHEN: Yes.

Q Does it mean that if any of those tapes are subpoenaed and he just refuses to honor those subpoenas, then what would happen?

MR. BUCHEN: He would be subject to contempt of the court that issued the subpoenas. It doesn't apply to any future acts.

Q When will the tapes be physically moved to this repository in California or are they going to remain here?

MR. BUCHEN: No, they will be moved to the California repository as soon as we can get rid of, or modification of the existing orders that require they be retained here.

Q Is that that Laguna Niguel pyramid they will be put in?

MR. BUCHEN: Yes.

Q But nobody can get in there by themselves. There will always be somebody to watch; is that correct?

MR. BUCHEN: Yes.

Q When you way "current", are you referring to the two court orders that are pending?

MR. BUCHEN: There are at least three court orders that I know of. One is in the Wounded Knee case in Minnesota. Another is in the nature of an order because the court declined to issue the order on the assurance that documents or tapes could not be moved, and that is the case involving the networks. So, you can get Ron to answer your questions on that.

The third one is the civil suit in North Carolina involving a suit by people kept out of a meeting to celebrate Billy Graham Day.

Q Mr. Buchen, Mr. Jaworski has, of course, in his possession a considerable number of tapes which are not the originals. They are copies. This agreement with Mr. Sampson does not affect that, does it? They don't have to be returned to the mass to be moved out to Laguna?

MR. BUCHEN: The copies will be disposed of as the court orders, I assume.

Q But this does not require them to be returned to the big group?

MR. BUCHEN: No.

Q Can I clarify the chronology of all this? When is the first time the President indicated to you he might want to pardon Mr. Nixon?

MR. BUCHEN: Just at the start of the Labor Day weekend.

Q On which day?

MR. BUCHEN: I know I started to work Friday night, so it must have been Friday.

Q Did you have any contact with Mr. Miller on the issue of a pardon?

MR. BUCHEN: Not at that time. The first contact, I think, was on Thursday of this week.

Q And you can't suggest what precipitated the President's interest?

MR. BUCHEN: I do not know.

Q Can you tell us whether the President ever tried to -- I hesitate to use "extract" -- but get any admission of guilt from the President, or was it strictly --

MR. BUCHEN: He did not.

Q Mr. Buchen, you said that President Ford has not talked to former President Nixon since Mr. Nixon retained Miller. Could you tell us the last time President Ford had contact with President Nixon, direct contact?

MR. BUCHEN: I don't know. I think it may have been the time of the Rockefeller appointment.

Q Mr. Buchen, I am not clear on one thing, and following up Helen's question, your emissary went out on that Thursday, Mr. Becker went out on Thursday, that was the only time he went out. I am trying to get clear in my mind precisely what it was he told the former President, or told Mr. Ziegler, and both of them at different times, that President Ford, in all probability would grant a pardon. What did he ask either of Mr. Nixon or Mr. Ziegler? What did he ask that Mr. Nixon do? Did he ask that this statement we have been given today be issued? Did he suggest wording and what it should say or did he ask for nothing? Did he ask for more than what we got in this statement?

You say at one point the former President could have turned down the pardon.

MR. BUCHEN: Yes.

Q Did he offer that option and did he say if the pardon was to be granted, what the former President then should do?

MR. BUCHEN: The former President was represented by counsel, you know.

Q Well, did he make the offer to Mr. Miller?

MR. BUCHEN: Mr. Miller is shrewd enough attorney to know that he could have advised his client to accept or reject the pardon.

To answer your other question, as you can see, that letter agreement is a very complicated one and it involved a lot of practical problems. Before Miller and Becker went out, a rough draft of Miller's proposal was in our hands. But it was obvious that we could not work out the details of what would suit Miller's client and what would suit GSA and what would suit what we thought was the best interests of the Government and of the potential other parties in interest without going out and making the final draft out there. And that was done.

As far as the statement from the former President is concerned, that was a matter that was left entirely up to the discretion of his own counsel and his own advisers.

Q Let me see if I can put it another way, Mr. Buchen. Was the pardon in any of the conversations involving yourself, Mr. Becker, or anyone else, with anyone representing the former President, was this pardon contingent on anything?

MORE

MR. BUCHEN: I have said no and I repeat no.

Q Are you saying if he had not given this letter at all, if he had said, "Well, I will make no letter agreement," are you saying categorically that a pardon would have been issued anyway?

MR. BUCHEN: I am not sure because President Ford could have changed his mind or not made up his mind finally.

Q When was the package completed that was announced today?

MR. BUCHEN: We got the agreement back on early Saturday morning and spent that day reviewing it with Mr. Sampson so that was wound up.

Q You mean yesterday morning?

MR. BUCHEN: Yes, yesterday morning. The statement, of course, we didn't see until we got it over the wires right after the speech.

Q Did the President know there was going to be a statement before he finally decided on the pardon?

MR. BUCHEN: Yes.

Q Did he have any idea what the contents would be, what the tone would be?

MR. BUCHEN: In a general way, yes.

Q You are saying that the pardon had nothing to do with this letter agreement?

MR. BUCHEN: That was not a condition.

Q This was a completely independent action?

MR. BUCHEN: Right. The negotiations for that agreement were started independently before even consideration of a pardon.

Q The decision to pardon was not made until after this agreement was obtained?

MR. BUCHEN: That is right.

Q What you are saying, you cannot say there would have been a pardon if the agreement had not been made?

MR. BUCHEN: All I can say is that the President had the right not to grant a pardon because he had not finally made up his mind to do so.

Q When did he make up his mind to do so?

MR. BUCHEN: I suppose until that pen got on paper or until he started making the statement.

Q He made his decision after the agreement was made?

MR. BUCHEN: That is correct, but what went on in his mind, I don't know.

Q When did he write the speech?

MR. BUCHEN: Last night.

Q In sending this word through the emissary to Mr. Nixon that he was thinking of or expected to pardon him but was reserving time judgment, was that in any way intended as encouragement to Mr. Nixon to get on with the final agreements and possibly offer the kind of a statement that he did offer today?

MR. BUCHEN: That was not the intent. If it created that impression, it was a wrong impression.

Q Mr. Buchen, you just said that the President had an indication in a general way of content of the former President's statement. If I may ask a two-part question: How did he obtain this indication, and did he believe, or was he informed, that the statement would be one of contrition?

MR. BUCHEN: The report was through the mouth of Benton Becker, and the characterization of it as an act of contrition is mine.

Q Excuse me, then. What general feeling did the President have that the statement would be, what indication did he have of what the statement would be? How was it characterized by Mr. Becker?

MR. BUCHEN: He in general told the President what it amounts to and in particular called attention to the fact that there would be an acknowledgement of failure to act decisively and forthrightly on the matter of the Watergate break-in after it became a judicial proceeding.

Q Was that negotiated at all?

MR. BUCHEN: It was not negotiated.

Q Was Mr. Becker informed of that on Thursday at the time he went out there?

MR. BUCHEN: I think he was informed on Friday because he got out there very late on Thursday night.

Q Do you know if that information had any effect on Mr. Ford's decision?

MR. BUCHEN: I don't know. I am sure it pleased him and made him feel that it was easier for him to act as he contemplated doing.

MR. BUCHEN: We will take three more questions.

Q Would you please clear up some things about this letter of agreement. I am sorry, but it will take me some time to understand it. Let me see here if this is what it means. Unless there is a subpoena or a court order which Mr. Nixon would reply to, any ordinary citizen of the United States, or any officials, outside of Sampson, could not just go in there and look at these tapes or listen to them, or see them at any time. They will be shut off completely to the public?

