

The original documents are located in Box 122, folder “Nixon, Richard - Pardon: House Subcommittee Hearing - Q & A Briefing Sheets (with Ford annotations)” of the John Marsh Files at the Gerald R. Ford Presidential Library.

Copyright Notice

The copyright law of the United States (Title 17, United States Code) governs the making of photocopies or other reproductions of copyrighted material. Gerald R. Ford donated to the United States of America his copyrights in all of his unpublished writings in National Archives collections. Works prepared by U.S. Government employees as part of their official duties are in the public domain. The copyrights to materials written by other individuals or organizations are presumed to remain with them. If you think any of the information displayed in the PDF is subject to a valid copyright claim, please contact the Gerald R. Ford Presidential Library.

Mr. President. In light of your own statement about your response to the press on your trip to Mississippi and New Orleans after you had been advised of the damaging new evidence in the tapes that President Nixon was still innocent, didn't you mislead the press.

Ans. You will note in my statement my reasons for responding as I did in reference to President Nixon's situation. However, let me make several points:

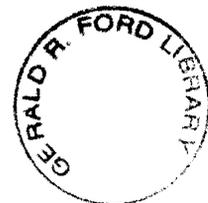
1. I had not been given the precise details of what this new evidence was; rather, I had been given a general assessment that it was highly damaging and, in the opinion of the attorneys, would probably cause an impeachment conviction in the Senate.
2. At that time, if there was going to be an impeachment trial, only the Senate in that trial could establish a definition of what was an impeachable offense. Therefore, it was up to the Senate and not up to me to make that definition.
3. Let me repeat what I said in my statement, and that is, I did not feel that as Vice President I should make statements in reference to the President's situation which might be interpreted that I was urging his resignation because that, in my opinion, is not proper, nor, in any event, should such a recommendation be made by me in a public forum such as a press conference.



Ques. The resolution request and the committee chairman have asked for the presentation of documents, tapes, and other data. Why didn't you produce these.

Ans. First, there are very few such items. Those which do exist are internal documents, some of which are protected by an attorney-client relationship. As President, I feel I have a duty to protect the office of the Presidency for my own and for succeeding administrations.

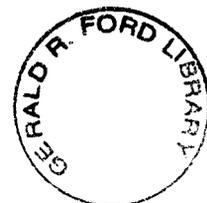
As you are aware, my appearance here is voluntary in an effort to provide the information to answer the questions which you have asked. I am of the view that my personal appearance is sufficient for the purposes of the resolution and therefore I have not provided any other data you mentioned.



Ques. In light of the full and frank disclosures you have made today, what is your explanation of the response you first gave to the Committee which did not reply directly to the questions which were asked.

Ans. My first reaction when I saw the questions was whether to respond by appearing before the Committee. However, since that was unprecedented it was felt best to try and respond in a general way, insofar as my public statements had dwelled in some measure with most of the questions. Any attempt to try and respond in writing to each question was found not to be adequate unless an opportunity was given to explain the questions; therefore, I decided that the best approach, notwithstanding precedent, was to come before the Committee.

I would also like to point out that a major consideration before any responses were given directly to the questions either in writing or orally was the impact on the Watergate trial prior to the jury being sequestered. The public statements which I sent to the Committee with the early responses had stood the test of public exposure insofar as the Watergate trial was concerned.



Ques. 1 From the second day of August until the 28th day of August when you made the decision to grant President Nixon a pardon, what conversations, if any, did you have on this subject with President Nixon, General Haig, or any other members of President Nixon's staff or with his former staff.

Ans. I had no conversations or discussions with any of the above persons except, however, I did advise General Haig of my decision to grant a pardon at the time I so advised other members of my staff that I was considering the same. [At about the same time I mentioned the fact to Secretary Kissinger, but I did not seek his advice.



Ques. 2 In light of the conversations that you had on August 1 and August 2 with representatives of President Nixon's staff concerning new material that appeared on the tapes, how do you account for your remarks at press conferences in Mississippi and Louisiana on that weekend, the third, fourth and fifth of August, in which you indicated you did not feel that the President was guilty of an impeachable offense and that you had not had a meeting out of the ordinary with General Haig, or that there was no new evidence changing your opinion.

