Some Reflections on Possible Abuses of Governmental Power

By THE HONORABLE ARCHIBALD COX
Former Director, Office of Watergate Special Prosecution Force

It is hardly necessary to say that I appreciate—indeed it is even an understatement to say I am overwhelmed—by the warmth of your welcome and by the number of people here.

Both this occasion, which is the only one on which I have spoken, and the volume of mail and telegrams have made me feel a little like Alice in Wonderland during the past few weeks. I try to keep perspective by reminding myself of the account given me by a distinguished member of the New York bar and this Association of an incident early on when I first became Solicitor-General and was enjoying the grandeur of the office and of the Solicitor-General's two-story entrance hall and library in the Department of Justice.

We were to argue a case together on, I think Monday. He and I were on the same side, both of us against one of the railway brotherhoods. Since he was to follow on, naturally he was interested in what my argument was going to be; and since I have always followed Daniel Webster's advice never to do today what you can put off until tomorrow, it was not possible for me to give him any indication until sometime that Sunday afternoon. He had brought his secretary to Washington and she was apparently quite miffed by having to come in and still being more miffed at being made a messenger sent over to the Department from their hotel to get the draft of my argument. In an effort to make her feel better, as he told the story to me, he said "I described to her the importance of the Solicitor-General, the dignity and grandeur of his office, and really what a wonderful experience it would be for her to go, over and see the Solicitor-General himself and get his argument.

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So she came over and I gave her the argument. When she got back and gave the argument to him, my friend said with all the enthusiam he could command, "Wasn't that a wonderful experience? Didn't you enjoy meeting the Solicitor-General? Isn't he a great fellow?"

She replied, "No, it was just some kid with a crewcut."

The years have gone by so that perhaps I can hardly apply the term "kid" to myself even though my hair is freshly cut for the occasion.

But I do sometimes wonder whether that wasn't a more apt description.

When one attempts to draw back from Watergate and the associated abuses or possible abuses of government power and tries to put the matter in perspective, he is driven into simplicities which seem banal yet must be stated because they are true.

So I am driven to begin by observing that surely the single greatest need we have today is the restoration of confidence in the basic integrity of government.

We can and of course do safely differ over policies and programs, over political parties and candidates. But in a free society no government is possible without a large degree of confidence in the institutions of government—which means of course self-confidence in our ability to govern ourselves—and without an equally large degree of mutual trust between the chosen governors and the governed. The necessary self-confidence and mutual trust had been eroded long before Watergate by a variety of causes and events, but surely our present plight has been greatly intensified by the evidence giving reason to believe that there has been criminal abuse of power and position by persons at the highest levels of the executive branch.

The charges and evidence of probable cause symbolized by Watergate are peculiarly damaging because of their nature. The essence in almost every instance is the abuse of governmental authority and position for the sake of building or perpetuating the personal and political power of those currently in office.

The break-in at the Democratic National Committee was fol-

lowed, according to evidence before the Ervin Committee, by the abuse of high government positions including the attempt to pervert both the FBI and the CIA.

The attempted burglary from the files of Dr. Fielding, Daniel Ellsberg's psychiatrist, was committed by irregular government agents ostensibly in the name of national defense but there is reason to question not only whether the conduct itself violated the Bill of Rights regardless of its motive but also whether the real motive was not to destroy Ellsberg's reputation and thus to injure the political opposition to the Administration's policy in Southeast Asia.

The inclusion of reporters like William Safire and a purely domestic aide such as John Sears among those whose telephones were bugged ostensibly in the name of preventing leaks of information dangerous to diplomatic negotiations raises a question whether the true objective at least on some occasions may not have been obtaining information useful in political manipulation.

And the testimony before the Ervin Committee, suggests that the perversion of the Internal Revenue Service for political harassment or political intelligence may have been seriously contemplated whether or not there was a serious effort to put the proposal into effect.

(Let me say parenthetically that I use the term "evidence giving reason to believe" and say that these things "may have happened" in order to emphasize that while on the one hand the allegations have not yet been proved and may indeed prove false, still, on the other hand, published evidence furnishes such probable cause as to impair severely the necessary mutual trust between the government and the governed and even our confidence in our ability to govern ourselves.)

I have no prescription for remedying the disease that produced these symptoms but it does seem worthwhile to note three indispensable ingredients, the last of which I propose to discuss in a little detail.

First, surely we can and must restore to government and po-

litical campaigns a stronger appreciation of the line separating fundamental judgments of right and wrong in the conduct of political life from mere political loyalties and political opinions.

