

think this inspirational group here tonight can be what all of us hope for and seek for, a group of 5,500 people who have got the courage and the wisdom, the vision, the imagination to meet the challenges, the challenges that are important to the preservation of those things that we think so dear, that have been given to us by the sacrifices of so many before us.

And let me conclude, if I might, by reminding Democrats, Independents, and Republicans, and the like, November 5 is just a few days away. It is closer than you think. And Congressional elections for the Senate and for the House are really what it is all about in 1974.

I think you have to sit back and take a close look at the stewardship of people who are candidates for re-election and candidates who seek election. I have no doubt that you can support the people who have served you on our side of the aisle, because they are first-class. I have no doubt that as you reflect in your home or in that voting booth, that you can support a person like Dick Lugar. If I were a Hoosier, believe me, I could support him with vigor and vehemence and with a good, clear conscience.

There is nothing in America really like the sanctity of the voting booth. That is where you have an opportunity to reflect on what is best for America. And as I talk to Dick, and as I have worked with our candidates and our incumbents from Indiana, my reflection in that voting booth would give me a clear message: They are the kind of people that will lick inflation. They are the kind of people that will give America the leadership in trying to preserve the peace. They are the kind of people that will fight for and preserve the two-party system. They are the kind of people that you will be proud of on the basis of personal integrity and Government service dedication. And they are the kind of people that will be a part of this great bipartisan effort that we have to have if we are going to solve our problems, either at home or abroad.

Yes, your support for them—not just for you individually, not just because of what they can do for your Congressional district or your city or your State, but more importantly, what they can do for what is good for America and what is good for people around the world.

They will be a part of a strong and responsive Congress. And as one commentator put it on television last week, and let me quote, “I am looking for a Congress that will praise the Lord and pass the legislation.”

Thank you very, very much.

NOTE: The President spoke at 9:05 p.m. at the Indiana Convention-Exposition Center, Indianapolis, Indiana. Prior to the dinner, the President attended a reception at the center for a group of Republicans.

As printed above, this item follows the text of the White House press release.

Pardon for Former President Nixon

Statement by the President Delivered Before the Subcommittee on Criminal Justice, Committee on the Judiciary, House of Representatives, Together With the President's Responses to Questions From Subcommittee Members. October 17, 1974

We meet here today to review the facts and circumstances that were the basis for my pardon of former President Nixon on September 8, 1974.

I want very much to have those facts and circumstances known. The American people want to know them. And Members of the Congress want to know them. The two Congressional resolutions of inquiry now before this committee serve those purposes. That is why I have volunteered to appear before you this morning, and I welcome and thank you for this opportunity to speak to the questions raised by the resolutions.

My appearance at this hearing of your distinguished subcommittee of the House Committee on the Judiciary has been looked upon as an unusual historic event—one that has no firm precedent in the whole history of Presidential relations with the Congress. Yet, I am here not to make history, but to report on history.

The history you are interested in covers so recent a period that it is still not well understood. If, with your assistance, I can make for better understanding of the pardon of our former President, then we can help to achieve the purpose I had for granting the pardon when I did.

That purpose was to change our national focus. I wanted to do all I could to shift our attentions from the pursuit of a fallen President to the pursuit of the urgent needs of a rising nation. Our Nation is under the severest of challenges now to employ its full energies and efforts in the pursuit of a sound and growing economy at home and a stable and peaceful world around us.

We would needlessly be diverted from meeting those challenges if we as a people were to remain sharply divided over whether to indict, bring to trial, and punish a former President, who already is condemned to suffer long and deeply in the shame and disgrace brought upon the office he held. Surely, we are not a revengeful people. We have often demonstrated a readiness to feel compassion and to act out of mercy. As a people, we have a long record of forgiving even those who have been our country's most destructive foes.

Yet, to forgive is not to forget the lessons of evil in whatever ways evil has operated against us. And certainly the pardon granted the former President will not cause us to forget the evils of Watergate-type offenses or to forget the lessons we have learned that a government which deceives its supporters and treats its opponents as enemies must never, never be tolerated.

The pardon power entrusted to the President under the Constitution of the United States has a long history and rests on precedents going back centuries before our Constitution was drafted and adopted. The power has been used sometimes as Alexander Hamilton saw its purpose: "In seasons of insurrection . . . when a well-timed offer of pardon to the insurgents or rebels may restore the tranquillity of the commonwealth; and which, if suffered to pass unimproved, it may never be possible afterwards to recall."¹ Other times it has been applied to one person as "an act of grace . . . which exempts the individual, on whom it is bestowed, from the punishment the law inflicts for a crime he has committed."² When a pardon is granted, it also represents "the determination of the ultimate authority that the public welfare will be better served by inflicting less than what the judgment fixed."³ However, the Constitution does not limit the pardon power to cases of convicted offenders or even indicted offenders.⁴ Thus, I am firm in my conviction that as President I did have the authority to proclaim a pardon for the former President when I did.

Yet, I can also understand why people are moved to question my action. Some may still question my authority, but I find much of the disagreement turns on whether I should have acted when I did. Even then many people have concluded as I did that the pardon was in the best interests of the country because it came at a time when it would best serve the purpose I have stated.

I come to this hearing in a spirit of cooperation to respond to your inquiries. I do so with the understanding that the subjects to be covered are defined and limited by the questions as they appear in the resolutions before you. But even then we may not mutually agree on what information falls within the proper scope of inquiry by the Congress.

I feel a responsibility as you do that each separate branch of our government must preserve a degree of confidentiality for its internal communications. Congress, for its part, has seen the wisdom of assuring that members be permitted to work under conditions of confidentiality. Indeed, earlier this year the United States Senate passed a resolution which reads in part as follows:

" . . . no evidence under the control and in the possession of the Senate of the United States can, by the mandate of process of the ordinary courts of justice, be taken from such control or possession, but by its permission." (S. Res. 338, passed June 12, 1974)

In *United States v. Nixon*, 42 U.S.L.W. 5237, 5244 (U.S. July 24, 1974), the Supreme Court unanimously recognized a rightful sphere of confidentiality within the

executive branch, which the Court determined could only be invaded for overriding reasons of the fifth and sixth amendments to the Constitution.