MR. BUCHEN: That is right.

Q Mr. Buchen, why is the date of July 1969 mentioned in the pardon?

MR. BUCHEN: It is January, the date of inauguration, January 20. President Ford misspoke when he used the word "July".

Q How complete was your explanation of the case against the former President by Mr. Jaworski? Did he go into what areas that he might be pursuing, what he heard on the tapes that have not been made public? Anything like that?

MR. BUCHEN: The question asked him what matters could arguably involve further steps, and it read like a list from one of your newspapers.

Q Did Mr. Becker talk strictly with you or did he ever speak to Mr. Ford? Did he deal strictly with you?

MR. BUCHEN: Oh, no; he was also in the room on occasions when I was speaking to the President.

Q Why did he pick Becker to do this?

MR. BUCHEN: Part of the problem, as you may know, is we have a rather understaffed legal staff here and Mr. Becker is a man of rare talen that helped during the confirmation hearings of the Vice President, and he is such a good and trusted friend of both of ours that we felt he was the one we should call on.

THE PRESS: Thank you.

MR. BUCHEN: All I am going to say is, for the tapes there will be two five-year windows. The first of the five-year windows involves controlled access by the former President for his listening to copies of tapes, copies to be made by an operator who himself does not listen to the originals.

Also, during the first five-year window, anyone with a legitimate court subpoena or order that is upheld can have access or can require the former President to furnish the information contained on relevant portions of the tapes.

At the end of that first five-year period, the former President retains his window, but also can order selective destruction of tapes. At the end of the ten-year period, they all get destroyed, all that remain.

Q In the second five-year window, is that just by persons who have legitimate subpoenas and court orders closed off?

MR. BUCHEN: That is right, because there is a five-year statute of limitations on most, in fact on all, Federal offenses and most civil matters, so it is assumed the initial five-year window is long enough.

Q What is the limit on destruction after five years plus one day, or can he destroy them all?

MR. BUCHEN: He can.

Q He can?

MR. BUCHEN: He can order them destroyed.

Q If they were making any copies, would the originals then be destroyed in the second five-year window?

MR. BUCHEN: The originals will be destroyed. The copies will be destroyed immediately after they are used.

Q And he could do it after five years and one day for everything?

MR. BUCHEN: Right.

Q Now can you go then from there to the documents?

MR. BUCHEN: The documents are a different category. There is no present gift of documents as distinguished from the tapes. However, there is a three-year period when there will be controlled access by the owner of those documents requiring the double-key arrangement with the General Services Administrator. And the former President is under obligation to respond to any subpoena involving documents, just as he is to those involving tapes.

During the three-year period involving documents, the former President will be under obligation to respond to subpoenas involving those documents. At any time, the former President can designate certain documents by description to become the absolute property of the United States.

However, after the three-year period, he may either elect to complete his gifts or to withdraw materials as he desires. These are documentary materials.

Q Why the three-year limit?

MR. BUCHEN: We felt that as a practical matter on the documentation that would be long enough. It gives everybody a warning. Obviously if there is a subpoena out that was obtained in the three years and the matter of its resolution has not been concluded, the subpoena would prevail.

Q Can you destroy the documents after three years?

MR. BUCHEN: Yes, if he wants to withdraw them.

Q By the way, Mr. Buchen, I may be wrong in what I am about to say, but I am going to predicate a question on it, nevertheless.

I am under the impression that the tapes, as opposed to documents, the tapes were -- that things such as taperecordings were not covered when Congress covered that loophole and for that reason, the former President could donate those tapes to the Government and claim a tax exemption.

Your second window, the ten-year time for destruction appears to rule that out; is that right?

MR. BUCHEN: He has already given them to the U.S. Government to be a gift effective at the end of the 5-year period.

Q After he destroys them all?

MR. BUCHEN: He can't destroy them during the first five-year period.

Q He has given them as a gift to the United States -- we are talking about tapes now -- he has given them as a gift to the United States for five years; is that right?

MR. BUCHEN: No, it is the other way around. He has retained title for five years and the gift takes effect at the end of the fifth year.

Q But he can destroy his gift?

MR. BUCHEN: He doesn't have access to them.

Q But he can the next day. Didn't you say five years and one day he could destroy them all?

MR. BUCHEN: He can order their destruction.

Q What can he do with the copies? Can he dispose of them for his own purpose?

MR. BUCHEN: No, the copies will go back into the hands of the General Services Administrator and they will be destroyed after he has listened to them.

Q Mr. Buchen, after the ten-year period, is it mandated that the tapes, all tapes and all copies be destroyed?

MR. BUCHEN: That is a condition.

Q So, his gift in the second five years is a limited gift, in time it is a limited gift, say limited to five years; is that right?

MR. BUCHEN: No.

Q You say he has given them to the United States?

MR. BUCHEN: Effective five years from now.

Q Why are they going to be destroyed after five years?

MR. BUCHEN: Well, maybe they never should have been made in the first place. This was his desire and I think it is consistent with the fact that these matters do involve conversations with people who had no realization that their voices were being recorded.

As an old spokesman for the right of privacy, I think there is considerable merit for putting these in a separate category from documents.

Q Mr. Buchen, was any consideration given to the right of history?

MR. BUCHEN: I am sure the historians will protest, but I think historians cannot complain if evidence for history is not perpetuated which shouldn't have been created in the first place.

Q Is there anything he can keep, or intends to keep?

MR. BUCHEN: I am sure there are items in the documents that he would intend to keep. Of course, it would involve family letters, things of a highly personal nature.

Q Mr. Buchen, if it is Mr. Nixon's desire to destroy the tapes after ten years, would it not be logical to assume he will destroy them after five years?

MR. BUCHEN: That is his option, order them destroyed.

Q What about the gift option? The tax deduction option?

MR. BUCHEN: I am not his tax lawyer and it seems to me if you give a gift with instructions that the items have to be destroyed, that the gift immediately loses its value, so I would think it would be very questionable.

Q What about the President, though? Could he --

MR. BUCHEN: They will not be perpetuated beyond the limited use.

Q Does the word "copies" include written transcripts as well as the originals?

MR. BUCHEN: Yes.

Q As a practical matter, at the end of five years, then all the tapes will be destroyed except those under subpoena?

MR. BUCHEN: No, because he reserves the right to keep the window open for himself for another five years?

Q Just the President, no public?

MR. BUCHEN: That is right.

Q Is it a question they can be destroyed in five years, but must be destroyed in ten years?

MR. BUCHEN: They can't be destroyed short of five years.

Q Mr. Buchen, Prosecutor Jaworski gave no indication that he objected to the pardon. Is it your impression that he sort of feels relieved?

MR. BUCHEN: Wouldn't you if you were in his place?

THE PRESS: Thank you.

END (AT 1:28 P.M. EDT)

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FOR IMMEDIATE RELEASE SEPTEMBER 9, 1974

OFFICE OF THE WHITE HOUSE PRESS SECRETARY

PRESS CONFERENCE
OF
PHILIP BUCHEN
COUNSEL TO THE PRESIDENT

THE BRIEFING ROOM

AT 12:49 P.M.

MR. HUSHEN: As I announced earlier, Mr. Philip Buchen, the Counsel to the President has agreed to come back out here today to answer some of the questions you have.

Let me say we are going to give them 60 seconds to get some photographs and then they will go away. (Laughter)

Let me say at the outset that the document that is about to be handed out is embargoed until the completion of the briefing.

MR. BUCHEN: This is a follow-up, of course, of the meeting we had on Sunday. And at that time someone asked the question about the disclosures made to me by Special Prosecutor Jaworski to the areas of investigation in which his special force was engaged.

