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THE WHITE HOUSE

WASHINGTON

January 30, 1976

MEMORANDUM FOR: DICK CHENEY ✓
JACK MARSH

FROM: RON NESSEN

Bob Woodward and Carl Bernstein are completing their book on the last days of Nixon. They are holding open the last chapter concerning the pardon, for about another week in hopes that we can clear up what they call "inconsistencies" in the versions told publically by the President and privately to them by many of the individuals involved. (Woodward says he is convinced that there was no "deal" or any other major problem for the President.)

In addition to providing the last chapter for the book, any information from the White House would be used, Woodward says, for a news story in the Washington Post following up on a short series of stories on the pardon which he wrote a month or so ago.

Here is the information Woodward says he has from interviews with various participants:

On August 27, 1974, Len Garment wrote an "impassioned" three-page memo pleading for a pardon for Nixon. Garment says one copy was delivered to Haig, and another to Buchen in plain envelopes at the 8 am senior staff meeting on August 28.

Earlier that morning, beginning at 6 am, Ray Price had drafted an opening statement for the President's news conference later that day, announcing a pardon for Nixon. Buchen says he never saw such an opening statement. Price says Haig and Garment told him to write the statement.

Haig told Garment at 10 am on August 28, in a phone conversation, "Stand by for a meeting." It (a pardon announcement) is going to happen. There are some legal questions. You may have to get with the Ford people." Within an hour, Haig called Garment back and said, "Never mind. It (the pardon) is going to happen, but not today. There are some legal questions to straighten out."



Haig, Garment, and Price were convinced that the President would announce the pardon at his August 28 news conference. To a lesser extent, Buchen and Buzhardt were convinced he was going to announce it then.

The President held the news conference at 2:30 pm on August 28, and did not announce a pardon.

That is the information Woodward says he has received from the participants.

Woodward would like the following questions answered:

1. Did anything President Ford say lead Haig, Garment, and Price to believe a pardon would be announced August 28, and to prepare an opening statement for the news conference announcing the pardon?
2. Did Haig, Garment, and Price actively urge the President to grant a pardon?
3. When did the President make up his mind to grant the pardon, and when did he tell members of the White House staff?
4. What discussion of the pardon took place on August 27 and August 28 during preparation sessions for the news conference, and post-mortem after the news conference?

Find attached the pertinent sections of the August 28 news conference, the President's testimony before the Hungate Committee, and the Woodward stories from the Post on the pardon.





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

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

Yes, sir.

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

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

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

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

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



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

QUESTION: Mr. President?

THE PRESIDENT: Yes.

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

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

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

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

QUESTION: And you are not ruling it out?

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

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





I have supplied the subcommittee with a copy of this memorandum. The memorandum lists matters still under investigation which -- and I quote -- "may prove to have some direct connection to activities in which Mr. Nixon is personally involved."

The Watergate cover-up is not included in this list and the alleged cover-up is mentioned only as being the subject of a separate memorandum not furnished to me. Of those matters listed in the memorandum, it is stated that none of them at the moment rises to the level of our ability to prove even a probable criminal violation by Mr. Nixon.

This is all the information I had which related even to the possibility of formal criminal charges involving the former President while he had been in office.

The second question in the resolution asks whether Alexander Haig referred to or discussed a pardon with Richard Nixon or his representatives at any time during the week of August 4, 1974, or any subsequent time. My answer to that question is: not to my knowledge. If any such discussions did occur, they could not have been a factor in my decision to grant the pardon when I did because I was not aware of them.

Questions three and four of House Resolution 1367 deal with the first and all subsequent references to or discussions of a pardon for Richard M. Nixon, with him or any of his representatives or aides.

I have already described at length what discussions took place on August 1 and 2, 1974, and how these discussions brought no recommendations or commitments whatsoever on my part.

These were the only discussions related to questions three and four before I became President, but question four relates also to subsequent discussions.

At no time after I became President on August 9, 1974, was the subject of a pardon for Richard M. Nixon raised by the former President or by anyone representing him. Also, no one on my staff brought up the subject until the day before my first press conference on August 28, 1974.

At that time I was advised that questions on the subject might be raised by media reporters at the press conference.