As I have stated before, my own view is that the right of executive privilege is to be exercised with caution and restraint. When I was a Member of Congress, I did not hesitate to question the right of the executive branch to claim a privilege against supplying information to the Congress if I thought the claim of privilege was being abused. Yet, I did then, and I do now, respect the right of executive privilege when it protects advice given to a President in the expectation that it will not be disclosed. Otherwise, no President could any longer count on receiving free and frank views from people designated to help him reach his official decisions.

Also, it is certainly not my intention or even within my authority to detract on this occasion or in any other instance from the generally recognized rights of the President to preserve the confidentiality of internal discussions or communications whenever it is properly within his constitutional responsibility to do so. These rights are within the authority of any President while he is in office, and I believe may be exercised as well by a past President if the information sought pertains to his official functions when he was serving in office.

I bring up these important points before going into the balance of my statement, so there can be no doubt that I remain mindful of the rights of confidentiality which a President may and ought to exercise in appropriate situations. However, I do not regard my answers as I have prepared them for purposes of this inquiry to be prejudicial to those rights in the present circumstances or to constitute a precedent for responding to Congressional inquiries different in nature or scope or under different circumstances.

Accordingly, I shall proceed to explain as fully as I can in my present answers the facts and circumstances covered by the present resolutions of inquiry. I shall start with an explanation of these events which were the first to occur in the period covered by the inquiry, before I became President. Then I will respond to the separate questions as they are numbered in H. Res. 1367 and as they specifically relate to the period after I became President.

H. Res. 1367* before this Subcommittee asks for information about certain conversations that may have occurred over a period that includes when I was a Member of Congress or the Vice President. In that entire period, no references or discussions on a possible pardon for then President Nixon occurred until August 1 and 2, 1974.

You will recall that since the beginning of the Watergate investigations, I had consistently made statements

*Tab A attached.

¹ *The Federalist* No. 74, at 79 (Central Law Journal ed. 1914) (A. Hamilton).

² Marshall, C. J., in *United States v. Wilson*, 32 U.S. (7 Pet.) 150, 160 (1833).

³ *Biddle v. Perovich*, 247 U.S. 480, 486 (1927).

⁴ *Ex Parte Garland*, 4 Wall. 333, 380 (1867); *Burdick v. United States*, 236 U.S. 79 (1915).

and speeches about President Nixon's innocence of either planning the break-in or of participating in the coverup. I sincerely believed he was innocent.

Even in the closing months before the President resigned, I made public statements that in my opinion the adverse revelations so far did not constitute an impeachable offense. I was coming under increasing criticism for such public statements, but I still believed them to be true based on the facts as I knew them.

In the early morning of Thursday, August 1, 1974, I had a meeting in my Vice Presidential office, with Alexander M. Haig, Jr., chief of staff for President Nixon. At this meeting, I was told in a general way about fears arising because of additional tape evidence scheduled for delivery to Judge Sirica on Monday, August 5, 1974. I was told that there could be evidence which, when disclosed to the House of Representatives, would likely tip the vote in favor of impeachment. However, I was given no indication that this development would lead to any change in President Nixon's plans to oppose the impeachment vote.

Then shortly after noon, General Haig requested another appointment as promptly as possible. He came to my office about 3:30 p.m. for a meeting that was to last for approximately three-quarters of an hour. Only then did I learn of the damaging nature of a conversation on June 23, 1972, in one of the tapes which was due to go to Judge Sirica the following Monday.

I describe this meeting because at one point it did include references to a possible pardon for Mr. Nixon, to which the third and fourth questions in H. Res. 1367 are directed. However, nearly the entire meeting covered other subjects, all dealing with the totally new situation resulting from the critical evidence on the tape of June 23, 1972. General Haig told me he had been told of the new and damaging evidence by lawyers on the White House Staff who had first-hand knowledge of what was on the tape. The substance of his conversation was that the new disclosure would be devastating, even catastrophic, insofar as President Nixon was concerned. Based on what he had learned of the conversation on the tape, he wanted to know whether I was prepared to assume the Presidency within a very short time and whether I would be willing to make recommendations to the President as to what course he should now follow.

I cannot really express adequately in words how shocked and stunned I was by this unbelievable revelation. First, was the sudden awareness I was likely to become President under these most troubled circumstances; and secondly, the realization these new disclosures ran completely counter to the position I had taken for months, in that I believed the President was not guilty of any impeachable offense.

General Haig in his conversation at my office went on to tell me of discussions in the White House among those who knew of this new evidence.

General Haig asked for my assessment of the whole situation. He wanted my thoughts about the timing of a

resignation, if that decision were to be made, and about how to do it and accomplish an orderly change of Administration. We discussed what scheduling problems there might be and what the early organizational problems would be.

General Haig outlined for me President Nixon's situation as he saw it and the different views in the White House as to the courses of action that might be available, and which were being advanced by various people around him on the White House Staff. As I recall there were different major courses being considered:

(1) Some suggested "riding it out" by letting the impeachment take its course through the House and the Senate trial, fighting all the way against conviction.

(2) Others were urging resignation sooner or later. I was told some people backed the first course and other people a resignation but not with the same views as to how and when it should take place.

On the resignation issue, there were put forth a number of options which General Haig reviewed with me. As I recall his conversation, various possible options being considered included:

(1) The President temporarily step aside under the 25th Amendment.

(2) Delaying resignation until further along the impeachment process.

(3) Trying first to settle for a censure vote as a means of avoiding either impeachment or a need to resign.

(4) The question of whether the President could pardon himself.

(5) Pardoning various Watergate defendants, then himself, followed by resignation.

(6) A pardon to the President, should he resign.

The rush of events placed an urgency on what was to be done. It became even more critical in view of a prolonged impeachment trial which was expected to last possibly 4 months or longer.

The impact of the Senate trial on the country, the handling of possible international crises, the economic situation here at home, and the marked slowdown in the decisionmaking process within the Federal Government were all factors to be considered and were discussed.