And my answer was that the question asked him was: "What matters could arguably involve further steps?"

And I reported that it read like a list from one of your newspapers.

You have now before you the document that was furnished to me and, although the copy of the Special Prosecutor's memorandum from Henry Ruth to the Special Prosecutor dated September 3, 1974, on the subject of Mr. Nixon was sent to me in confidence, Mr. Jaworski has since advised me that, if I were willing to assume the responsibility for its release, he would raise no objection to my doing so.

However, he cautioned that in the event of its release, he would expect that it bemade available in its entirety, including the first and last paragraphs of the memorandum, and I quote that the first paragraph reads:

"The following matters are still under investigation in this Office and may prove to have some direct connection to activities in which Mr. Nixon is personally involved:"

MORE (OVER)

At the conclusion of the memorandum Mr. Ruth, in reporting to Mr. Jaworski, wrote:

"None of these matters at the moment rises to the level of our ability to prove even a probable criminal violation by Mr. Nixon, but I thought you ought to know which of the pending investigations were even remotely connected to Mr. Nixon. Of course, the Watergate cover-up is the subject of a separate memorandum."

Now I will try to field any questions.

Q Tell us about considering pardons for everybody involved in Watergate?

MR. BUCHEN: I am not involved in that matter.

Q Well, who is?

MR. BUCHEN: I said at the time of the last press conference to my knowledge no thought was being given to that and I have not been called in to do any part of the study so far. I assume I will be.

Q Who is at this Point?

Q Who is considering this, the President?

MR. BUCHEN: The President made the statement.

Q Mr. Buchen, can you tell us if anyone tried to persuade Mr. Nixon to confess guilt prior to the granting of the pardon by President Ford?

MR. BUCHEN: No. Mr. Miller, at the time that I informed him that the President was considering a possible pardon for Mr. Nixon, was told by me that I thought it would be very beneficial in the interests of the country, in the interests of the present Administration and in the interest of the former President, that as full a statement as possible should be issued by Mr. Nixon but that I had been told that that was not a condition to the consideration of the pardon.

Mr. Miller at that time assured me that he agreed with me that such a statement should be forthcoming from his client.

Q Mr. Buchen, I was wondering, if, as the President's legal counsel, , would you advise that the President in this study about the possibility of giving amnesty to all the Watergate people, that excluded from the people doing the study should be all Nixon holdovers? Would you advise, or do you think it is reasonable for Nixon holdovers to participate in a study of possible amnesty to all Nixon defendants?

MR. BUCHEN: I think that is a decision the President will have to instruct me on.

Q How would you advise him?

Q Did you finish you answer to the earlier question?

MR. BUCHEN: I was finished.

Q Could I follow-up then, sir? Did the former President balk at this, was there negotiation on what finally came out in his statement afterwards?

Did you see that statement, sir, or did anyone else in the White House see it prior to its issuance?

MR. BUCHEN: When Mr. Becker came back from San Clemente, he was able to report the substance of the statement that he thought would be forthcoming after the announcement was made.

But we did not have the statement in the form in which it was ultimately delivered.

Q Are you satisfied that this was as fulla statement as possible coming from the former President?

MR. BUCHEN: That is something that I think would require going into the former President's mind. Obviously, if you do not condition an act of mercy on the recipient of the mercy doing anything, you are not in a position to do much bargaining.

Q Mr. Buchen, did Mr. Becker go to San Clemente with a much stronger statement, or a statement --

MR. BUCHEN: He had no statement in hand.

Q You say he came back with a statement -- he reported the substance of the statement he thought would be forthcoming. Was that substance substantially different from the statement that was then issued?

MR. BUCHEN: No, the essential feature was the statement that the President believed he had not acted decisively and forthrightly in respect to the Watergate once it became a judicial proceeding and the regret for having done wrong was in the report that Becker gave us.

Q Was it your hope or intention early in those negotiations to get Mr. Nixon to agree to a statement in which he admitted his own personal wrong-doing and involvement in the Watergate cover-up?

MR. BUCHEN: Again I had to rely on what Mr. Miller believed would be in the best interests of his client and the country, because I had no authority to extract a statement of my own making.

Q Not what was in the former President's mind, but what was in your mind? Do you think that the final statement met the standards that you and Mr. Miller discussed at the meeting?

MR. BUCHEN: Well, I think they did, because, as some of your papers have already suggested, the very fact that a man accepts a pardon does imply that he believes it is necessary for him to have that pardon, or that it is useful for him to have that pardon.

And there aren't many instances in which it is useful to have a pardon unless there is a strong probability of guilt.

Q Mr. Buchen, do you think that you and President Ford misread the public's acceptance of the terms of this pardon and the acceptance in Congress?

MR. BUCHEN: Well, I was not doing much reading on the outside as to what might happen. That was really outside my bailiwick, so I cannot tell you.

Q Mr. Buchen, do you and the President hope that the former President will at some time, perhaps in the near future, release some kind of formal statement detailing further his connection with Watergate?

MR. BUCHEN: I have not given that any thought and I assume that would be entirely up to the former President.

Q Mr. Buchen, you were involved in the pre-accession negotiations and pre-transition operations of the Ford Administration. Was there at any time any discussion between any high-ranking member of the Ford group and any member of the Nixon group as to the possibility of a pardon for Nixon in advance of his leaving office?

MR. BUCHEN: I answered that question Sunday and, to my knowledge, there was absolutely none and it never came up as a matter to be discussed by the transition team. And I think I participated in virtually all meetings of the transition team.

Q How about between Ford and Nixon alone?

MR. BUCHEN: I don't believe so.

Q Can you find out definitely whether there was no deal before Nixon left office?

MR. BUCHEN: Well, I know the man in the President's office quite well and I can assure you he did not make a deal. I know him that well.

Q Mr. Buchen, he assured us in a press conference it would be untimely to do such a thing, and he assured us when he was nominated for Vice-President that the American people would not stand for it. Can you give us an explanation of this?

MR. BUCHEN: Let's take the first; the matter of untimeliness seems to me to involve a debate that really makes little sense, because a man who had to consider whether or not to grant a pardon, it seems to me, has to consider the fact that if a pardon is desirable, the earlier it comes, the better.

It is like making a man walk a plank. You wait until he takes the first step. You wait until he gets to the middle of the plank. You wait until he jumps off the end, and then dive in to rescue him. I think it represents -- let me put it this way. I don't think an act of mercy can ever be untimely, and it certainly becomes less merciful if you postpone the agony.

Q Mr. Buchen, in that statement, you are suggesting that the former President was going to go off the end of the plank?

MR. BUCHEN: I think there was a strong possibility.

Q When Mr. Becker was out at San Clemente, did he discuss in the President's presence what the President might say in a statement, and did the President get angry at the suggestions that he admit guilt?

MR. BUCHEN: I think those negotiations were entirely with Mr. Ziegler, so I don't think we have any knowledge of what the President --

Q The New York Times states this morning as I quoted it.

Q You better clear up what you mean by "walking the plank;" do you mean suicide or going to jail?

MR. BUCHEN: No, as I understand "walking the plank," it is because the man has been convicted of some crime that offended the master of the ship, or not convicted, say indicted.

Q What about the question of health; Mr. Buchen, how did that figure into this decision?

MR. BUCHEN: I don't know because I wasn't party to any of the investigations or discussions, if there were any, about the former President's health.

Q Did you say Mr. Becker at no time spoke to Mr. Nixon in San Clemente?

MR. BUCHEN: I didn't say that.