Ans. It should be recalled that this time I had been made aware ~~that there was~~ of new evidence that would be ~~very~~ damaging, ~~so much so that it might well be expected that the President would be impeached~~; it had not been disclosed to me precisely what this information was. ~~That~~, I would point out that the press inquiries in reference to General Haig's meeting were actually directed to the meeting that he had held with me in the morning and which had been reported on the wire service and was a matter of general knowledge. The extraordinary nature of the conversation in reference to my assuming the presidency did not occur in that conversation, but occurred in the conversation the latter part of the afternoon. Finally, it should be noted that had I on this weekend made a significant departure from the position that I had previously maintained it would have attracted wide attention and would have had the effect of making it appear I was endeavoring to push President Nixon from office.



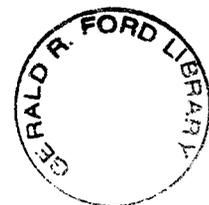
Ques. 3 What did James St. Clair tell you.

Ans. Mr. St. Clair outlined to me the information which I have previously stated in my opening remarks. He did not disclose to me the precise details of the new evidence; however, he did give me his assessment of what that evidence would mean in the forthcoming impeachment. The main purpose of his conversation was not to discuss any questions involving pardon; in fact, he indicated this was not an area in which he had devoted any real attention, but that his own knowledge on the subject was that which he had arrived at indirectly from others with whom he had associated. That was in response to my question to him as to what is the President's authority on pardoning.



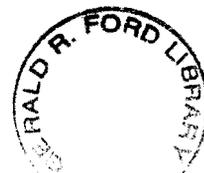
Ques. 4 What is your interpretation of your authority to pardon.

Ans. My information on this stems from my own reading of the Constitution and the power that is vested in the President under the Constitution. It is also my understanding that the United States Constitution differs from many state constitutions in that it gives the authority to grant a pardon prior to indictment. This particular provision ^{follows} ~~attends~~ very closely the English rule and is the common law rule. In fact, during our Constitutional Convention an amendment was sought to limit the President's pardon power by making it post-conviction only, but such an amendment was defeated in the ^{Convention} ~~Constitution~~. In order to be certain as to what my powers were in granting the pardon, I had my general counsel carefully examine the Constitution and case law, which he did, and he advised me that there was no question but that I did have the authority to grant the pardon of President Nixon prior to any indictment.



Ques. 5 Why did you pardon President Nixon at this time.

Ans. The question is - when is the best time to have had the pardon. You could ask yourself that question and the reason I selected the time I did is more understandable. If I were to have waited until the Watergate trials had started I would have had to defer either until the trials had concluded and once the trial had been concluded we would have had to wait until an indictment. To pardon during the indictment stage or the trial stage or the post-trial stage -- assuming there was conviction -- we would have dragged this matter on and on which, in my opinion, is not in the best interest of our country. During the time I was President prior to the pardon I learned that the disposition of President Nixon's matter was one that was constantly ~~coming~~ before me. To have the former President of the United States facing indictment and the constant debate in public ~~and other issues that are raised~~^{is} ~~one~~ a divisive thing which ~~would~~ continue to stir up an issue that I feel should be laid to rest. The longer I delayed was simply making it more difficult.



Ques. 7 It has been mentioned that you did not want to allow public examination of the tapes because your own name might be involved.

Ans. I suspect that my name as well as the names of many other members of Congress are mentioned in the tapes, but I can assure you that it is not mentioned in connection with any criminal activity and I have no fear of an examination of the tapes in that regard.

*Answer
Correct*

Ques. 8 Did you ever urge the President personally or through members of his staff to resign.

Ans. I felt it inappropriate for the Vice President of the United States to make such a recommendation either to the President, to members of his staff, or to other people. The Vice President is a party in interest and recommendations of this type are suspect; consequently, I felt that if I could not say something in support of President Nixon's remaining in office it would be best for me to say nothing.



Ques. 9 You have indicated in your opening statement that you talked to several people after you talked to General Haig. To whom did you talk.