General Haig wanted my views on the various courses of action as well as my attitude on the options of resignation. However, he indicated he was not advocating any of the options. I inquired as to what was the President's pardon power, and he answered that it was his understanding from a White House lawyer that a President did have the authority to grant a pardon even before any criminal action had been taken against an individual, but, obviously, he was in no position to have any opinion on a matter of law.

As I saw it, at this point the question clearly before me was, under the circumstances, what course of action should I recommend that would be in the best interest of the country.

I told General Haig I had to have time to think; further, that I wanted to talk to James St. Clair. I also said I wanted to talk to my wife before giving any response. I had consistently and firmly held the view previously that in no way whatsoever could I recommend either publicly or privately any step by the President that might cause a change in my status as Vice President. As the person who would become President if a vacancy occurred for any reason in that office, a Vice President, I believed, should endeavor not to do or say anything which might affect his President's tenure in office. Therefore, I certainly was not ready even under these new circumstances to make any recommendations about resignation without having adequate time to consider further what I should properly do.

Shortly after 8:00 o'clock the next morning James St. Clair came to my office. Although he did not spell out in detail the new evidence, there was no question in my mind that he considered these revelations to be so damaging that impeachment in the House was a certainty and conviction in the Senate a high probability. When I asked Mr. St. Clair if he knew of any other new and damaging evidence besides that on the June 23, 1972, tape, he said "no." When I pointed out to him the various options mentioned to me by General Haig, he told me he had not been the source of any opinion about Presidential pardon power.

After further thought on the matter, I was determined not to make any recommendations to President Nixon on his resignation. I had not given any advice or recommendations in my conversations with his aides, but I also did not want anyone who might talk to the President to suggest that I had some intention to do so.

For that reason I decided I should call General Haig the afternoon of August 2. I did make the call late that afternoon and told him I wanted him to understand that I had no intention of recommending what President Nixon should do about resigning or not resigning, and that nothing we had talked about the previous afternoon should be given any consideration in whatever decision the President might make. General Haig told me he was in full agreement with this position.

My travel schedule called for me to make appearances in Mississippi and Louisiana over Saturday, Sunday, and part of Monday, August 3, 4, and 5. In the previous 8 months, I had repeatedly stated my opinion that the President would not be found guilty of an impeachable offense. Any change from my stated views, or even refusal to comment further, I feared, would lead in the press to conclusions that I now wanted to see the President resign to avoid an impeachment vote in the House and probable conviction vote in the Senate. For that reason I remained firm in my answers to press questions during my trip and repeated my belief in the President's innocence of an impeachable offense. Not until I returned to Wash-

ington did I learn that President Nixon was to release the new evidence late on Monday, August 5, 1974.

At about the same time I was notified that the President had called a Cabinet meeting for Tuesday morning, August 6, 1974. At that meeting in the Cabinet Room, I announced that I was making no recommendations to the President as to what he should do in the light of the new evidence. And I made no recommendations to him either at the meeting or at any time after that.

In summary, I assure you that there never was at any time any agreement whatsoever concerning a pardon to Mr. Nixon if he were to resign and I were to become President.

The first question of H. Res. 1367 asks whether I or my representative had "specific knowledge of any formal criminal charges pending against Richard M. Nixon." The answer is: "no."

I had known, of course, that the grand jury investigating the Watergate break-in and coverup had wanted to name President Nixon as an unindicted co-conspirator in the coverup. Also, I knew that an extensive report had been prepared by the Watergate Special Prosecution Force for the grand jury and had been sent to the House Committee on the Judiciary, where, I believe, it served the staff and members of the Committee in the development of its report on the proposed articles of impeachment. Beyond what was disclosed in the publications of the Judiciary Committee on the subject and additional evidence released by President Nixon on August 5, 1974, I saw on or shortly after September 4 a copy of a memorandum prepared for Special Prosecutor Jaworski by the Deputy Special Prosecutor, Henry Ruth.* Copy of this memorandum had been furnished by Mr. Jaworski to my Counsel and was later made public during a press briefing at the White House on September 10, 1974.

I have supplied the Subcommittee with a copy of this memorandum. The memorandum lists matters still under investigation which "may prove to have some direct connection to activities in which Mr. Nixon is personally involved." The Watergate coverup is not included in this list, and the alleged coverup is mentioned only as being the subject of a separate memorandum not furnished to me. Of those matters which are 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

*Tab B attached.

Richard M. 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 H. Res. 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.

As the press conference proceeded, the first question asked involved the subject, as did other later questions. In my answers to these 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, and how long his prosecution and trial would take.

As soon as I had been given this information, 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 a time when no one else of my selection had yet been appointed to the legal staff of the White House.

The fourth question in the resolution also 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. So I certainly had no intention to proceed without knowing if it would be accepted. Otherwise, I put no conditions on my granting of a pardon which required any negotiations.

Although negotiations had been started earlier and were conducted through September 6 concerning White House records of the prior administration, I did not make any agreement on that subject a condition of the pardon. The circumstances leading to an initial agreement on Presidential records are not covered by the resolutions before this Subcommittee. Therefore, I have mentioned discussions on that subject with Mr. Nixon's attorney only to show they were related in time to the pardon discussions but were not a basis for my decision to grant a pardon to the former President.

The fifth, sixth, and seventh questions of H. Res. 1367 ask whether I consulted with certain persons before making my pardon decision.

I did not consult at all with Attorney General Saxbe on the subject of a pardon for Mr. Nixon. My only conversation on the subject with Vice Presidential nominee Nelson Rockefeller was to report to him on September 6, 1974, that I was planning to grant the pardon.

Special Prosecutor Jaworski was contacted on my instructions by my Counsel, Philip Buchen. One purpose of their discussions was to seek the information I wanted on what possible criminal charges might be brought against Mr. Nixon. The result of that inquiry was a copy of the memorandum I have already referred to and have furnished to this subcommittee. The only other purpose was to find out the opinion of the Special Prosecutor as to how long a delay would follow, in the event of Mr. Nixon's indictment, before a trial could be started and concluded.