Most of us—perhaps I should say most of us of the older generation—grew up in an age of positivism and relativism in which such distinctions as those between political judgments, on the one side, and judgments of what is right and wrong in political life, on the other side, became unfashionable at least among the intellectually or politically sophisticated.

Perhaps my view is too self-centered and too much influenced by the moving letters I have received during the past three weeks. But it seems to me that the "fire storm"—to borrow a phrase from General Haig—which exploded over the weekend of October 20 and 21, had its source in the longing of countless simple, direct and moral people for a greater measure of candor, simplicity and rectitude in the conduct of government. I think, too, that here as so very often in our history when fundamental questions have been at stake that the people probably have a far better sense of the goals of the enterprise and the needs of our nation than many of those who have had a more highly sophisticated education or experience.

Forgive me if I read to you one letter which is typical of many I have received. Although it does not speak of these things explicitly, it shows the depth of feeling and the kind of people who have been expressing them.

"Dear Archibald Cox:

"Sir, eight years ago I lost everything I had. Now I have an ulcer, my time is in God's hands, and I do have a wish that the Honorable Archibald Cox could grant."

He went on and asked for an autographed picture for his son. Then he concluded, "If I done wrong by writting,"—spelled with two t's—"please forgive me. May God bless you and your loved ones.

Your unseen Polish friend."

The letter came from Barnesborough, Pennsylvania. The expression of feeling from that kind of people not only moved me very deeply but it revives and fortifies the faith I already held that

our country is capable of drawing this basic distinction between right conduct in public affairs and political loyalties and political ideals.

My second proposition is a corollary of the first. Political partisanship not only can but should be subordinated now in a common effort to deal with the past abuse of power for political purposes.

For one thing, the wrongdoing involved in the abuse of power is not the exclusive fault of either political party. If one casts his mind back over the history of electronic eavesdropping for political purposes, he finds that the abuse probably goes back to the violations of the Communications Act of 1937 under the opinions written by the various Attorneys General to President Franklin D. Roosevelt. The wrongs were extended. The justifications for eavesdropping became broader and broader or less and less, whichever way you care to put it. By a curiously inverted process of reasoning it even came to be concluded that since it was not unlawful for the government to engage in wiretapping, it could not be unlawful for the government to break into a man's house in order to put the bug there in order to engage in the wiretapping. The process expanded under both Democratic and Republican Presidents until by a gradual process of extension there developed the evils which have been much described in the daily press and to which I referred a few moments ago.

The best days of the Ervin Committee were those in which Senator Ervin and his co-chairman, Senator Baker, were able to operate on a bipartisan basis. The Committee fell upon evil days, I think, at the time that party wrangling began to divide the members and to characterize much of the hearings.

The vote along partisan lines in the subcommittee of the House Judiciary Committee which has been considering legislation to establish a Special Prosecutor disturbs me very deeply because establishing an *agreed* foundation upon which these investigations can go forward is far more important in establishing confidence in the integrity of government than exact form of the legislation.

And surely impeachment, if impeachment is the solution to

our difficulties, is something that requires a far broader consensus of opinion than can ever be arranged by a vote on party lines. The preliminary procedural votes of the House Judiciary Committee, which divided on party lines rather than achieve a consensus of solid opinion, were disappointing for this reason.

My third proposition is that there must be a responsible, deliberate, nonpartisan and exhaustive investigation in to the Watergate affair and other alleged abuses of government power and position by those high in the executive branch, followed by the prosecution of those guilty of criminal offenses and the full true disclosure of all of the facts so far as it is humanly possible to discover them.

Prosecution is essential to demonstrate that criminal justice can be and is administered evenhandedly—against those who violate their obligations in high government office as well as against those who commit common crimes.

Full disclosure is essential not only to exculpate any who have been wrongly accused but to permit understanding of the disease which has infected our political system.

In my judgment, the value of any such investigation can be measured by three factors: (1) the jurisdiction given to the Special Prosecutor and the actual scope of his investigation; (2) by the availability of evidence still in the White House files; and (3) by the extent of the visible independence of the Special Prosecutor.

Let me try to develop each of these points in a little more detail, beginning with the jurisdiction of the Special Prosecutor and the necessary scope of his investigation.

As the office was originally set up last May, the jurisdiction was defined in four parts.

One covered the Watergate affair and the resulting alleged cover-up. Here I might drop the word "alleged" since there clearly was *some* cover-up.