Q I thought you said the negotiations were entirely with Mr. Ziegler?

MR. BUCHEN: I don't know whether there were negotiations, but the matter of the content of the President's statement, which he contemplated giving when the pardon was issued, was dealt with entirely through Ron Ziegler. The only face-to-face matters taken up with the former President dealt with the manner of managing and disposing of his papers and tapes.

Q Mr. Buchen, did Mr. terHorst ask you on Friday whether Mr. Becker was involved in discussing a pardon with the former President during his trip to California, and if he did, what did you tell him?

MR. BUCHEN: Well, we better clear that one up.

Jerry terHorst reported to me that someone had observed Benton Becker and Jack Miller in the area of San Clemente. Jerry terHorst asked me what the purpose of my having sent Benton Becker out to San Clemente was, and I said that the purpose was to take a document that had been prepared in rough draft before he left Washington, had been prepared by Mr. Miller, which related to the management and disposing of the tapes and records.

However, we objected and wanted changes in those documents, partly because we were concerned as to the practicality of some of the proposals made insofar as they involve the Administrator of the General Services Administration.

The matter is very complex, as you see, so I suggested, when Mr. Miller said he would have to go and discuss the terms of that document with his client, that Mr. Becker go along, so that there would be a way that Mr. Becker could be on hand as changes, additions or whatnot were proposed and so that he would available to report back to me on the progress of the negotiations. That was the purpose of the assignment.

Q We specifically asked you if Mr. Becker was out there engaging in pardon negotiations?

MR. BUCHEN: There were no pardon negotiations, that is the point.

Q Anything at all?

Q You sent him out with instructions to say that the President had this under consideration?

Q Would you answer my question, please?

MR. BUCHEN: Mr. Miller knew that the pardon was under consideration, and he could report to his client. It was not necessary for Mr. Becker to do anything in connection with the pardon.

Q Didn't Mr. Becker take out a copy of the proposed pardon?

MR. BUCHEN: Yes, he did. It was a draft that he and I had worked on very hurriedly Thursday afternoon before he had to leave on the plane. I said, "Benton, you are going to be five hours on that plane, take a copy along, keep working on it, I don't think it is in the form we want to submit to the President for his consideration. Take it along and work on it."

Q You didn't tell Mr. terHorst that?

MR. BUCHEN: No, I will explain; as you may appreciate, being counsel to anyone, or lawyer to anyone, imposes certain restrictions, and I believe, on this matter, I was under complete restriction as a lawyer to the President not to disclose what I was doing for the President on a matter that he regarded as highly confidential.

Q Did the subject of pardon ever --

Q Would you say that you misled Mr. terHorst on Friday?

MR. BUCHEN: Let me put it this way; I can see how he could have been misled.

Q Can you see how he could not have been misled?

MR. BUCHEN: No, I can see how he could have been misled. I don't say he could not have been. After all, if you get a question, why is a man whom you have sent to San Clemente there, and I give him an answer, I can see when he in turn had to respond to the man, or the reporter making the inquiries, that he would inject a negative, was he there doing anything else. And I assume that Jerry said, "Well, as far as I know he wasn't," because I had not told him he was doing anything else.

Q Did you tell him he wasn't out there discussing the pardon?

MR. BUCHEN: Oh, no.

Q Why was it something you couldn't talk about?

MR. BUCHEN: I could talk about the negotiations on the tapes.

Q When he asked you about the pardon?

MR. BUCHEN: He didn't ask me about the pardon.

Q What was the precision of language used in President Nixon's statement?

MR. BUCHEN: Let me get the question.

Q What was the need for the secrecy in the negotiations, whatever they were?

MR. BUCHEN: In the course of any client and attorney relationship, usually until something happens, you are under obligation not to disclose the conversations.

Q I mean, what was the need for secrecy about the fact that a pardon was being considered, generally, not just your conversations with the President?

MR. BUCHEN: Well, generally, that was the President's decision and not mine. I was just bound by my client-attorney relationship.

Q Mr. Buchen, if Mr. Becker knew all about the pardon, the President seemed to trust him with that information, yet he didn't trust Mr. terHorst with that information?

Q Or you didn't trust Mr. terHorst with it?

MR. BUCHEN: I had no power to subdelegate in passing information. The first question is why didn't the President trust Mr. terHorst to have the information at the same time I got it?

Q No, I mean Mr. Becker. You are talking about the attorney-client relationship, which involves you and the President; Mr. Becker is someone outside that relationship, yet he knew about the pardon because he was working on the pardon agreements.

MR. BUCHEN: No, he had the same relationship that I had in terms of his being a lawyer and working

under my supervision as a lawyer for a client. As in a law office, if a client comes into an office and the lawyer assigns a law partner to work on it, the obligation extends to the other lawyer as well as the original one.

Q Can you be forthright with us on what is your advice to the President on pardoning other individuals associated with the --

MR. BUCHEN: I have not given him any advice.

Q What would be your advice; how do you see the issue?

MR. BUCHEN: I haven't even had time to study it.

Q When did the President's other advisers find out that the pardon was under consideration or was to be granted, and did they agree with it when they found out about it?

Q And did you?

MR. BUCHEN: I was in the room at the time when certain advisers were told about it on Friday before Labor Day, but I don't feel free to report their reactions.

MORE

Q Can you tell us what role General Haig played in this granting of the pardon? He was in on all of this all the time, wasn't he? Was he recommending a pardon during this period?

Q What was the question?

MR. BUCHEN: I was asked that question last night and I can tell you that every occasion when I was present when the subject was raised and General Haig was there, he took an absolutely neutral stand.

Q Did you say you are not part of the study for the other Watergate defendents? Can you tell me when you became aware that that study was in the works?

MR. BUCHEN: I learned from Mr. Hartmann and Mr. Hushen that this matter was brought up at the early morning conference.

Q Who brought it up?

Q Today for the first time?

Q Did you say there was a connection between the pardon for the others and the reaction against the pardon for Nixon? And secondly, if you are the President's lawyer and you are not working on it, who is?

MR. BUCHEN: Well, I don't know, Ron. I really don't.

Q What about the first part of that question; is he trying to dampen down the reaction by giving out pardons to the others?

MR. BUCHEN: Well, I don't interpret studying a pardon as predicting what the results would be.

Q Mr. Buchen, as a lawyer, can you see a distinction between a President granting a pardon to a former President and granting pardons or not granting pardons to former subordinates for involvement in the same illegal acts?

MR. BUCHEN: Well, there certainly is a distinction. I will later have available for distribution -- because I don't think there will be many questions on it -- a memorandum, a copy of a memorandum that Mr. Jack Miller prepared for the Special Prosecutor in which he rather carefully documents the reason why the situation of his client is distinguishable from the situation of anybody else's remotely involved in the acts, or Watergate-related events.

You will remember I quoted a letter from Mr. Jaworski who did say he thought there was a distinction.

Q Phil, could I ask you this question: Does not the mere fact that the White House has made a statement saying that pardons for all Watergate defendants are under study, does that not intrude upon the judicial process to the point that the trial for the Watergate defendants, the trial for September 30, is somehow intruded upon and interfered with by this statement?

MR. BUCHEN: Well, I don't think so. You see, after all, the fact that there can be a pardon hangs over the trial of anybody. That is not a unique situation. The power to pardon exists in the Federal Constitution and I believe in every State Constitution.

Q This is a matter of great and intense national interest. It is not like the case of any defendants. This is a case of specific defendants that have been involved in a great national drama or what have you, so it is a different case, is it not?