At a White House press briefing on September 8, 1974, the principal portions of Mr. Jaworski's opinion were made public. In this opinion, Mr. Jaworski wrote that selection of a jury for the trial of the former President, if he were indicted, would require a delay "of a period from nine months to a year, and perhaps even longer." On the question of how long it would take to conduct such a trial, he noted that the complexities of the jury

selection made it difficult to estimate the time. Copy of the full text of his opinion dated September 4, 1974, I have now furnished to this subcommittee.*

I did consult with my Counsel, Philip Buchen, with Benton Becker, and with my Counsellor, John Marsh, who is also an attorney. Outside of these men, serving at the time on my immediate staff, I consulted with no other attorneys or professors of law for facts or legal authorities bearing on my decision to grant a pardon to the former President.

Questions eight and nine of H. Res. 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 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 do, 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.

H. Res. 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 H. Res. 1367. Also:

Subparagraphs (1) and (4): 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 (2): The health issue is dealt with by me in answer to question 10 of the previous resolution.

*Tab C attached.

*Tab D attached.

Subparagraph (3): Information available to me about possible offenses in which Mr. Nixon might have been involved is covered in my answer to the first question of the earlier resolution.

In addition, in an unnumbered paragraph at the end, H. Res. 1370 seeks information on possible pardons for Watergate-related offenses which others may have committed. I have decided that all persons requesting consideration of pardon requests should submit them through the Department of Justice.

Only when I receive information on any request duly filed and considered first by the Pardon Attorney at the Department of Justice would I consider the matter. As yet no such information has been received, and if it does I will act or decline to act according to the particular circumstances presented, and not on the basis of the unique circumstances, as I saw them, of former President Nixon.

By these responses to the resolutions of inquiry, I believe I have fully and fairly presented the facts and circumstances preceding my pardon of former President Nixon. In this way, I hope I have contributed to a much better understanding by the American people of the action I took to grant the pardon when I did. For having afforded me this opportunity, I do express my appreciation to you, Mr. Chairman, and to Mr. Smith, the Ranking Minority Member, and to all the other distinguished Members of this subcommittee; also to Chairman Rodino of the Committee on the Judiciary, to Mr. Hutchinson, the Ranking Minority Member of the full committee, and to other distinguished Members of the full committee who are present.

In closing, I would like to reemphasize that I acted solely for the reasons I stated in my proclamation of September 8, 1974, and my accompanying message and that I acted out of my concern to serve the best interests of my country. As I stated then: "My concern is the immediate future of this great country . . . My conscience tells me it is my duty, not merely to proclaim domestic tranquility, but to use every means that I have to insure it."

TAB A

H. RES. 1367

93d Congress

2d Session

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 16, 1974

Ms. ABZUG (for herself, Mr. BADILLO, Mr. JOHN L. BURTON, Mr. DELLUMS, Mr. EILBERG, Mr. HECHLER of West Virginia, Mr. HELSTOSKI, Ms. HOLTZMAN, Mr. KOCH, Mr. ROSENTHAL, Mr. STARK, Mr. STOKES, Mr. SYMINGTON, and Mr. CHARLES H. WILSON of California) submitted the following resolution; which was referred to the Committee on the Judiciary

RESOLUTION

Resolved, That the President of the United States is hereby requested to furnish the House, within ten days, with the following information:

1. Did you or your representatives have specific knowledge of any formal criminal charges pending against Richard M. Nixon prior to issuance of the pardon? If so, what were these charges?

2. Did Alexander Haig refer to or discuss a pardon for Richard M. Nixon with Richard M. Nixon or representatives of Mr. Nixon at any time during the week of August 4, 1974, or at any subsequent time? If so, what promises were made or conditions set for a pardon, if any? If so, were tapes or transcriptions of any kind made of these conversations or were any notes taken? If so, please provide such tapes, transcriptions or notes.

3. When was a pardon for Richard M. Nixon first referred to or discussed with Richard M. Nixon, or representatives of Mr. Nixon, by you or your representatives or aides, including the period when you were a Member of Congress or Vice President?

4. Who participated in these and subsequent discussions or negotiations with Richard M. Nixon or his representatives regarding a pardon, and at what specific times and locations?

5. Did you consult with Attorney General William Saxbe or Special Prosecutor Leon Jaworski before making the decision to pardon Richard M. Nixon and, if so, what facts and legal authorities did they give to you?

6. Did you consult with the Vice Presidential nominee, Nelson Rockefeller, before making the decision to pardon Richard M. Nixon and, if so, what facts and legal authorities did he give to you?

7. Did you consult with any other attorneys or professors of law before making the decision to pardon Richard M. Nixon and, if so, what facts or legal authorities did they give to you?

8. Did you or your representatives ask Richard M. Nixon to make a confession or statement of criminal guilt, and, if so, what language was suggested or requested by you, your representatives, Mr. Nixon, or his representatives? Was any statement of any kind requested from Mr. Nixon in exchange for the pardon, and, if so, please provide the suggested or requested language.

9. Was the statement issued by Richard M. Nixon immediately subsequent to announcement of the pardon made known to you or your representatives prior to its announcement, and was it approved by you or your representatives?

10. Did you receive any report from a psychiatrist or other physician stating that Richard M. Nixon was in other than good health? If so, please provide such reports.

TAB B

Memorandum to: Leon Jaworski
From: Henry Ruth
Subject: Mr. Nixon

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

1. Tax deductions relating to the gift of pre-Presidential papers.
2. The Colson obstruction of justice plea in the Ellsberg matter.
3. The transfer of the national security wire tap records from the FBI to the White House.

4. The initiating of wire tapping of John Sears.

5. Misuse of IRS information.

6. Misuse of IRS through attempted initiation of audits as to "enemies."

7. The dairy industry pledge and its relationship to the price support change.

8. Filing of a challenge to the Washington Post ownership of two Florida television stations.

9. False and evasive testimony at the Kleindienst confirmation hearings as to White House participation in Department of Justice decisions about ITT.