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As the press conference proceeded, the first question asked involved the subject, as did other later questions. In my answers to those questions, I took a position that while I was the final authority on this matter, I expected to make no commitment one way or the other, depending on what the Special Prosecutor and courts would do. However, I also stated that I believed the general view of the American people was to spare the former President from a criminal trial.

Shortly afterwards, I became greatly concerned that if Mr. Nixon's prosecution and trial were prolonged, the passions generated over a long period of time would seriously disrupt the healing of our country from the wounds of the past. I could see that the new Administration could not be effective if it had to operate in the atmosphere of having a former President under prosecution and criminal trial.

Each step along the way I was deeply concerned would become a public spectacle and the topic of wide public debate and controversy.

As I have before stated publicly, these concerns led me to ask from my own legal counsel what my full right of pardon was under the Constitution in this situation and from the Special Prosecutor what criminal actions, if any, were likely to be brought against the former President, how long his prosecution and trial would take.

As soon as I had been given this information, Mr. Chairman, I authorized my counsel, Philip Buchen, to tell Herbert J. Miller as attorney for Richard M. Nixon of my pending decision to grant a pardon for the former President. I was advised that the disclosure was made on September 4, 1974, when Mr. Buchen, accompanied by Benton Becker, met with Mr. Miller.

Mr. Becker had been asked, with my concurrence, to take on a temporary special assignment to assist Mr. Buchen at the time when no one else of my selection had yet been appointed to the legal staff of the White House.

The fourth question, Mr. Chairman, in the resolution, asks about "negotiations" with Mr. Nixon or his representatives on the subject of a pardon for the former President. The pardon under consideration was not so far as I was concerned a matter of negotiation. I realized that unless Mr. Nixon actually accepted the pardon I was preparing to grant, it probably would not be effective.

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Questions eight and nine of House Resolution 1367 deal with the circumstances of any statement requested or received from Mr. Nixon. I asked for no confession or statement of guilt, only a statement in acceptance of the pardon when it was granted.

No language was suggested or requested by anyone acting for me, to my knowledge. My counsel advised me that he had told the attorney for Mr. Nixon that he believed the statement should be one expressing contrition and in this respect, I was told Mr. Miller concurred.

Before I announced the pardon, I saw a preliminary draft of a proposed statement from Mr. Nixon, but I did not regard the language of the statement as subsequently issued to be subject to approval by me or my representatives.

The tenth question, Mr. Chairman, covers any report to me on Mr. Nixon's health by a physician or psychiatrist which led to my pardon decision. I received no such report. Whatever information was generally known to me at the time of my pardon decision was based on my own observations of his condition at the time he resigned as President and observations reported to me after that from others who had later seen or talked with him.

No such reports were by people qualified to evaluate medically the condition of Mr. Nixon's health, and so they were not a controlling factor in my decision. However, I believed, and still believe, that prosecution and trial of the former President would have proved a serious threat to his health, as I stated in my message on September 8, 1974.

House Resolution 1370 is the other resolution of inquiry before this subcommittee. It presents no questions, but asks for the full and complete facts upon which was based my decision to grant a pardon to Richard M. Nixon. I know of no such facts that are not covered by my answers to the questions in House Resolution 1367.

Also, subparagraphs one and four, there were no representations made by me or for me and none by Mr. Nixon or for him on which my pardon decision was based.

Subparagraph two, the health issue is dealt with by me in answer to questions ten of the previous resolution.

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Thank you, Chairman.

Mr. President, I would like to state that I, too, share with my colleagues, deep appreciation for your appearance here before our subcommittee this morning.

Mr. President, on page 7 of your statement where you were talking about your first or your second interview with General Haig in the afternoon of August 1, you state that, "I describe this meeting because at one point it did include references to a possible pardon to Mr. Nixon."

I take it that you have spelled out what those references were over on pages 9, where the options are spelled out and on page 10 where you state that you inquired as to what was the President's power pardon.

THE PRESIDENT: Yes, it is spelled out in the item instances 1 through 6, various options involving a pardon.

CONGRESSMAN DENNIS: And does that include everything that was said at that time on the subject of pardon, substantially?

THE PRESIDENT: Yes, sir.