Second, offenses during the 1972 campaign.

Third, allegations against the President, the White House staff and other Presidential appointees.

Fourth, such other matters as might be assigned to the Special

Prosecutor by the Attorney General with the Special Prosecutor's consent.

As the investigation was going forward, we divided it essentially into five parts.

One, the most dramatic, the most publicized, but I am inclined to think not the most important, was Watergate and the cover-up.

Our second part we called "campaign contributions." Some aspects simply dealt with corporate contributions to one or the other or both of the political parties in violation of Section 610 of the Criminal Code, such as the case in which Braniff Airways pleaded guilty this afternoon.

In other cases there was the added problem, did the contribution—often a very large one made in cash—exert undue influence upon a formulation of government policy or other executive decision. Here I think is a question that the lawmakers should be concerned with for a number of years to come, although the solution is not easy.

When the Milk Producers Association, for example, gives a million and a half or two million dollars to the Republican Party and shortly thereafter the support price of milk is raised, it may be exceedingly difficult to prove that one in fact was a bribe for the other. Indeed it has not yet been shown, to the best of my knowledge, that one was in fact a bribe for the other in the particular instance. Looking to the future we can all agree, however, that the concurrence of the gift and the decision casts such doubt on the basic integrity of the workings of our government that some remedy must be found to prevent that kind of event from recurring.

The third aspect of the campaign contribution investigation is epitomized by the digging back into the events of 1969 and 1970 when exceedingly large sums of money were raised, apparently—I am speaking only of allegations, of things that have not been proved—by men on the White House staff in an operation known as Town House and were then distributed in cash directly to candidates in many State and congressional races.

Our third major division might have been part of the second

except for office necessity. It was the ITT affair, an investigation which again leads to questions about the relationship between a large financial commitment and governmental action but which also involves the integrity of the hearings upon the nomination of Richard Kleindienst for Attorney General.

The fourth major segment was the much publicized but I am inclined to think rather unimportant, the investigation into the so-called "dirty tricks" of the 1972 election. Most of them were committed by a young man—in fact he was 30 years old but when I saw him he seemed extraordinarily youthful. The only remaining question really is how far higher did the responsibility for the dirty tricks reach in the executive branch.

Last but far from least was the group that we called "the Plumbers" within the office of the Special Prosecutor, to denote our opposite number to the White House group known as "the plumbers." Anti-plumbers was always too complicated a phrase so we confined ourselves to the plumbers. On the whole perhaps this may really have been the most important part of the entire investigation, and it remains so.

In one aspect it was concerned with bugging and other electronic surveillance for political purposes, not only for the harassment of those whose phones were bugged but also—at least according to some of the evidence—for the purpose of gaining political intelligence.

The Ellsberg-Fielding break-in was another part of the inquiry.

The allegations of intent and possible efforts to pervert the Internal Revenue Service in order to make it an instrument of political oppression and political intelligence were another important part of this line of inquiry.

And, finally, there was concern about whether the Secret Service had been perverted by using Secret Service agents to remove any potentially hostile members of an audience from various rallies led by friends of the administration.

The *nominal* scope of the jurisdiction of Mr. Leon Jaworski, the present Special Prosecutor, is the same as the jurisdiction set up for my work last May. I stress the importance of the *actual* scope of investigation for two reasons:

First, the Watergate affair and the resulting cover-up were so obviously criminal that they have to be attributed to the moral obtuseness or weakness of particular individuals. They hardly present an institutional problem regardless of whether the line of responsibility breaks off with John Dean or reaches one or two levels higher.

The other abuses, if they occurred, are much more closely related to institutional temptations and may permit institutional remedies. The gathering of vast political contributions, after all, is not confined to either party. The temptation to abuse governmental agencies for political purposes may be felt by incumbents from either party. Although we have never had so many allegations as are made today or no such evidence of probable cause as exists today, still I fear that there have been others, of my own party, who succumbed to the same kind of temptation.

Learning what happened, understanding why it happened and finding some institutional remedy or if institutional remedies will not be sufficient, establishing the moral imperatives to restore and preserve our self-confidence about government, is even more important than punishing those responsible for Watergate.

My second reason for dwelling upon the importance of the aspects of the investigation other than Watergate, especially the area of the Plumbers, arises out of sheer cussedness. Every time we attempted to get information in those areas other than Watergate, we ran into some kind of screaming opposition.