10. The handling of campaign contributions by Mr. Rebozo for the personal benefit of Mr. Nixon.

None of these matters at the moment rises to the level of our ability to prove even a probable criminal violation by Mr. Nixon, but I thought you ought to know which of the pending investiga-

tions were even remotely connected to Mr. Nixon. Of course, the Watergate cover-up is the subject of a separate memorandum.

cc: Mr. Lacovara

TAB C

September 4, 1974

Dear Mr. Buchen:

You have inquired as to my opinion regarding the length of delay that would follow, in the event of an indictment of former President Richard M. Nixon, before a trial could reasonably be had by a fair and impartial jury as guaranteed by the Constitution.

The factual situation regarding a trial of Richard M. Nixon within constitutional bounds, is unprecedented. It is especially unique in view of the recent House Judiciary Committee inquiry on impeachment, resulting in a unanimous adverse finding to Richard M. Nixon on the Article involving obstruction of justice. The massive publicity given the hearings and the findings that ensued, the reversal of judgment of a number of the members of the Republican Party following release of the June 23 tape recording, and their statements carried nationwide, and finally, the resignation of Richard M. Nixon, require a delay, before selection of a jury is begun, of a period from nine months to a year, and perhaps even longer. This judgment is predicated on a review of the decisions of United States Courts involving prejudicial pre-trial publicity. The Government's decision to pursue impeachment proceedings and the tremendous volume of television, radio and newspaper coverage given thereto, are factors emphasized by the Courts in weighing the time a trial can be had. The complexities involved in the process of selecting a jury and the time it will take to complete the process, I find difficult to estimate at this time.

The situation involving Richard M. Nixon is readily distinguishable from the facts involved in the case of *United States v. Mitchell, et al*, set for trial on September 30th. The defendants in the Mitchell case were indicted by a grand jury operating in secret session. They will be called to trial, unlike Richard M. Nixon, if indicted, without any previous adverse finding by an investigatory body holding public hearings on its conclusions. It is precisely the condemnation of Richard M. Nixon already made in the impeachment process, that would make it unfair to the defendants in the case of *United States v. Mitchell, et al*, for Richard M. Nixon now to be joined as a co-conspirator, should it be concluded that an indictment of him was proper.

The *United States v. Mitchell, et al*, trial will within itself generate new publicity, some undoubtedly prejudicial to Richard M. Nixon. I bear this in mind when I estimate the earliest time of trial of Richard M. Nixon under his constitutional guarantees, in the event of indictment, to be as indicated above.

If further information is desired, please advise me.

Sincerely,

LEON JAWORSKI
Special Prosecutor

[Philip W. Buchen, Esq., Counsel to the President, The White House, Washington, D.C.]

TAB D

H. RES. 1370

93d Congress
2d Session

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 17, 1974

Mr. CONYERS submitted the following resolution; which was referred to the Committee on the Judiciary

RESOLUTION

Resolved, That the President is directed to furnish to the House of Representatives the full and complete information and facts upon

which was based the decision to grant a pardon to Richard M. Nixon, including—

- (1) any representations made by or on behalf of Richard M. Nixon to the President;
- (2) any information or facts presented to the President with respect to the mental or physical health of Richard M. Nixon;
- (3) any information in possession or control of the President with respect to the offenses which were allegedly committed by Richard M. Nixon and for which a pardon was granted;
- (4) any representations made by or on behalf of the President to Richard M. Nixon in connection with a pardon for alleged offenses against the United States.

The President is further directed to furnish to the House of Representatives the full and complete information and facts in his possession or control and relating to any pardon which may be granted to any person who is or may be charged or convicted of any offense against the United States within the prosecutorial jurisdiction of the Office of Watergate Special Prosecution Force.

[The President read the statement at a hearing of the Subcommittee on Criminal Justice of the Committee on the Judiciary which began at 10 a.m. in the Rayburn House Office Building. The hearing was broadcast live on radio and television. Following his opening statement, the President responded to questions from subcommittee members, as follows:]

THE PRESIDENT. Mr. Chairman, I thank you and the committee members of the subcommittee for this opportunity to make these views known.

CONGRESSMAN WILLIAM L. HUNGATE. Mr. President, on behalf of the subcommittee, we express our appreciation for your appearance here bringing facts that will be helpful to the American people and the Congress.

There will be some who will find the answers fully satisfactory and forthright. There will be others who will not. But I would hope that all would appreciate your openness and willingness to come before the American public and the Congress to discuss this important matter.

The gentleman from Wisconsin, Mr. Kastenmeier.

CONGRESSMAN ROBERT W. KASTENMEIER. Thank you, Mr. Chairman.

I, too, would like to join my colleagues in welcoming the President. I don't believe any of us could have anticipated a year ago, when the President then appeared as a nominee under the 25th amendment for Vice President, that you would once again appear before this committee as President of the United States.

I would only comment, no matter how well motivated the desire to put Watergate behind us, I can only acknowledge today that several key issues in the news this morning—the President's appearance before this committee, the trial downtown, the Watergate trial itself, and even the nomination of Mr. Rockefeller to be the Vice President, occasioned by a vacancy due to Watergate—all of these still command the attention of the American people, and I guess we will just have to be patient.

Mr. President, you indicated that you wanted to spare Mr. Nixon a criminal trial. Did you specifically have any other end in view in terms of protecting Mr. Nixon in terms of a pardon; that is to say, whatever a pardon would spare the President other than a criminal trial, were there any other adversities which a pardon would help Mr. Nixon with, as you saw it?

THE PRESIDENT. As I indicated in the proclamation that I issued, and as I indicated in the statement I made at the time on September 8, my prime reason was for the benefit of the country, not for any benefits that might be for Mr. Nixon.

I exercised my pardon authority under the Constitution, which relates only to those criminal matters during the period from January 20, 1969, until August 9, 1974.

CONGRESSMAN KASTENMEIER. I appreciate that, Mr. President, but it must have been something you foresaw which could happen to Mr. Nixon which justified a pardon, if in fact you were advised, and perhaps you were not, that there was no proceeding going to be commenced against Mr. Nixon, that nothing would happen to him, really a pardon may have been an empty gesture in that event?

THE PRESIDENT. As I indicated, Mr. Kastenmeier, after the press conference on August 28 where three questions were raised about the pardon or the possibility of a pardon, I asked my Counsel to find out from the Special Prosecutor what, if any, charges were being considered by the Special Prosecutor's office.