CONGRESSMAN DENNIS: Mr. President, I note that on page 10 you state that you asked the General as to what the President's pardon power was and he very properly replied that he had certain information but couldn't give legal opinion.

When, where, and from whom did you ultimately obtain the opinion that you were entitled under the Doctrine of Ex Parte Garland and so on, to issue a pardon when there has been no charge or no conviction?

THE PRESIDENT: When I came back to the Oval Office, Mr. Dennis, following the press conference on August 28, where three questions were raised by the news media involving a pardon, I instructed my counsel, Mr. Buchen, to check in an authoritative way what pardon power a President had. And he, several days later -- I don't recall precisely -- came back and briefed me on my pardon power as President of the United States.

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CONGRESSMAN HUNGATE: Yes, sir.

THE PRESIDENT: Somebody asked about when I last saw the President. I said that I had seen him on the 9th. I did as he departed, but I had also seen the President the morning of the 8th at the time I was asked to come and see him, and at that time we spent an hour and 20 minutes together, or thereabouts, when he told me that he was going to resign.

So, I saw him both the 8th and the 9th, just to make the record accurate.

CONGRESSMAN HUNGATE: All of us are aware of our time constraints. I yield to the gentleman from Wisconsin for a question.

CONGRESSMAN KASTENMEIER: Thank you, Mr. Chairman.

I would like for the record to indicate that the statement of the gentleman from Maryland, Mr. Hogan, the effect that the proposal that this subcommittee tried to contact certain staff members, such as General Haig and others, was supported by me.

I think it would have been excellent. We have in the past done very well in terms of staff work preliminary to hearings that might have helped put some of the questions Mrs. Holtzman had to rest.

Mr. President, you indicated that as far as Mr. Haig was concerned, that he had suggested certain options to you, but did not in fact make a recommendation to you with respect to the pardon, is that correct?

THE PRESIDENT: That is correct. I answered that, I think, as fully as I could in my prepared statement. He discussed the options. He made no recommendation.

CONGRESSMAN KASTENMEIER: Which other persons to you personally made recommendations that the former President be pardoned from that time in early August to the day of September 6 when you made your decision?

THE PRESIDENT: No other person, to my knowledge, made any recommendation to me from that time until the time that I made a decision about September 6; nobody made any recommendation to me for the pardon of the former President.

MORE



Washington Post piece
on pardon



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TODAY—Partly cloudy, high near 40, low near 20. The chance of precipitation is 10 per cent, near zero tonight. **Friday**—Partly cloudy, high near 40. **Yesterday**—3 p.m. air index: 19; temp. range: 53-32. Details on B16.

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Ford Disputed on Events Preceding Nixon Pardon

Ford Denies Post Story On Pardon

By Bob Woodward
and Carl Bernstein

Washington Post Staff Writers

President Ford stands by his public statements and testimony about the events leading up to the pardon of former President Nixon, a White House spokesman said yesterday.

William I. Greener said "the President has dealt with candor and truthfulness at all times on this matter."

Greener denied a story in yesterday's Washington Post that President Ford assured former Nixon chief of staff Alexander M. Haig Jr. on Aug. 28, 1974, that a pardon for Nixon would be forthcoming.

This was 10 days before President Ford announced the pardon.

It was learned from other White House sources, meanwhile, that President Ford failed to tell his own staff about his discussions with Haig regarding a pardon, and that — until questioned by reporters this week — Mr. Ford's top advisers were unaware that such conversations took place.

Had they known of the existence of such conversations, these sources said, they would have advised Mr. Ford to disclose them when he testified before a congressional subcommittee last year.

On Capitol Hill, meanwhile, Chairman Peter W. Rodino Jr. of the House Judiciary Committee directed a review of President Ford's testimony about the pardon, to determine if a subcommittee should reopen hearings into the matter.

According to Greener, Mr. Ford and Haig did discuss the pardon question on Aug. 28, 1974, but only in the context of answers to questions about a possible pardon that Mr. Ford gave at his press conference that day.

Three reliable sources have told The Washington Post that the President and Haig had a substantive discussion that day about pardoning Nixon, and that Haig received assurances from Mr. Ford that a pardon would be granted.

In addition, both Haig and

See PRESIDENT, A4; Col. 5