MR. BUCHEN: Yes, but the Presidential pardon power, as well as that of a Governor of a State, hangs over the judicial process all the time.

Q What purpose was served by announcing this morning, or authorizing Jack Hushen to announce it this morning?

MR. BUCHEN: Well, I was not party to that determination so I can't tell you.

Q What purpose was served by announcing the Jaworski letter on the ten points?

MR. BUCHEN: Well, as I indicated, it was given to me on a confidential basis. The comments that have been made around town is that there was not a consideration given of what was, what someone else called "are there any possible time bombs", and we felt that it would be in the interest -- provided Mr. Jaworski consented -- that we do provide you with the information on which the President in part acted before he decided to grant the pardon.

Q In this study that is being undertaken, sir, what is your understanding of the philosophy behind it -- that families of all Watergate defendants have suffered enough, or what other considerations?

MR. BUCHEN: I can't go beyond the statements Jack gave you. That is all I know.

Q Where did it first come up?

Q Where did this subject of possible clemency for all other Watergate defendants first come up? You didn't make that clear. You said "an early morning conference".

Q What morning?

MR. BUCHEN: This morning.

Q What were the circumstances?

MR. BUCHEN: I don't know except it was reported to me by Mr. Hartmann and Mr. Hushen that it was raised this morning.

Q Where?

MR. BUCHEN: I assume with the President. I don't know the circumstances.

Q Is this a reaction, Mr. Buchen? Is this consideration of the study, consideration of pardons, and the announcement of this study, is this a reaction to the popular outcry against the pardon of the former President?

MR. BUCHEN: I don't think so because the fact that two people are brought into his confidence this morning and that confidence has been shared with you today, doesn't mean that that is when the thought came.

I explained on Sunday when the question was asked me as to whether any thought was given to the way in which the pardon power might be exercised, if at all, respecting other people involved, I said that to my knowledge -- meaning that as far as I knew -- no thought had been given. But that didn't mean that the thought processes weren't going on unbeknownst to me or unbeknownst to the people who got the reports this morning.

Q Mr. Buchen, in going back to my other question, you said mercy is never untimely. Was the President not merciful ten days ago when he said it would be untimely, and was the President lacking in mercy when he told the committee that the American people wouldn't stand for it?

What caused him to be suddenly merciful? Could you tell us what happened?

MR. BUCHEN: I wish you would come up here and explain the theory of mercy. You can probably do a much better job than I can.

But let me tell you, it is not whether to be merciful, but how he could be merciful, and I do not think he was aware that he could act before there was any formal indictment when he made his statement before the press.

Q Wasn't the President briefed on that very point before the news conference? Wasn't he briefed that there would be a question on pardon and this was a policy adopted?

MR. BUCHEN: That is right.

Q Why was that policy changed, that there would be no pardon until there was due process?

MR. BUCHEN: You have lost me, I am sorry.

Q He announced a policy at that news conference and you say he was briefed on that policy.

MR. BUCHEN: He said that he would make no commitments. His intention then was to make no commitments on the pardon until something had been brought to him.

Q Why was that changed?

MR. BUCHEN: Well, because after the conference, I assume he reflected on the matter, and then asked me to find out whether or not he could move quicker than he had indicated at the press conference.

Q Did you brief him prior to the news conference that the best policy was for him to wait until there was some --

MR. BUCHEN: No, I did not.

Q With whom was he in touch with at that point? Can you tell us who he consulted between Wednesday and Friday when he asked you to begin your research into precedents?

MR. BUCHEN: I have no notion; I really don't, Pete.

MORE

Q What is your understanding of the investigation status referred to in the memo? Is Jaworski going on in his investigation of these points? Is he going to furnish material to the public?

MR. BUCHEN: I know nothing more than what is in the memorandum.

Q The Watergate cover-up, it says, is the subject of a separate memorandum. Has that memorandum reached you?

MR. BUCHEN: It has not.

Q Do you know what it concerns?

MR. BUCHEN: I can imagine what it concerns.

Q Does it indicate to you, as a lawyer reading this, that that number one is ongoing and unlike this listing of ten points which according to the memo may prove to have some connection, but then says there is no point we can prove regarding Mr. Nixon -- does that indicate to you that is a different story entirely when it comes to the cover-up?

MR. BUCHEN: As you know, this memorandum was issued before the pardon, so I don't know what the effect of the pardon has on the investigation referred to in the last paragraph.

Q You must have had some indication from the Special Prosecutor where he stands with regard to the cover-up investigation.

MR. BUCHEN: I do not.

Q In preparing your advice for the President, did you address at all the time element of granting this pardon, with specific reference to the possibility that the Watergate cover-up trial might be affected since the jury had not been sequestered?

MR. BUCHEN: I did not discuss that with the President, but I understand, of course, that, one, it is not certain the jury would be sequestered. I assume it is available to the attorneys for the defendant to waive any such request; and, second, I am not sure that a story like this could possibly have been kept from the jury however tightly sequestered.

Q Mr. Buchen, did you get from Mr. Ziegler or from Mr. Nixon, either after Mr. Becker returned here or while he was there, some sort of commitment that the President would not in the future make statements protesting his innocence?

MR. BUCHEN: We did not.

Q Mr. Buchen, are you saying that the President did not know or understand at the time of the August 28 press conference that the pardoning power could be exercised before indictment or conviction?

MR. BUCHEN: I certainly had not so advised him, and he had not asked my advice.

Q You didn't say that? Do you have reason to believe that, that he didn't believe he could move before the indictment was voted?

MR. BUCHEN: That I don't know. I didn't ask him.

Q You so far have not given us any explanation for why Mr. Ford changed his mind after that press conference with the possible exception of his receiving this documentation of the investigation.

Does that mean that the investigation turned out to be so serious that he thought the former President wouldn't withstand it?

MR. BUCHEN: No; I think more significant than that was the advice that I reported Sunday, namely, that before there could be a trial, there would have to be a delay of a year or more, and I think that was the matter that concerned him most.

Q Don't many trials take a year or more to come to the court or to settle? And why is Mr. Nixon to be treated any differently in this respect than anyone else?

MR. BUCHEN: Every defendant under the law is entitled to a prompt trial provided he can have a fair trial by an impartial jury.

Q When did you advise the President of the long delay of nine months or a year? Was that after the press conference?

MORE

MR. BUCHEN: He asked me after the press conference, or that Friday, to find the answer. So apparently someone had told him that that probably would be the case.

But he wanted his own lawyer to ask the Special Prosecutor who would be the best judge, of how long it might take, and that is the reason I went to Mr. Jaworski, so we would have an expert opinion.

I don't claim to be an expert. On the other hand, I have read the cases that are cited by Mr. Nixon's own attorney who makes the same arguments very effectively in a memorandum that you can all take back to your legal counsels, because I don't think you want to read it all.

Q However you did know that indictments could be very quick, the question of laying out the charges on the public record would not have taken very long -- maybe a month; is that correct?

MR. BUCHEN: As you know, the word came out that the former President -- then the President -- was about to be named as an unindicted co-conspirator, so the indictment involves -- that involves the defendants, involves probably everything that involves Mr. Nixon alone.

Q But it is not the same, really.

MR. BUCHEN: I think it is pretty good evidence of what that jury intended to do and would have done if there had not been a pardon.

Q Was consideration given to the timing of when this jury would have done this, vis-a-vis the November elections?

MR. BUCHEN: It had nothing to do with the elections However, it was evident it was the President's decision to grant a pardon before the indictment. He would have to act fairly soon because it was not possible, of course, to grade the Grand Jury in the time it would act.

Q May I clear up a question here?