The day the Los Angeles Times carried an untrue story that the Special Prosecutor had begun to investigate the financing of San Clemente and Key Biscayne, the wires from San Clemente to the the Attorney General's office were grossly overloaded and immediately thereafter the wires from the Department of Justice to my office became equally overloaded.

Inquiries into the use of Secret Service to remove potential demonstrators from political audiences or into wiretapping and bugging, invariably encountered the strongest kind of opposition.

I say that my curiosity about these areas arose from sheer cussedness. I began to suspect that the ground that was so jealously guarded must contain the richest lode.

But there was some concrete support for this apart from the opposition that I thought I sensed.

You may remember that when Assistant Attorney Petersen, in pursuing the Watergate investigation, learned of the break-in at Dr. Fielding's office in order to get the psychiatric records of Daniel Ellsberg, the President's immediate command was keep the hell out of that, investigate Watergate but don't investigate that even though the same men were in charge of both operations.

And it was of no little interest to me that the proposal that was made to resolve the litigation over the tapes—which resulted in my being here tonight—was one which offered to make available not all the evidence on the nine tapes in question that was relevant to the subject matter of our investigation but only the evidence that was relevant *to Watergate,* notwithstanding the fact that the testimony before the Ervin Committee clearly showed that on one of the tapes there was conversation about wiretapping and "bugging," which was an obvious part of our assignment.

Similarly, I must confess my curiosity was piqued by the recent announcement that the President will talk to all the Republican members of Congress "about Watergate." Sometimes "Watergate" is used as a synonym for the full range of inquiries that we were engaged to make, but it also is a narrower term. If the aim is to ascertain the truth about the possible abuses of government power, then the inquiries and the evidence made available must not be limited to Wategate but must expand over the full range of affairs that I have tried to describe.

The second measure of the effectiveness of the continued investigation will surely be the availability of evidence heretofore kept secret in the White House and Executive Office Building. If the files are not opened voluntarily as they should be, then the effectiveness will be measured by the extent and vigor with which legal process is used to obtain them.

The evidence, as I have said, should be produced or sought not merely for the Watergate papers but throughout the full scope of the investigation.

It must be obtained in a form admissible not merely before a

grand jury but at the trial of an indictment and at the proffer of either the prosecution or the defense.

Nothing less will satisfy the dictates of justice. Nothing less will satisfy the country that the full truth has been disclosed.

Let me dwell for a moment upon the question of the confidentiality of the Presidential papers.

The gist of the argument that was presented by counsel to the President was this: were it held that there is any circumstance under which the President can be compelled to produce recordings or notes of his private conversations, from that moment on it would be simply impossible for any President of the United States to function.

The supporting argument asserted an absolute at the other end of the spectrum. As stated by Professor Charles Black, it was that those consultative and decisional processes that are the essence of the Presidency could not be carried on to good effect if every participant spoke or wrote in continual awareness that at any moment any Congressional committee or any prosecutor working with a grand jury could at will command the production of the verbatim record of every word written or spoken.

Those of you who have studied logic will note that the two propositions leave a vast undistributed middle. The need for some secrecy hardly justifies a rule of absolute secrecy upon each and every conceivable occasion.

Having briefed this question and argued it in two courts, I am afraid that I speak as an advocate, but even when I try my very best to put on an impartial professional hat, I find very little or no merit to the claim of executive privilege under present circumstances, whether the claim be advanced in a judicial proceeding or in public debate.

I do not deny the importance of protecting the confidentiality of executive deliberations and executive papers under normal circumstances. There is a good reason for it, very similar to the reason that we protect the confidentiality of the deliberations of a jury, the deliberations of judges, confidences between lawyer and client and in some places between doctor and patient, priest

and penitent and husband and wife. The candor of Presidential aides in giving advice is exceedingly important, and they will of course be less willing to speak candidly if they are subject to reprisals in Congress or the media.

Similarly, nearly all of us know the importance in making up our own minds of freedom to think aloud, of freedom to try out ideas without the fear that those ideas will be published. The President should not have to worry that he will be held accountable for everything that he has floated before his aides as a trial balloon without actually embracing the idea.

And those of you who are lawyers recognize, too, that the privilege is important in some cases because it cuts off efforts to probe the executive's mental processes in litigation seeking judicial review.

These are persuasive considerations in private litigation, in suits to set aside administrative orders, and perhaps against the demands of Congress where we seem to have gotten along pretty well by leaving the contest over what information will be furnished by the President to the tides of political power and political debate without involving judicial process.

