

Writing an End to Watergate

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On Sunday, Sept. 8, 1974, President Ford attended church alone. He sat by himself in a pew at St. John's Episcopal Church on Lafayette Square. He took Holy Communion.

Back at the White House at 11:05 a.m., he went on television to announce that he had decided to pardon Richard Nixon for any crimes he might have committed during Watergate. The country's obsession with the scandal "could go on and on and on, or someone must write the end to it," he read from a statement. "I have concluded that only I can do that, and if I can I must." The core reason for the decision, Ford said, was to put Nixon and Watergate in the past.

The reverberations from that decision may well have cost Ford his presidency in the next election. In the first week after the pardon, his public approval rating plummeted from 71 percent to 49 percent. Jerry terHorst, Ford's press secretary and friend of 25 years, resigned as a matter of conscience.

Ford had been in office only a month. The pardon came as a surprise -- to Congress and the public -- and it unleashed a wave of outrage and suspicion. Had there been a deal between Nixon and Ford promising a pardon in exchange for Nixon's resignation?

The following account, which attempts to answer that question, comes from official documents, interviews with key players, contemporaneous handwritten notes, memoirs written by participants and conversations with Ford himself.

A Talk With Haig

The chain of events that would lead to the pardon and define Ford's presidency began only five weeks earlier when Ford, who had been vice president only eight months, learned he was about to become president.

At 3:30 p.m. on Aug. 1, 1974, Nixon's chief of staff, Alexander M. Haig, entered the vice president's suite. He looked troubled and on edge.

"Are you ready, Mr. Vice President, to assume the presidency in a short period of time?" New Watergate tapes, he said, would show Nixon had ordered the coverup of the burglary.

Ford was stunned.

Haig presented Ford with six options to consider. Nixon could step aside temporarily under the 25th Amendment; he could just wait and delay the ongoing impeachment process; or he could try to settle for a



formal censure. In addition, there were three pardon options. Nixon could pardon himself and resign. Or he could pardon the aides involved and then resign. Or, Haig said, Nixon could agree to leave in return for an agreement that the new President Ford would pardon him.

Haig handed Ford two pieces of paper. The first sheet contained a handwritten summary of a president's legal authority to pardon. The second sheet was a draft pardon form that only needed Ford's signature and Nixon's name to make it legal.

"It's my understanding from a White House lawyer," Haig said, "that the president does have authority to pardon even before criminal action has been taken against an individual.

"We've got to keep in contact," Haig said. "Things could break so fast that we have to be accessible to each other."

After extracting a pledge of secrecy, Ford told his top aide and speechwriter Robert Hartmann what had just transpired. Ford described Haig's list of alternatives, including the possibility that Nixon could agree to leave in return for a promise of a pardon.

"Jesus!" Hartmann said. "What did you tell him?"

"I told him I needed time to think about it."

"You what?" Hartmann fairly shouted. Even entertaining any agreement of resignation for a pardon, Hartmann believed, was outrageous. Ford had already committed a monstrous impropriety that could taint a Ford presidency forever.

Ford didn't agree. Nothing had been promised. He wanted to talk to his wife, Betty.

Betty was firm that he shouldn't get involved in making any recommendations to Nixon or to Haig.

About 1:30 a.m., he called Haig.

"Al, our discussion this afternoon, I hope you understand there was no agreement, no decision and no deal."

There Wasn't a Deal

The next day, Ford told his adviser and former House colleague John Marsh about the visit from Haig and the options, including one in which Nixon would resign.

"I then, what I would do, I would give Nixon a pardon," Ford said.

Marsh couldn't believe it. "Look, you can't do this," he said gently.

"You could make a strong case for a pardon, that it would be in the national interest," Ford told Marsh.

"You can't do that," Marsh said. It could look like or be a quid pro quo for Nixon's resignation.

But Ford didn't see it that way.

Alarmed, Marsh went to see Hartmann. Together, the two went to talk with Ford, who then told them about his late-night phone call to Haig saying no deal.

Hartmann and Marsh both told Ford there had to be no connection between a Nixon resignation and a possible pardon. But Ford insisted there wasn't a deal because he hadn't accepted. They urged Ford to talk to former Nixon White House counselor Bryce Harlow.

Harlow persuaded Ford to place a second call to Haig to explain that he had no intention of recommending what President Nixon should do about resigning or not resigning.

Afterward, Hartmann, Marsh and Harlow had a drink together. They celebrated and declared that they had forced Ford to dodge a bullet.

Making Up His Mind

On Friday, Aug. 9, 1974, Nixon resigned.

Ford held his first press conference on Aug. 28, and a third of the questions were about Nixon. To Ford, though, it felt more like 90 percent. He feared that without a pardon, Nixon and Watergate would haunt his presidency for years.

"My mind is 99 percent made up," Ford told Haig, Hartmann, Marsh and former law partner Phil Buchen in the Oval Office two days later. The old Ford hands realized this meant the decision had been made.

Marsh was deeply worried. He went to see Ford during his lunch in a study off the Oval Office.

"Questions are going to be raised about a deal," Marsh said.

Ford stopped eating. "Jack," he said, "I know exactly where you're coming from, and I have thought of that, and there was no deal."

Custody of the Tapes

Ford called in longtime friend and former Justice Department lawyer Benton Becker to determine exactly what a president's pardon powers were even prior to someone's indictment and conviction, and to determine what should be done with Nixon's papers and tapes.