MR. BUCHEN: Let me get Phil first.

Q In view of the last sentence in this memorandum, didn't you have any qualms about whether you could give the President full legal advice on what he could do? When it says here there are other matters and other memoranda which you have not seen, how could you give the President full advice on what he could do on the pardon in view of that?

MR. BUCHEN: Well, we believed, of course, that the evidence before the House Judiciary Committee on this very point that resulted in the article that brought a unanimous vote ultimately, and based on particularly the June 23 tapes, gave every indication of what was involved in the alleged Watergate cover-up and we didn't think we needed to know any more than that.

Q I think my notes are correct, that is, you told us earlier, "I do not think (the President) was aware that he could grant a pardon before the indictment when he made his press conference statement." Is that right?

MR. BUCHEN: As far as I know. I don't believe that he was or that he understood what, if any, problems -- I am talking legal problems, now -- would arise if he acted before indictment.

Q The President seemed to say in his news conference that he wouldn't act on the pardon until after an indictment and your explanation, that there would be nine months or a year, perhaps longer, before a trial, doesn't really go to the question of why he changed his mind about waiting until after an indictment to act on a pardon.

MR. BUCHEN: Well, I guess all I can go back to is my own analogy. If you are going to -- if you do come to the conclusion you ought to consider mercy, it doesn't seem to be very relevant to consider what other steps you ought to require the man to whom you are granting mercy must take.

Q And at the news conference he had not made up his mind yet?

MR. BUCHEN: He had not made up his mind.

Q You are saying the main reason he changed his mind was because somebody told him there would be this long delay and he asked you to check it out and you did. And then he decided to grant the pardon? Did someone decide that the long delay would wreck Mr. Nixon's health?

MR. BUCHEN: Not that I know of.

Q Has there been any discussion about the former President not wishing to testify or be a witness?

MR. BUCHEN: Well, he is under subpoena so he has no choice.

Q I know, but if you are considering pardons, if there is consideration for others, that would spare the former President from testifying, is that part of this study?

MR. BUCHEN: I have not seen the study, so I don't know.

Q In your discussion of the cover-up memorandum a moment ago, you said the June 23 tape told you everything you needed to know about that.

MR. BUCHEN: I didn't say everything. I also said the findings of the House Judiciary Committee.

Q Right, and earlier he spoke of the necessity, the acceptance of the pardon, the necessity for the pardon. Did this mean that you and the President in offering this pardon to the President, would make a presumption of guilt?

MR. BUCHEN: First, take the "you" pronoun out of that and perhaps I can answer it. I did advise the President that a pardon could be characterized as implying guilt on the part of the person who was pardoned because there is no other reason for granting a pardon. But that did not deter or affect his determination to act when he finally made up his mind to do so.

Q From the perspective of the person who accepts the pardon, does the acceptance of the pardon amount to a tacit admission of guilt?

MR. BUCHEN: You can so accept it. The question never came up. I couldn't find in any cases where that question was litigated, so I can't give you any authority. But it just takes common sense and logic to reach that conclusion.

Let's have one of the women.

Q Thank you.

Throughout this, we have heard solely about the consideration of an indictment and the lengthy period of time between indictment and trial. Did you try to determine from Mr. Jaworski the possibility of a plea from the former President? Now faced with the prospect of a multicount indictment, as he was and as I am sure Mr. Miller advised him, it seems extremely likely there might have been a plea far sooner than there would ever have been an indictment and trial. Did you ask for any timing on this, and if not, why not?

MR. BUCHEN: I did consult, of course, with Mr. Nixon's Attorney, and I was pretty sure from what he told me that in his mind there would never be a plea.

Q There would have been a trial then; you are saying he would have gone the whole route had he not been pardoned?

MR. BUCHEN: I believe so.

MR. HUSHEN: Let's take two more questions. We been out here for forty-five minutes. Two more questions.

Q Maybe you have answered this; why did President Ford want mercy for Richard Nixon?

MR. BUCHEN: Because I think he truly believed it would be in the best interests of the country.

Q Mr. Buchen, if you are done with that answer, I would like to ask you, as a lawyer, do you think it not fair and proper that, if the President considers amnesty or granting a pardon for persons convicted for or indictments for burglary, perjury, conspiracy in Watergate related crimes, that he should give equal consideration to pardoning other persons indicted or convicted of burglary, perjury or conspiracy in non-Watergate related crimes?

MR. BUCHEN: I wish I were a better student of the ethics or morality of mercy, but I believe a representative of the clergy would substantiate my remarks that, throughout our religious history -- and I don't mean just the Christian Religion -- there has always been a separate category of mercy that we know has never been equally dispensed and we know that it is an act of grace that is many times inexplicable.

I am sure all of us in the room have sought mercy on matters that we wanted to blame ourselves for, or some adverse consequences, and we didn't always get mercy.

Mercy seems to work in very unequal fashion. That is a point on which Jerry terHorst and I have disagreed. He has a notion, as he said, that mercy should be dispensed with in the same even-handed fashion as we would like to see justice dispensed.

But, I believe history tells us mercy doesn't work the same way.

Q Mr. Buchen --

MR. HUSHEN: Thank you, ladies and gentlemen.

Q Mr. Buchen, is there any limitation on the power of pardons?

MR. BUCHEN: I refer you to --

Q Is there any limitation on this at all?

MR. BUCHEN: I refer you to the Constitution.

Q Is there anything he could do that was more than this?

MR. BUCHEN: No, not that I could find in the Constitution; no.

THE PRESS: Thank you.

END (1:37 P.M. EDT)

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PRESS CONFERENCE NO. 2

of the

PRESIDENT OF THE UNITED STATES

8:00 P.M. EDT
September 16, 1974
Monday

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

THE PRESIDENT: Please sit down.

Ladies and gentlemen, this press conference is being held at a time when many Americans are observing the Jewish religious new year. It begins a period of self-examination and reconciliation. In opening this press conference, I am mindful that the spirit of this holy day has a meaning for all Americans.

In examining one's deeds of the last year and in assuming responsibility for past actions and personal decisions, one can reach a point of growth and change. The purpose of looking back is to go forward with a new and enlightened dedication to our highest values.

The record of the past year does not have to be endlessly relived, but can be transformed by commitment to new insights and new actions in the year to come.

Ladies and gentlemen, I am ready for your questions.

Mr. Cormier.

QUESTION: Mr. President, some Congressional Republicans who have talked to you have hinted that you may have had a secret reason for granting President Nixon a pardon sooner than you indicated you would at the last news conference, and I wonder if you could tell us what that reason was.

THE PRESIDENT: At the outset, let me say I had no secret reason, and I don't recall telling any Republican that I had such a reason. Let me review quickly, if I might, the things that transpired following the last news conference.

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As many of you know, I answered two, maybe three questions concerning a pardon at that time. On return to the office, I felt that I had to have my counsel undertake a thorough examination as to what my right of pardon was under the Constitution. I also felt that it was very important that I find out what legal actions, if any, were contemplated by the Special Prosecutor.

That information was found out, and it was indicated to me that the possibility exists, the very real possibility that the President would be charged with obstructing justice and ten other possible criminal actions.

In addition, I asked my general counsel to find out, if he could, how long such criminal proceedings would take, from the indictment, the carrying on of the trial, et cetera, and I was informed that this would take a year, maybe somewhat longer, for the whole process to go through.

I also asked my counsel to find out whether or not under decisions of the judicial system a fair trial would be given to the former President.

After I got that information, which took two or three days, I then began to evaluate, in my own mind, whether or not I should take the action, which I subsequently did.