But encouraging candor on the part of Presidential aides in giving advice and protecting executive freedom to think out loud are surely not absolute desiderata to be achieved at any cost.

Preserving the integrity of our governmental institutions surely has a higher value. Conversely, requiring production of evidence of executive communications and deliberations where there is, let us say, a prima facie showing that they bear on the question whether high office has been perverted or abused is not a big enough departure from the general rule of confidentiality to discourage aides very much in giving advice freely or Presidents in thinking aloud.

Justice Cardozo's observations in holding that the usual rule of secrecy that attends a jury's deliberations must yield to the necessity for preserving the integrity of that institution when there is prima facie evidence that a juror has been corrupted seem equally pertinent to the present problem.

> "The chance that now and then there may be some timid soul who will take counsel of his fears and give way to their repressive power is too remote and shadowy to shape the course of justice. It must yield to the overmastering need so vital in our polity of preserving trial by jury in its purity against the inroads of corruption."

The need to preserve the integrity of the institutions of government in the executive branch is no less overmastering. Surely, it is sufficient to outweigh what little damage might be done to the interest in candor of discussion.

Let me say just a few things more about the furnishing of information.

It is a mistake to be beguiled by the tapes—a tendency at this stage for which I am somewhat to blame. The tapes are unusually dramatic. In the nine particular instances covered by our subpoena, they would have been exceedingly helpful to resolve the troublesome conflict between the testimony of Robert Haldeman and John Dean—one for which there seemed to be no other satisfactory resolution. The interest in the tapes has been enormously heightened by the events since I left Washington—first their nonexistence, then their indiscernability, and now the disappearing memorandum headlined in tonight's paper.

But the case was brought as a *test* case. We had received very little evidence from the White House files and the hope of getting more seemed vain until the legal principles had been established. What was sought by the subpoena enforced by the District Court and the Court of Appeals was a very small part of the evidence that is needed to complete this investigation. Let me mention three other kinds of evidence.

First, there are the voluminous notes kept by John Ehrlichman, certainly of all conversations in the President's office and I suspect of many conversations in his office. They would be exceedingly valuable even if the tapes were available in understanding the interpretation put upon the conversations, in clarify ambiguities or spoiled portions, and certainly in providing knowledge of what happened where there are no tapes.

Second, a large number of memoranda concerning the Ellsberg-Fielding break-in came out before the Ervin Committee. One can tell from those memoranda that have been published that there are, or at least should be, others still in the White House files that would help to trace the responsibility for that caper.

A third example is the White House Milk Producers file. It is one about which I always felt extraordinary curiosity.

When I first learned of its existence, it was in the hands of a junior lawyer in the Civil Division of the Department of Justice. So I went to the Attorney General and said, "Well, if he can have it, surely I can have it." The Attorney General replied, "I can't argue with that. I will order it given to you." But then as I was leaving the room, he added, "I had better just call the President's counsel and tell him I am giving the file to you." When he called the next day it was with an apology. He had been ordered that he was not to surrender the file. I don't know what it contained, but once again I plead guilty to enormous curiosity about something like that.

A very critical test of the continued investigation will be whether it accepts anything less than the original recordings or documents. The reason is best explained by referring back to the settlement of the tapes litigation proposed in the middle of October.

As originally proposed, the settlement contemplated that Mr. Buzhardt, one of the President's counsel, would prepare a summary or possibly an edited direct quotation from some of the tapes; that what he prepared would then be submitted to Senator Stennis who holding it in his hand would listen to the tapes and correct it or vouch for its accuracy; and that then the summary approved by Senator Stennis, or the direct quotations edited and approved by Senator Stennis, would be accepted by the Ervin Committee and also used by the Special Prosecutor and submitted to the Grand Jury. (Later, the discussions took a new twist. It was proposed that instead of simply settling the tapes litigation, I must also undertake not to use judicial process to obtain any other Presidential tapes—a condition that was obviously intolerable.)

Even in its original form the proposed settlement had difficulties which underscore the need that the investigator accept nothing less than the original recordings or documents. The proposal was limited to Watergate and did not cover other parts of the investigation. An edited version would not be adequate for the prosecution's use at a trial. Under the rules of the *Brady* and *Jenks* cases the defense would almost surely have a right to obtain any original tapes that it could make a prima facie showing were relevant. Most objectionable, it would have been a political settlement wrapped up by a few men, chiefly members of the Senate. We have reached a point at which the people simply will not be satisfied by a *political* settlement of these problems and will insist that they be explored according to principle by grand juries and the other agencies of justice.