Ans. First let me say that I did not speak to anyone who was a member of President Nixon's staff after my meeting with General Haig with the exception of Mr. St. Clair, who I have already mentioned. Consequently, I do not feel that I should disclose the names or the nature of the advice that I get from the people with whom I consulted in order to arrive at a decision. I would say, however, their views reinforced my own judgment as to what I should do in the matter.

*My own limited
advice only*

Ques. 10 What do these people with whom you discuss matters tell you?

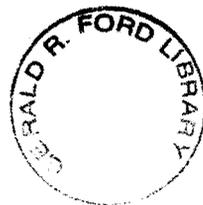
I will have to give you the same answer I gave to the previous question. I do not feel that it is incumbent upon me to disclose the advice or information that they conveyed to me except to emphasize that their views reinforced the decision I made and would convey to General Haig later that afternoon.



Ques. 11 Why did you delay twenty four hours in getting back to General Haig.

Ans. First, I do not recall that there was any time limit set for me to get back to General Haig, or that he necessarily was expecting ^{me} to get back to him. I felt that after considering the matter I should get in touch with him in order that there be no mistaken impression that I would give consideration to the matter which was mentioned and thereby President Nixon would rely on something that was not factual in reaching ^A decision. I think my opening statement indicates that when this matter was first discussed with me it was a broad general subject relating to many areas and that I was quite taken back by the nature of the conversation, speaking in a general way. I explained that I needed time to think, that I needed to talk to my wife, and as a result of this, during the following day, I reflected on many of the things that General Haig had spoken to me about, not just this particular question involving pardon, and having reflected on them I concluded that I should advise him of my position in order that there be no mistake on their part as to what I might do.

*No resignation recommendation
One only he could make.
Multiple -*



Ques. 12 Did it ever occur to you that General Haig's conversation with reference to pardon might be considered by some to be in the nature of soliciting a bribe.

Ans. Let me say that I did not consider it to be either in the form of a bribe or solicitation of a bribe. It was not presented as a quid pro quo. It was brought up simply as one possible consideration among a host of things in a very fluid and uncertain situation. It was not presented that in fact the President would resign if I would pardon him and that therefore I should agree to any such terms.

*An option
asked for
discussed
made no
recommendation
concerning
proposal
resignation
absolutely
not*

Ques. 13 Have you ever referred this matter to the Attorney General for his consideration to see whether there is possible violation of law in suggesting pardon ~~of this situation~~ on August 1.

Ans. I havenot. I do not feel that to be a proper interpretation of what occurred and I did not construe this to be anything that related to criminal activity on the part of General Haig. I am sure there was no such intent on his part. In fact, I think he was really acting at the suggestion of others in discussing the matter with me generally.

*Not a proposal to me
by Haig
Option
Not asked
No involvement*



Ques. 14 Why did you not reprimand General Haig for approaching you on this rather than reward him by appointing him to a military post such as Commander of the NATO Forces.

*No request for action
by me. NO simulation
by me.*

Ans. As I explained, I did not feel that General Haig had acted improperly; on the contrary, I feel he had evidenced a deep concern for the best interest of the country in presenting to me all of the background information as well as options. I gather there were those around the President who were frantically searching for any way to resolve this situation and it was in that spirit that General Haig approached me. He is an outstanding officer with a fine background, particularly in the field of international affairs. I think that based on his experience, his qualifications and his ability, he can perform in that post and was the natural selection to be the NATO Commander.

Ques. 15 Did General Haig leave any papers or documents with you ~~of his~~ *After* ~~the~~ August 1 conversation.

Ans. Let me say that I do not believe that it would be appropriate for me to disclose or produce for the record any documents or other papers which General Haig might have left. He did not leave any document, formal papers or other writings of that type. He did leave with me two handwritten notes taken from a yellow pad which was a very brief explanation of the power of pardon, as well as the type of language that would be drafted for a pardon.



Papers belong to me but not to the staff of another Pres.

Ques. 16 Describe the documents.

Ans. I believe that I have described them above. They were rough drafts in hand writing and did not appear to be anything that had to be signed but rather were explanatory of a pardon.

Ques. 17 Why did he leave these documents with you.

Ans. I believe that he left them in order to show me that I did have certain pardon authority as President. Therefore, they were notes which I should study.