As I indicated in my prepared statement, I received from Mr. Jaworski certain information indicating that there were possible or potential criminal proceedings against Mr. Nixon.

CONGRESSMAN KASTENMEIER. But you did not determine, as a matter of fact, that there was any intention to proceed to indictment with any of those matters, is that not correct?

THE PRESIDENT. In the memorandum, I believe of September 4, from Mr. Jaworski, prepared by Mr. Ruth, there were 10 possibilities listed. On the other hand, there was, I think, well-known information that there was a distinct possibility of Mr. Nixon being indicted on the grounds of obstructing justice.

CONGRESSMAN KASTENMEIER. The effect of the pardon in terms of the 10 possible areas of investigation as you saw it at the time was to terminate those investigations, as well as end any possibility of indictment on those grounds.

THE PRESIDENT. Well, the power of pardon does cover any criminal actions during a stipulated period, and as the pardon itself indicated, it went from the day that Mr. Nixon first took the oath of office until he actually resigned on August 9.

CONGRESSMAN KASTENMEIER. My question is, did you have reason to believe that other than the 10 areas of investigation and the coverup, that the former President might need to be protected in any other area where possibility of criminal prosecution existed?

THE PRESIDENT. I knew of no other potential or possible criminal charges, no.

CONGRESSMAN KASTENMEIER. My time has expired, Mr. Chairman.

CONGRESSMAN HUNGATE. The gentleman from New York, Mr. Smith.

CONGRESSMAN HENRY P. SMITH 3D. Mr. President, in regard to your answer on page 18 [p. 1305 of this issue] of your statement of whether you consulted with certain persons and in that connection and in connection with question number six of H.R. 1367, you stated in regard to the Vice Presidential nominee, Nelson Rockefeller, that your only conversation on the subject with him was to report to him on September 6, 1974, that "I was planning to grant the pardon."

Now, the question asks whether he gave you any facts or legal authorities and my question is, did he do so?

THE PRESIDENT. Nelson Rockefeller did not give me any facts or legal authorities. He was in my office to discuss with me the proceedings concerning his nomination, and at the conclusion of a discussion on that matter, I felt that I should inform him of the possible or prospective action that I would be taking, but he gave me no facts, he gave me no legal advice concerning the pardon.

CONGRESSMAN SMITH. Mr. President, as you were minority leader of the Congress before you became Vice President of the United States, did you at any time discuss the wisdom or advisability of a possible Presidential pardon for President Nixon with President Nixon or any of his representatives or any member of the White House Staff?

This was in the period before you became Vice President.

THE PRESIDENT. The answer is categorically no. Before I became Vice President, Mr. Smith, I, on several occasions—I can't recall how many—indicated to President Nixon himself that I thought he should not resign.

If my memory is accurate, Mr. Smith, before I became Vice President, there were individuals both in the Congress and otherwise who were advocating that Mr. Nixon resign.

I do recall on one or more occasions telling Mr. Nixon in my judgment he should not, because I thought that would be an admission of guilt, and on the information I had at that time, I did not believe Mr. Nixon was guilty of any impeachable offense.

CONGRESSMAN SMITH. Thank you, Mr. President. You touched upon your observations of President Nixon's health, and I wonder whether at any time before you became Vice President of the United States did you learn any facts about his physical or mental health which later became relevant to your decision to pardon Mr. Nixon?

THE PRESIDENT. Before I was Vice President I saw Mr. Nixon periodically, coming to the White House for leadership meetings or for other reasons, and during that period, I had the distinct impression that his health was good.

I didn't see any discernible change, in my own opinion, until the last day or two of his Presidency. I did notice the last time I saw him in the Oval Office on August 9—

I thought he was drawn and possibly a little thinner, but that is the only observation I made.

CONGRESSMAN HUNGATE. The gentleman from California, Mr. Edwards.

CONGRESSMAN DON EDWARDS. Thank you, Mr. Chairman.

Mr. President, on pages 10 and 11 [pp. 1303–1304 of this issue] of your statement, you indicate that there were some general discussions with General Haig and Mr. St. Clair, before the resignation, about the pardon power in general.

Did they have any reason to carry a message to then President Nixon that this pardon power could possibly be used on his behalf if he resigned?

THE PRESIDENT. None whatsoever. Categorically no.

CONGRESSMAN EDWARDS. Then why, Mr. President, those general discussions about pardon?

THE PRESIDENT. Well, as I indicated in my prepared statement, General Haig came to me first to apprise me of the dramatic change in the situation, and as I indicated in the prepared statement, told me that I should be prepared to assume the Presidency very quickly, and wanted to know whether I was ready to do that.

Secondly, he did indicate that in the White House among the President's advisers there were many options being discussed as to what course of action the President should take, and in the course of my discussion on August 1 with General Haig, he outlined, as I did in the prepared text, the many options that were being discussed.

He asked for any recommendations I would make and as I indicated in the prepared text, I made none.

CONGRESSMAN EDWARDS. Thank you.

Mr. President, Mr. Buchen said several times, and I believe you mentioned, that the pardon did involve a certain aspect of mercy. Would not the same considerations of mercy apply to the Watergate defendants downtown who now are putting forth as their chief defense their allegation that they were merely acting under orders of Mr. Nixon, then President and their boss?

THE PRESIDENT. Mr. Edwards, in light of the fact that these trials are being carried out at the present time, I think it is inadvisable for me to comment on any of the proceedings in those trials.

CONGRESSMAN EDWARDS. Mr. President, put yourself in the position of the high school teacher, shall we say, in Watts or the barrios of San Jose or Harlem, and if you were such a teacher, how would you explain to the young people of America the American concept of equal justice under law?

THE PRESIDENT. Mr. Edwards, Mr. Nixon was the 37th President of the United States. He had been preceded by 36 others. He is the only President in the history of this country who has resigned under shame and disgrace.

I think that that in and of itself can be understood, can be explained to students or to others. That was a major, major step, and a matter of, I am sure, grave, grave deliberations by the former President, and it certainly, as I have said several times, constituted shame and disgrace.