All those objections have greater vitality today. Public credibility cannot possibly be provided by any form of political settlement.

The third measure of the success of trustworthiness of the continued investigation, will be the appearance and actuality of the Special Prosecutor's total independence.

Independence is important in defining the scope of the investigation and the allocation of resources. It is important, as I have indicated, in the pursuit of evidence.

It also has been up to now, and I think it will continue to be of extraordinary importance, in obtaining the assistance of witnesses. A number of men and women came to tell us what they could—often indirectly through a lawyer or some other go-between—because they were satisfied that neither their identities nor the facts disclosed would be revealed to the Department of Justice or anyone else within the Administration. Sometimes such witnesses, as any of you who have conducted investigations know, leave you wondering whether they are not cranks. Some of them indeed are unreliable. Others, when one is investigating a conspiracy that necessarily operates in secret, are absolutely essential if the truth is ever to be known.

It will be important, too, that witnesses whose identities are known and whose story must be volunteered be convinced that

the investigation will be exhaustive. John Dean and his lawyer were telling the truth, I think, when they led us to believe that he decided to plead guilty to the entire range of the cover-up only because he was persuaded that the investigation would not stop with him, that he would not be a scapegoat, but that the investigation would be pressed on wherever the trail might lead. It would be unbecoming for me to say how reliable John Dean is as a witness, but I may at least point out that it may be significant that when we gave him the assurance that he would not be prosecuted for anything further relating to the Watergate incident and the cover-up, he was willing to except any perjury past as well as future.

The independence of the prosecutor is also necessary, of course, for assurance of public confidence. Those of us who know Leon Jaworski feel greatly reassured by his designation, but the general public does not know him. Their measure of confidence in the investigation is likely to depend upon whether the man is named by and answerable to anyone within the executive branch.

Much the best assurance of public confidence would be a judicial appointment of the Special Prosecutor, both because that device would avoid the actuality and appearance of conflicting loyalties and because it would remove—I am getting in trouble with my words—any danger of precipitate removal—(laughter)—by the President or someone in his behalf.

This is the proposal that is made by The Association of the Bar of the City of New York and many others. I have no doubt that it would be the best, but I fear that it cannot be achieved without paying a very heavy price in terms of a prolonged legislative battle along party lines, probably involving a veto and an attempt to pass the legislation over the veto. In my view that cost would be excessive. I would myself be willing to settle, therefore, for the prompt bipartisan enactment of a statute putting the jurisdiction of the Office and the power and duty to seek evidence on a statutory basis; that called for appointment of the Special Prosecutor by the President but by and with the advice and consent of the Senate; that limited the President's power of removal very severely—perhaps by some such phrase as "only for gross

impropriety"—and that provided for a judicial appointment in the event that the President and the Senate were unable to reach agreement before the adjournment or recess of the present Congress.

The advice and consent of the Senate are essential because, if the statute were to provide for them, then the nominee, presumably Mr. Jaworski, would be summoned before the Senate Judiciary Committee and could be called upon to give the solemn, published pledge that he would pursue the investigation to the full scope that I have tried to indicate and that he would assert the full power of judicial process to obtain complete disclosure of all the arguably-material evidence in the White House files.

The limit on removability seems—at least on the second occasion—to be an adequate form of protection, particularly if it is provided by statute and does not simply rest on the assurances of someone who is himself subject to removal by the President.

I have talked too long. Professors and many lawyers at least in the Supreme Court of the United States are geared to an hour, and it always seems to be impossible for me to talk for less.

In conclusion, I would like to return to an earlier thought.

As we look back upon the series of events beginning with President Nixon's order to forego the use of legal process to obtain evidence, coupled with an announcement that he would refuse to comply with the subpoena ordered enforced by the District Court and the Court of Appeals, through the resignation of Attorney General Richardson and Deputy Attorney General Ruckelshaus, through the public reaction during the weekend and finally ending with the President's commitment to comply with the subpoena and court's decree, surely those of us who are dedicated to constitutionalism and the rule of law can take heart in the public outcry and the resulting Presidential turnabout. For those events demonstrate better than any other occurrence within memory the extent of this country's dedication to the principle that ours is a government of laws and not of men—and of the people's determination and ability to insist that the highest officials shall meet their obligations under the law as fully and faithfully as other members of the public.