Ques. 18 Did you become aware at this time of your pardon power, particularly before indictment, so that it did not become necessary to check on the same as you had previously indicated in your last news conference.

Ans. On the contrary, I gave little study or consideration to the papers which General Haig left. The legal authority that was cited on one of these was a very short summary which did not indicate a great deal of work or research. I did not feel it was sufficient authority on which I could rely. Quite frankly, I dismissed it from my mind and forgot it at the time that I decided to pardon President Nixon the latter part of August. The sheet of paper on authority did not mean that much to me because I did not pursue the pardon question at the time on August 1 or August 2 following General Haig's conversation.



Ques. 19 What assurance do you have that the other tapes belonging to President Nixon do not contain evidence of criminal acts. I am referring to any of the tapes, not just the Watergate tapes.

Ans. I have not listened to the tapes and therefore cannot conclusively say that they do not; however, it is my understanding that those tapes which were associated with the Watergate incident and related incidents were pretty well identified. I do not believe there would be any new surprises as those suggested in the question in those tapes.

*10+ of the tapes
Spec. Pres. has
right of access*

Ques. 20 In your appearance before the Senate Rules Committee you indicated ~~you~~ response to a question on whether you would pardon the President, if you became President, that the public would never stand for it. How do you justify your recent pardon with that statement.

Ans. As I stated in my news conference, the question presented to me during confirmation, related to something that might or might not occur. When I found myself actually confronted with the situation, I found that the factors that impacted on me were substantially different from those simply sitting in a hearing room responding to a question that was hypothetical. However, as I pointed out, during that hearing, even though I made the response I did, I also added that this was a matter I would have to study. That is precisely what occurred. I found



myself facing an actual situation and after study I found that, in my opinion, the decision I should make was the one that I did make.

Ques: 21 In light of your pardon of President Nixon, shouldn't you consider pardoning the other Watergate defendants.

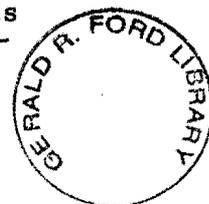
Ans. No, for these cases are substantially different.

A trial, and possible conviction and imprisonment of a former President of the United States, would create a national spectacle lasting from one to one and a half years which would not be in the best interest of our country. I do not expect ^{such} a result would occur from the trial of the present Watergate defendants.

Ques .22 Does the pardon of President Nixon make it more difficult to get a conviction in the present Watergate trials.

I do not believe so.

Ans. I do not perceive that this will cause any problem insofar as the prosecution is concerned.



Ques. 23 As President, you are charged with seeing that the laws are faithfully executed. How do you justify the pardon with that duty.

Ans. The pardon does not conflict with that duty. The power of pardon exists in all criminal cases and is used from time to time not only by Presidents, but also by Governors. The power of pardon is used by the Chief Executive when he feels that it is in the best

interest of the country, ~~or that an individual charged with a crime be relieved of paying the penalty of that crime.~~

Ques. 24 Looking back, don't you believe it would have been better to let the judicial process work its usual way and at least have waited until the public could be apprised of what the pending charges were through either Grand Jury action before pardoning.

Ans. When was the best time to grant a pardon. I felt that from the standpoint of the best interest of the country, it would be better to do this sooner rather than later. Information I had indicated it would be a considerable period of time, stretching into months, before there could be a Grand Jury report and that in the meantime concern over a possible trial of a former President would not work to our advantage, but would rather continue to divide us and work to our disadvantage.



Ques. 25 As to the wounds being healed, hasn't the pardon reopened them.

Ans. Certainly the continuing debate about the pardon is, in my opinion, not helpful. However, I believe that the debate, as compared with the failure to have issued a pardon and what would be happening to President Nixon at this time are vastly different things. If the pardon had not been issued I believe there would be an rising crescendo of national debate on the former President's case which I think could only be avoided by issuing the pardon when I did. I think in time these wounds which I am talking about will be healed and the healing will occur more quickly because of the pardon, even though it has been controversial.



Ques. 26 Isn't it fair to say that although you rejected the proposal on August 2, the fact that you granted the pardon within a month of becoming a President there is some connection between the two events.