Miss Thomas.

MORE

QUESTION: Throughout your Vice Presidency, you said that you didn't believe that former President Nixon had ever committed an impeachable offense. Is that still your belief or do you believe that his acceptance of a pardon implies his guilt, or is an admission of guilt?

THE PRESIDENT: The fact that 38 members of the House Committee on the Judiciary, Democrat and Republican, have unanimously agreed in the report that was filed that the former President was guilty of an impeachable offense, I think is very persuasive evidence.

And the second question, I don't recall --

QUESTION: An admission of guilt?

THE PRESIDENT: Was the acceptance of the pardon by the President an admission of guilt? The acceptance of a pardon, I think, can be construed by many, if not all, as an admission of guilt.

Yes, Mr. Nessen.

QUESTION: What reports have you received on Mr. Nixon's health, and what effect, if any, did this have on your decision to pardon him now?

THE PRESIDENT: I have asked Dr. Lukash, who is the head physician in the White House, to keep me posted in proper channels as to the former President's health. I have been informed on a routine day-to-day basis, but I don't think I am at liberty to give any information as to those reports that I have received.

You also asked what impact did the President's health have on my decision. I think it is well known that just before I gave my statement at the time that I gave the pardon I personally wrote in a phrase "the threat to the President's health."

The main concern that I had at the time I made the decision was to heal the wounds throughout the United States. For a period of 18 months or longer, we had had turmoil and divisiveness in the American society. At the same time, the United States had major problems both at home and abroad that needed the maximum personal attention of the President and many others in the Government.

It seemed to me that as long as this divisiveness continued, this turmoil existed, caused by the charges and counter charges, the responsible people in the Government could not give their total attention to the problems that we had to solve at home and abroad.

And the net result was that I was more anxious to heal the Nation. That was the top priority. I felt then, and I feel now, that the action I took will do that. I couldn't be oblivious, however, to news accounts that I had concerning the President's health, but the major reason for the action I took related to the effort to reconcile divisions in our country and to heal the wounds that had festered far too long.

QUESTION: Mr. President, after you had told us that you were going to allow the legal process to go on before you decided whether to pardon him, why did you decide on Sunday morning, abruptly, to pardon President Nixon?

THE PRESIDENT: I didn't decide abruptly. I explained a moment ago the process that I went through subsequent to the last press conference. When I had assembled all of that information that came to me through my counsel, I then most carefully analyzed the situation in the country and I decided that we could not afford in America an extended period of continued turmoil and the fact that the trial, and all of the parts thereof, would have lasted a year -- perhaps more -- with the continuation of the divisions in America. I felt that I should take the action that I did, promptly and effectively.

QUESTION: Mr. President, I would like to ask you a question about the decision relating to custody of the Nixon tapes and documents. Considering the enormous interest that the Special Prosecutor's office had in those documents for further investigation, I am wondering why the negotiations with Mr. Nixon's representatives were conducted strictly between the counsel in your office without bringing in discussions with either Mr. Jaworski's representatives or those from the Justice Department.

THE PRESIDENT: In the first place, I did receive a memorandum, or legal opinion, from the Department of Justice which indicated that in the opinion of the Department of Justice, the documents, tapes, the ownership of them were in the hands of the former President. Historically, that has been the case for all Presidents.

Now, the negotiations for the handling of the tapes and documents were undertaken and consummated by my staff and the staff of the former President. I believe that they have been properly preserved and they will be available under subpoena for any criminal proceeding. Now, the Special Prosecutor's staff has indicated some concern. I am saying tonight that my staff is working with the Special Prosecutor's staff to try and alleviate any concerns that they have. I hope a satisfactory arrangement can be worked out.

QUESTION: Mr. President, during your confirmation hearings as Vice President, you said that you did not think that the country would stand for a President to pardon his predecessor. Has your mind been changed about such public opinion?

THE PRESIDENT: In those hearings before the Senate Committee on Rules and Administration, I was asked a hypothetical question, and in answer to that hypothetical question I responded by saying that I did not think the American people would stand for such an action.

Now that I am in the White House and don't have to answer hypothetical questions but have to deal with reality, it was my judgment, after analyzing all of the facts, that it was in the best interest of the United States for me to take the action that I did.

I think if you will reread what I said in answer to that hypothetical question, I did not say I wouldn't. I simply said that under the way the question was phrased, the American people would object.

But I am absolutely convinced when dealing with reality in this very, very difficult situation, that I made the right decision in an effort, an honest, conscientious effort, to end the divisions and the turmoil in the United States.

Mr. Lisagor.

QUESTION: Mr. President, is there any safeguard in the tapes agreement that was made with Mr. Nixon, first, with their destruction in the event anything happens to him, because under the agreement they will be destroyed, and secondly, should not the tapes be kept in the White House until the Special Prosecutor has finished dealing with them?

THE PRESIDENT: The tapes and the documents are still in our possession and we are, as I said a moment ago, working with the Special Prosecutor's office, to alleviate any concerns they have as to their disposition and their availability.

The agreement as to destruction is quite clear-cut. As long as Mr. Nixon is alive and during the period of time that is set forth, they are available for subpoena by a court involving any criminal proceedings. I think this is a necessary requirement for the protection of evidence for any such action.

QUESTION: Mr. President, recent Congressional testimony has indicated that the CIA, under the direction of a committee headed by Dr. Kissinger, attempted to destablize the Government of Chile under former President Allende.

Is it the policy of your Administration to attempt to destabilize the governments of other democracies?

THE PRESIDENT: Let me answer in general. I think this is a very important question.

Our Government, like other governments, does take certain actions in the intelligence field to help implement foreign policy and protect national security. I am informed reliably that Communist nations spend vastly more money than we do for the same kind of purposes.

Now, in this particular case, as I understand it, and there is no doubt in my mind, our Government had no involvement whatsoever in the Allende coup. To my knowledge, nobody has charged that. The facts are we had no involvement in any way whatsoever in the coup itself.

In a period of time, three or four years ago, there was an effort being made by the Allende government to destroy opposition news media, both the writing press as well as the electronic press, and to destroy opposition political parties.

The effort that was made in this case was to help and assist the preservation of opposition newspapers and electronic media and to preserve opposition political parties.

I think this is in the best interest of the people in Chile, and certainly in our best interest.

Now, may I add one further comment.

The 40 committee was established in 1948. It has been in existence under Presidents since that time. That committee reviews every covert operation undertaken by our Government, and that information is relayed to the responsible Congressional committees where it is reviewed by House and Senate committees.

It seems to me that the 40 committee should continue in existence, and I am going to meet with the responsible Congressional committees to see whether or not they want any changes in the review process so that the Congress, as well as the President, are fully informed and are fully included in the operations for any such action.

MORE

QUESTION: In view of public reaction, do you think the Nixon pardon really served to bind up the Nation's wounds? I wonder if you would assess public reaction to that move.

THE PRESIDENT: I must say that the decision has created more antagonism than I anticipated. But as I look over the long haul with a trial or several trials of a former President, criminal trials, the possibility of a former President being in the dock so to speak, and the divisions that would have existed not just for a limited period of time, but for a long period of time, it seems to me that when I had the choice between that possibility and the possibility of taking direct action hoping to conclude it, I am still convinced, despite the public reaction so far, that the decision I made was the right one.

QUESTION: Mr. President, in regard to the pardon, you talk about the realities of the situation. Now those realities rightly or wrongly included a good many people who speculate about whether or not there is some sort of arrangement -- even some of them call a deal -- between you and the former President or between your staff and his staff, resignation in exchange for a full pardon.