CONGRESSMAN EDWARDS. Thank you, Mr. President.

Mr. President, do you think that it is wise to pardon a man before indictment or trial for offenses that are completely unknown to you and which might possibly be terribly serious?

THE PRESIDENT. Well, as I indicated, Mr. Edwards, I did to the best of my ability check with probably the best authority in the country on what, if any, charges would be made against Mr. Nixon. Those were, or potentially were, serious charges.

I think that in taking the action I did concerning those charges, I was exercising in a proper way the pardon authority given a President under the Constitution.

CONGRESSMAN EDWARDS. Thank you, Mr. President.

CONGRESSMAN HUNGATE. The gentleman from Indiana, Mr. Dennis.

CONGRESSMAN DAVID W. DENNIS. Thank you, Mr. 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 [p. 1303 of this issue] of your statement where you were talking about 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 for Mr. Nixon."

I take it that you have spelled out what those references were over on page 9 [p. 1303 of this issue], where the options are spelled out and page 10 [p. 1303 of this issue] where you state that you inquired as to what was the President's pardon power.

THE PRESIDENT. Yes, it is spelled out in the item instances 1 through 6, the 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 [p. 1303 of this issue] 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.

CONGRESSMAN DENNIS. Mr. President, the exercise of executive clemency is, of course, a well-recognized part of the legal system in this country, exercised by you and all your predecessors, is that not the fact?

THE PRESIDENT. That is correct, sir.

CONGRESSMAN DENNIS. And you have given this committee, as I understand your testimony this morning, your complete statement as to your reasons for exercising that power in this particular case?

THE PRESIDENT. I have, sir.

CONGRESSMAN DENNIS. And in answer to my friend, Mr. Edwards, you have stated the fact that you felt that for an ex-President of the United States to resign under these circumstances was sufficient, strong punishment, and that that should answer the problems of those who have raised the question of equal justice under law?

THE PRESIDENT. That is correct, sir.

CONGRESSMAN DENNIS. And that you would consider other possible pardons on the facts of those particular cases when and if they were presented to you?

THE PRESIDENT. That is correct.

CONGRESSMAN DENNIS. And that there was no condition attached to this pardon and no sort of agreement made in respect thereto before it was granted?

THE PRESIDENT. None whatsoever, sir.

CONGRESSMAN DENNIS. Thank you, Mr. President. I have no further questions, Mr. Chairman.

CONGRESSMAN HUNGATE. The gentleman from South Carolina, Mr. Mann.

CONGRESSMAN JAMES R. MANN. Thank you, Mr. Chairman.

Mr. President, Mr. Kastenmeier asked you about the termination of the investigation by the Special Prosecutor's office. Was it your intention, by the pardon, to terminate the investigation by the Special Prosecutor's office in the 10 areas that you received the report from that office upon?

THE PRESIDENT. I think the net result of the pardon was, in effect, just that; yes, sir.

CONGRESSMAN MANN. And is that part of the reason that you didn't consult with Mr. Jaworski with reference to the tape agreements as to how that might affect his further investigations?

THE PRESIDENT. Well, as I pointed out, the tape agreement was initiated between my legal counsel and Mr. Nixon sometime before the question of a pardon ever arose.

The reason for that, Mr. Mann, is that I came into office and almost immediately there were demands and requests, not only from the Special Prosecutor, as I recall, but from other sources as to those tapes and other documents. And one of the first things I did when these problems came to my desk was to ask the Attorney General for his opinion as to the ownership of those tapes or any other documents.

And once we got that information, then we felt that there ought to be some discussion as to where the tapes

and other documents would be held and under what circumstances.

CONGRESSMAN MANN. Of course, the mandate of the Special Prosecutor's Office was not directed solely at President Nixon.

But is it not so that the pardon in effect terminated that investigation insofar as other parties, other possible defendants, in getting to the true facts of the matters that have disturbed our national political life during these past 2 years?

THE PRESIDENT. I do not believe that the action I took in pardoning President Nixon had any impact on any other mandate that that Special Prosecutor's office had.

CONGRESSMAN MANN. What response would you have if the Special Prosecutor's Office now requested access to certain of the tapes now in the custody of the Government?

THE PRESIDENT. The material that is still held by the Government, in my understanding of the Supreme Court decision, permits the Special Prosecutor to obtain any of that material for its responsibility, and I, of course not in a personal way, would make certain that that information was made available to the Special Prosecutor's office.

CONGRESSMAN MANN. According to press reports, Mr. Clement Stone visited Mr. Nixon on September 2 and thereafter met with you in Washington. Are you at liberty to tell us the gist of the communication involving President Nixon from Mr. Stone to you?

THE PRESIDENT. Mr. Stone came to see me about a program that he has used very successfully in his business, a program which he is very proud of, and he was urging me to institute it in the various bureaus and departments of the Federal Government.

There was no other message conveyed by him from Mr. Nixon to me.

CONGRESSMAN MANN. Did you ever discuss the pardon with former President Nixon after his resignation and prior to the granting of the pardon?

THE PRESIDENT. Will you repeat that again, please?

CONGRESSMAN MANN. Did you have any personal conversation with former President Nixon concerning the pardon, between his resignation and September 8?

THE PRESIDENT. Absolutely not.

CONGRESSMAN MANN. Now, in response to Mr. Edwards' question about equal justice under the law, I know that you make a distinction that here we are talking about the office of President of the United States.

But let's assume that we are talking about the president of a bank or Governor of a State or Chief Justice of the United States Supreme Court, and in our minds those are very high political offices. Do you think any of those persons who are allegedly criminally culpable through resignation should be entitled to any treatment different from any other citizen?

THE PRESIDENT. Mr. Mann, I don't think I should answer a hypothetical question of that kind. I was dealing with reality, and I have given, in my best judgment, the

reasons for the action that I took. And to pass judgment on any other person or individual holding any other office in public or private, I think it would be inappropriate for me.

CONGRESSMAN DENNIS. You have heard the maxim that the law is no respecter of persons. Do you agree with that?

THE PRESIDENT. Certainly it should be.