After resigning, Nixon asked to have the materials shipped to his home in California. Traditionally, a former president owned all his papers. But Becker immediately saw that returning them to Nixon would make Ford complicit in hiding the truth.

"You will be writing the history of your presidency in the first weeks," Becker told Ford, "and history is going to say Jerry Ford participated in the final act of the Watergate coverup."

Ford authorized Becker to ensure the government would retain the tapes. "That history must be preserved," Ford said. "Do whatever you have to do, but it must be preserved. I'm not shipping that stuff out."

Becker worked out an arrangement in which Nixon and the government had joint custody of the tapes for 10 years. Congress and the courts eventually saw that the tapes were preserved.

But Becker also returned to Washington with concerns about the health of Nixon, whom Ford still considered a friend. Nixon was "more depressed than any person I've ever seen," Becker reported. Noting that he was not a medical doctor, and leaving open the possibility that the meeting was a demonstration to win sympathy, Becker added, "I really have serious questions in my mind whether that man is going to be alive at the time of the election."

"Well," Ford noted, "1976 is a long time away."

"I don't mean 1976," Becker said. "I mean 1974." Congressional elections were two months away.

As Ford reviewed the pardon statement the morning of Sept. 8, with a felt tip pen, he inserted a phrase saying the threat of prosecution hung "like a sword over our former President's head, threatening his health."

Hartmann, who was in the Oval Office that morning, had been pushing Ford to delay the pardon, to allow more time to pass.

"You know, if I decided to do it and then something happened to him and I hadn't done it because I was just waiting for a better time," Ford said to Hartmann, "I would never be able to forgive myself."

A Nation's Outrage

The new president had misjudged the mood of the country. Rather than sympathy, the public and the media voiced outrage at the pardon. It seemed to be totally on Nixon's terms -- early, complete and without acknowledgement that he had committed crimes or even impeachable offenses. Suspicions about a deal surfaced almost immediately.

Ford agreed to testify about his decision before a House subcommittee. His staff went to work preparing his statement.

Haig learned of the testimony being drafted in a phone call from J. Fred Buzhardt, who had remained at the Ford White House during the transition. It stated that Haig had offered the presidency in return for the pardon on Aug. 1, but Ford had rejected the deal.

"Al, I think you'd better come to the White House," Buzhardt told Haig. "These boys have prepared sworn testimony for the president that could very well result in your indictment."

Haig drove to the White House and insisted on seeing President Ford. Within minutes, Haig was in the Oval Office.

"What do you want?" Ford asked.

"The truth," Haig replied. "That's all."

"You'll have it, Al," Ford said. He handed Haig a yellow legal tablet and said, "You write that portion as you remember."

So the conclusions of Ford's top aides that a deal had been offered were initially in Ford's testimony but were excised at the insistence of Haig.

"There was no deal, period, under no circumstances," the president testified in the Rayburn House Office Building on Oct. 17. The House's inquiry was closed on Nov. 22.

'I Was Naive'

Twenty-three years later, on Sept. 22, 1997, in a suite at the Waldorf Towers, I asked Ford whether he thought Haig had offered him a deal.

"Well, I guess I was naive," Ford said. "I was naive that anybody would offer a deal, because all my political life people never came to me, 'I'm going to give you a political donation, I expect something in return.' People never came to me that way, because they knew damn well I wouldn't be a part of it. So when Al Haig comes with those six terms, I just didn't visualize him as one making a proposition to make a deal. It never went through my mind."

I continued to press Ford. Did he agree when all the facts and conclusions were examined now, decades later, that Haig had offered a deal?

"I would agree," Ford said, "because after talking to Hartmann, Marsh and Harlow, I wanted the record clear that I did not agree to consummate. . . . So that it has to be very clear that, yes, on paper, without action it was a deal, but it never became a deal because I never accepted."

Though Haig still insists that he did not offer one, Ford had finally concluded that he had been offered a deal.

Nixon's Confession

I interviewed Ford on the subject again on May 20, 1998, at his home office in Rancho Mirage, Calif., situated on a golf course in the midst of the desert. He was alone, again undisturbed by the tape recorder I stuck nearby.

He brought up his pardon decision, noting that no president had "caught as much hell as I did." His recollections were clear. I suspected he had replayed them many times in his mind.

"I was overwhelmed with the public reaction," he said. "I guess I anticipated a lot but not to the extent that happened. But . . . it didn't faze me one bit. If anything, it made me more stubborn that I was right."

I asked why he hadn't pressed Nixon harder for an admission of guilt.

"We were under a time pressure," he responded. Once he'd made the decision to grant the pardon, he had to move quickly. "The longer it took to resolve some of these things, the more likely that the issue would have come to the surface and it could have been a different ballgame."

I said I agreed, it would have leaked. Still, a forthright acknowledgment by Nixon could have ended the historical debate on that question. Why didn't Ford make more of the 1915 Supreme Court decision in *Burdick v. United States* that held that accepting a pardon is tantamount to confession of guilt?

"I still carry it around in my pocket, that statement," Ford said. "I've got it in my wallet here because anytime anybody challenges me, I pull it out. I've got it here someplace." He searched around in his wallet, and handed me a folded, dog-eared piece of paper. It was a portion of the *Burdick* decision.

I began to read aloud. "Most important, the justices found that a pardon 'carries an imputation of guilt, acceptance, a confession of it.' " Ford seized on the last phrase, and repeated it: " 'Acceptance, a confession of it.' " See, Nixon *had* confessed, he said. "That was always very reassuring to me."

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