The question is: Is there or was there, to your knowledge, any kind of understanding about this?

THE PRESIDENT: There was no understanding, no deal between me and the former President, nor between my staff and the staff of the former President, none whatsoever.

QUESTION: Mr. President, there is a bill that the Treasury Department has put forward, I think it is about 38 pages. Under this bill, which deals with getting hold of the returns, Internal Revenue returns of the citizens of the country, you could take action to get those returns whenever you wanted to.

I wonder if you are aware of this, and if you feel that you need to get those returns of citizens.

THE PRESIDENT: It is my understanding that a President has, by tradition and practice, and by law, the right to have access to income tax returns. I personally think that is something that should be kept very closely held. A person's income tax return is a very precious thing to that individual and, therefore, I am about to issue an Executive Order that makes it even more restrictive as to how those returns can be handled and I do think that a proposed piece of legislation that is coming to me and subsequently will be submitted, as I recollect, to the Congress would also greatly tighten up the availability or accessibility of income tax returns. I think they should be closely held and I can assure you that they will be most judiciously handled as far as I am concerned.

Yes.

QUESTION: Mr. President, looking beyond the Nixon papers and in view of some criticism in Congress, do you believe we may have now reached the point where Presidential White House papers should remain in the Government's hands as the property of the Government?

THE PRESIDENT: As far as I am personally concerned, I can see a legitimate reason for Presidential papers remaining the property of the Government. In my own case, I made a decision some years ago to turn over all of my Congressional papers, all of my Vice Presidential papers to the University of Michigan archives.

As far as I am concerned, whether they go to the archives for use or whether they stay the possession of the Government, I don't think it makes too much difference.

I have no desire, personally, to retain whatever papers come out of my Administration.

Mr. Mollenhoff.

QUESTION: Mr. President, at the last press conference you said, "The code of ethics that will be followed will be the example that I set." Do you find any conflicts of interest in the decision to grant a sweeping pardon to your life-long friend and your financial benefactor with no consultation for advice and judgment for the legal fallout?

THE PRESIDENT: The decision to grant a pardon to Mr. Nixon was made primarily, as I have expressed, for the purpose of trying to heal the wounds throughout the country between Americans on one side of the issue or the other. Mr. Nixon nominated me for the office of Vice President. I was confirmed overwhelmingly in the House as well as in the Senate. Every action I have taken, Mr. Mollenhoff, is predicated on my conscience without any concern or consideration as to favor as far as I am concerned.

Yes.

QUESTION: If your intention was to heal the wounds of the Nation, sir, why did you grant only a conditional amnesty to the Vietnam war veterans while granting a full pardon to President Nixon?

THE PRESIDENT: The only connection between those two cases is the effort that I made in the one to heal the wounds involving the charges against Mr. Nixon and my honest and conscientious effort to heal the wounds for those who had deserted military service or dodged the draft. That is the only connection between the two.

In one case, you have a President who was forced to resign because of circumstances involving his Administration and he has been shamed and disgraced by that resignation. In the case of the draft dodgers and Army and military deserters, we are trying to heal the wounds by the action that I took with the signing of the proclamation this morning.

QUESTION: Mr. President, another concern that has been voiced around the country since the pardon is that the judicial process as it finally unwinds may not write the definitive chapter on Watergate and perhaps with particular regard to Mr. Nixon's particular involvement, however total, however it may have been in truth. My question is, would you consider appointing a special commission with extraordinary powers to look into all of the evidentiary material and to write that chapter and not leave it to later history?

THE PRESIDENT: Well, it seems to me as I look at what has been done, I think you find a mass of evidence that has been accummulated. In the first instance, you have the very intensive investigation conducted by the House Committee on the Judiciary. It was a very well-conducted investigation. It came up with volumes of information.

In addition, the Special Prosecutor's office under Mr. Jaworski has conducted an intensive investigation and the Special Prosecutor's office will issue a report at the conclusion of their responsibilities that I think will probably make additional information available to the American people.

And thirdly, as the various criminal trials proceed in the months ahead, there obviously will be additional information made available to the American people. So, when you see what has been done and what undoubtedly will be done, I think the full story will be made available to the American people.

QUESTION: Mr. President, could you give us an idea who would succeed General Haig, and how are you coming on your search for a Press Secretary?

THE PRESIDENT: Do I have a lot of candidates here? (Laughter) No shows. (Laughter)

I have several people in mind to replace General Haig, but I have made no decision on that. It was just announced today that the NATO countries have accepted him as the officer handling those responsibilities.

I think he is to take office succeeding General Goodpaster on December 15. He assumes his responsibilities as the head of U.S. military forces November 1. In the next few days undoubtedly I will make the decision as to the individual to succeed him.

So far as the Press Secretary is concerned, we are actively working on that and we hope to have an announcement in a relatively short period of time.

QUESTION: Mr. President, prior to your deciding to pardon Mr. Nixon, did you have, apart from those reports, any information either from associations of the President or from his family or from any other source about his health, about his medical condition?

THE PRESIDENT: Prior to the decision that I made granting a pardon to Mr. Nixon, I had no other specific information concerning his health other than what I had read in the news media or heard in the news media. I had not gotten any information from any of the Nixon family. The sole source was what I had read in the news media plus one other fact.

On Saturday before the Sunday a member of my staff was working with me on the several decisions I had to make. He was, from my staff, the one who had been in negotiations on Friday with the President and his staff.

At the conclusion of decisions that were made, I asked him, how did the President look, and he reported to me his observations.

But other than what I had read or heard and this particular incident, I had no precise information concerning the President's health.

QUESTION: Mr. President, your own economic advisers are suggesting that to save the economy which is very bad and very pessimistic, we are hearing the word "depression" used now. I wonder how you feel about whether we are heading for a depression?

THE PRESIDENT: Let me say very strongly that the United States is not going to have a depression. The overall economy of the United States is strong. Employment is still high. We do have the problem of inflation. We do have related problems, and we are going to come up with some answers that I hope will solve those problems.

We are not going to have a depression. We are going to work to make sure that our economy improves in the months ahead.

QUESTION: Mr. President, in the face of massive food shortages and the prospects of significant starvation, will the United States be able to significantly increase its food aid to foreign countries, and what is our position going to be at the Rome conference on participation in the world grain reserves?

THE PRESIDENT: Within the next few days a very major decision in this area will be made. I am not at liberty to tell you what the answer will be because it has not been decided.

But it is my hope that the United States for humanitarian purposes will be able to increase its contribution to those nations that have suffered because of drought or any of the other problems related to human needs.

MORE

QUESTION: Back to the CIA, under what international law do we have a right to attempt to destablize the constitutionally-elected government of another country, and does the Soviet Union have a similar right to try to destabilize the Government of Canada, for example, or the United States?

THE PRESIDENT: I am not going to pass judgment on whether it is permitted or authorized under international law. It is a recognized fact that historically, as well as presently, such actions are taken in the best interest of the countries involved.

QUESTION: Mr. President, last month when you assumed the Presidency, you pledged openness and candor. Last week you decided on the ex-President's pardon in virtually total secrecy. Despite all you have said tonight, there would still seem to be some confusion, some contradiction.

My question is this: Are the watchwords of your Administration still openness and candor?

THE PRESIDENT: Without any question, without any reservation. And I think in the one instance that you cite, it was a sole decision, and believe me, it wasn't easy, and since I was the only one who could make that decision, I thought I had to search my own soul after consulting with a limited number of people, and I did it, and I think in the longrun it was the right decision.

THE PRESS: Thank you, Mr. President.

END (AT 8:30 P.M. EDT)