Ans. Absolutely not. There's no connection or relationship between my decision the latter part of August to issue the pardon and the conversation which occurred on August 1. There was no offer or promise to me nor from me to them. I did not seek to induce the resignation by any promise and I was not offered the office of the Presidency based on anything I would be expected to do.

In fact, when I reached my own decision on this question the latter part of August, I did not even recall the previous conversation.

*recommen-
dation as
president
August
1974*

Ques. 27 Why didn't you tell the people before today of the discussion that had occurred about a pardon prior to your becoming President.

Ans. I did not do so because it never occurred to me that this discussion was of that serious consequence, particularly the manner in which it was presented ~~was~~ ^{or} one of a series of things that were being considered or discussed in the White House. Also, ~~as~~ ^{had} I have clearly indicated that I would not participate in any arrangement of this kind. If I had entered into such an arrangement I think a disclosure would have been necessary. However, I did not and the press of other duties as I assumed the Presidency the first four weeks in August caused me to dismiss this from my mind and I could see no reason to treat it with the significance that the question presumes, particularly since I had rejected it.

On new tape -----why not pardon all the Watergate defendants.

Ans. This is not the way to get Watergate behind us. The cases are quite different. The facts that relate to the former President are substantially different from those of the other defendants.

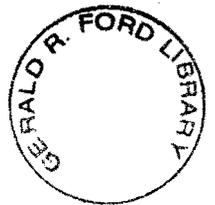


Ques. 28 Did General Haig see you on his own, or was he acting at the direction of President Nixon.

Ans. I am of the view that President Nixon was aware that General Haig was meeting with me and the purpose of the meeting. I do not know whether President Nixon was aware of all the various options concerning what his staff members felt he should do in reference to impeachment and resignation. I believe he was aware of the questions involving pardon because he subsequently reached his own decision that any resignation he should make would be unconditional.

Ques. 29 Is the Jaworski resignation related to the pardon of President Nixon in protest over his not being able to prosecute him.

Ans. No. It is not. Mr. Jaworski has clearly stated his reasons for resignation and he addressed this particular subject and his answer speaks for itself.



Ques. 30. Did Jaworski want President Nixon pardoned.

Ans. My general counsel is the individual who talked with Mr. Jaworski and it is my understanding that Mr. Jaworski did not object to the action that was taken in reference to President Nixon's pardon. On the contrary, he had concurred in that decision.



Ques. 31 Isn't the pardon a bad example and that is one that is likely to do harm to the judicial system.

Ans. I do not think so. The power of pardon in the Chief Executive has existed in the judicial system for centuries without damaging it and I do not believe that will be the result in the present case.

Ques. 32 What about equal justice under the law, doesn't this indicate that Mr. Nixon is above the law.

Ans. If you will look at my pardon statement you will see that the reason for granting the pardon did not relate to what was in the best interest of Richard Nixon, but rather what is in the best interest of our nation. This is the foundation of all pardon law, taking into recognition that there are several instances when the Chief Executive should have this power from the standpoint of relieving the individual from the penalties of his individual act. This is not a question of being above the law; it is a question of operating within the law, which is clearly in the law of pardon.

Ques. 33 If during your term you should become engaged in criminal activity do you feel your successor should pardon you.

Ans. I think my successor should consider the case on its merits and separate facts and do what he thinks is in the best interest of the country.

Ques. 34 Have your acts set a precedent for the treatment of former Presidents by future Presidents.

Ans. Quite frankly, I do not believe that we will see many ^{instances} precedents of a President becoming involved in criminal activities ~~as we~~ ~~have seen in the past~~. Therefore, I don't think I have set any real precedent. How past presidents are treated in the future will be a decision that will have to be made by Presidents at the time, based on the facts before them.

Ques. 35 What is the effect of your act on President Nixon's tax liabilities, particularly tax penalties and interest charges that other delinquent tax payers must pay.

Ans. ? Get ANSWER.



Ques. 36 You say time will prove you right. How long do you think that will take.

Ans. Actually, I think we already are seeing the effects of time as we move away from this particular event. I hope my appearance here will be helpful in laying to rest this issue.

Ques. 37 Why didn't you consult with Congressional leaders before granting a pardon, at least seek advice of your chief law enforcement officer, the Attorney General.

Ans. Under the Constitution, the power of pardon is vested exclusively in the President of the United States; it is a non-delegable power. I am the only one who could make a decision on it. The fact that I was the President pardoning a former President made it more incumbent upon me that I limit the advice and counsel that I have on this.

Ques. 38 Did President Nixon's acceptance of the pardon indicate guilt.

Ans. Because I do not want to prejudice any possible rights the former President may have, I do not believe that I should answer that question.



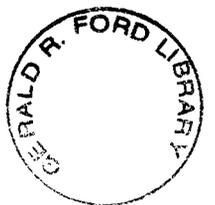
Ques. 39 Is it fair to fully pardon Nixon and then still expect an unconditional amnesty for draft evaders and deserters.

Ans. These are different cases. The power of pardon relates to a question of precedent. The precedent of pardoning a former President ^{for} of a possible criminal act is substantially different from the precedent that is set by unconditionally giving amnesty to people who evade the draft or desert the military service. The precedent there, against the performance of duty or military service to your country would seriously undermine our defense establishment, whereas the number of times that a question of pardoning a former President ^{might occur} would be extremely limited insofar as precedent is concerned.

Ques. 40 Don't you feel the American people are entitled to know the contents of all the Nixon tapes, and other documents.

Ans. If these were my own personal papers ~~I would have~~
 (ran off tape) ~~no objection to their~~
~~dissemination however there have been~~
~~cases where as to security of~~
~~such documents~~

I would



Ques. 41 What is your opinion of recent legislation that would place the Nixon tapes and documents in the public domain.

Ans. I don't know how I would answer that; I would have to look up the recent legislation.

Ques. 42 President Nixon is said to have offered to return the pardon. Why did he do this, and what was your attitude.

Ans. This is a conversation that occurred several weeks after the pardon. The manner in which the President referred to this I did not interpret to be in a serious vein and I responded in kind.

*Reason to
clearance
any indication
of being flipped*

Ques. 43 What part did the President's health play in the pardon.

Ans. I believe the question is answered in the response I have given in _____; however, I am of the view that the failure to have given the pardon would have impacted adversely on his health and I am still of that view.

Ques. 44 Were you ever approached by members of his family at any time in reference to a pardon, either before you became President or after.

Ans. No. I was not. I had a chance to talk with the President's family on several occasions but this was not a subject that was discussed.



Ques. 45 In your press conference you made some reference to the fact that you would consider a pardon for President Nixon when the matter came before you. Didn't this imply some type of judicial or administrative procedure, and why did you ignore such procedure in moving in a unilateral way to grant the pardon.

Ans. I did not mean to imply that I expected this to run the full judicial course before ~~before~~ I would consider it. At the time, there was some question in my mind as to what my pardon authority was, particularly as to pre-indictment power. When it was clearly established that I did have such power, I decided to move expeditiously with granting the pardon.

Ques. 46 Isn't your statement of lack of knowledge of pre-indictment authority to pardon wrong in light of your conversation with Al Haig on August 1 and with Jim St. Clair on August 2.

Ans. No it is not. In both discussions with them I did not receive clear answers in an authoritative way as to what powers I might have. At least, not to the extent that I did not want to carefully check it further. In fact, Al Haig is not a lawyer and his knowledge was based on what someone had told him. Jim St. Clair took himself out of the field by saying this was not an area of his particular interest and his knowledge likewise was based on an understanding of what others had told him.



Ques. 47 General Haig, or Mr. Buzhardt, is reported to have told someone you were given a handwritten memo setting out your pardon authority. Didn't this give you adequate information as to what your authority was.

Ans. No, it did not. This was not a work product that indicated any substantial research or study and it was not represented to be that. It was a short, sketchy summary of the law. I did not give it thorough consideration because I did not follow through on the possible option with which it was associated. I did not read and study it with that much attention and even if I had, I did not think it was adequate enough to base a decision on of the type that I did make in reference to a former President. It was not a formal legal document or brief, and, consequently, it would not have been prudent to rely on it without further investigation.