CONGRESSMAN DENNIS. Thank you, Mr. President.

CONGRESSMAN HUNGATE. The gentleman from Iowa, Mr. Mayne.

CONGRESSMAN WILEY MAYNE. Thank you, Mr. Chairman.

Mr. President, I believe that the Chairman and others in their questioning have established very clearly that your appearance here today is an entirely voluntary one on your part, that it was your idea, that you had not been requested by the committee to come in person, that we had indicated that it would be entirely satisfactory as far as we were concerned if some assistant appeared instead.

THE PRESIDENT. That is correct, sir.

CONGRESSMAN MAYNE. I do not think, however, that it has yet been made clear in the record, and I think this should be, that it is also true that you were willing to come and to tell this full story, as you have done, before the committee and on television before the American people, much earlier than today. Is that not true?

THE PRESIDENT. Yes. I think the original schedule was set for about a week ago. I have forgotten the exact date.

CONGRESSMAN MAYNE. My recollection, and you can correct me if I am wrong, is that as early as September 30, you offered and volunteered to appear before the subcommittee at our next regular meeting, which would have been on October 1, but it was indicated to you that that would be too early for the committee to be able to accommodate such an appearance.

THE PRESIDENT. I don't recall that detail, but when I indicated that I would voluntarily appear, a member of my staff met with, I think, Chairman Hungate, and between them they tried to work out what was an acceptable, agreeable time as to when I should appear.

CONGRESSMAN MAYNE. There was, of course, the concern which developed in the subcommittee as to whether there would be any possible jeopardy to the impaneling of the jury in the Watergate cases, but I think this timetable should be established, and I would ask the Chairman if that is not his recollection, that originally, the President did say that he would be glad to appear on October 1.

CONGRESSMAN HUNGATE. Not being under oath, the Chair is glad to reply. The gentleman's recollection is the same as mine.

CONGRESSMAN MAYNE. Thank you, Mr. Chairman. I just think the point should be made that there has been no stalling at all or delay on the part of the President in

making this appearance, but that he was not only willing to make the statement but to do it much earlier.

CONGRESSMAN EDWARDS. If the gentleman would yield briefly—that is precisely the fact, and it was consideration on behalf of many of us concerning the proper effect on any trials that held us till this day.

CONGRESSMAN MAYNE. Now, Mr. President, I think there was perhaps one part of Mr. Kastenmeier's questioning of you that was left unanswered, and I am going to try to go into that again.

Did you, by granting this pardon, have any intention of stopping the investigations of any other defendants or potential defendants?

THE PRESIDENT. None whatsoever.

CONGRESSMAN MAYNE. Mr. President, ever since I first heard of the Watergate break-in, I have felt that this was a matter which should be fully investigated and prosecuted, and that anyone found to be criminally involved should be punished as provided by the law, and I have repeatedly stated I thought our American system of justice, as administered in the courts, was fully capable of handling the situation if permitted to proceed without interference.

I have been apprehensive that the activities of some of the legislative committees and the large amount of publicity attending upon those activities might make it impossible for our court system to function as it should, and I have also been fearful that the executive branch would intervene to limit or handicap the normal functioning of the courts.

Now, Mr. President, I must say to you I am deeply concerned that both the legislative and executive branches have indeed interfered with our courts making it extremely difficult for the traditional American system of justice to proceed in the regular manner in this case, and I was very disturbed by the granting of this pardon, particularly at such an early stage, even though, certainly, there is no question that under the law, you had the right to act as you did.

Now, I realize that hindsight is always better than foresight, but I am wondering if after all that has happened and with further opportunity for reflection, if you do not now feel that you perhaps acted too hastily in this case.

THE PRESIDENT. Mr. Mayne, I have thought about that a great deal because there has been criticism of the timing. But as I reviewed my thoughts prior to the granting of the pardon, I had to look at this factual situation: If I granted the pardon when I did, it would, as quickly as possible, achieve the results that I wanted, which was to permit our Government, both the Congress and the President, to proceed to the solution of the problems.

Now, some people say in their criticism—and I understand it and I am not critical of the points they raise—I should have waited until Mr. Nixon was indicted, in-

ferring that I should have then pardoned him, if I was going to do so. Well, other people say that I should have waited until he was convicted, if he was convicted, and at that time, I should have pardoned him.

Others have indicated that I should have waited for a conviction and a jail sentence, if that were the result. Now, all of that process, whether it is the indictment, the possible conviction, a conviction plus a jail sentence, would have taken, as I have tried to explain, at least a year and probably much longer.

And during that whole period of time, Mr. Mayne, all of the things that I wanted to avoid, namely the opportunity for our Government, the President and the Congress, and others, to get to the problems we have, would have been, I think, deeply upset and roadblocked.

So, I am convinced, after reflection, as I was previously, that the timing of the pardon was done at the right time.

CONGRESSMAN MAYNE. Thank you, Mr. President.

CONGRESSMAN HUNGATE. The Representative from New York, Ms. Holtzman.

CONGRESSWOMAN ELIZABETH HOLTZMAN. Thank you, Mr. Chairman, and Mr. Ford, I too, wish to applaud your historical appearance here today. At the same time, however, I wish to express my dismay that the format of this hearing will not be able to provide to the American public the full truth and all of the facts respecting your assurance of a pardon to Richard Nixon.

Unfortunately, each member of this committee will have only 5 minutes in which to ask questions about this most serious matter, and unfortunately, despite my urging, the committee declined to provide sufficient time for each committee member to ask the questions that were appropriate.

The committee declined to prepare fully for your coming by calling other witnesses, such as Alexander Haig, Mr. Buchen, Mr. Becker, and has failed to insist also on full production of documents by you respecting the issuance of this pardon.

I must confess my own lack of easiness at participating in a proceeding that has raised such high expectations and unfortunately, will not be able to respond to them.

I would like to point out, Mr. President, that the resolutions of inquiry which have prompted your appearance here today have resulted from very dark suspicions that have been created in the public's mind.

Perhaps these suspicions are totally unfounded, and I sincerely hope that they are. But nonetheless, we must all confront the reality of these suspicions and the suspicions that were created by the circumstances of the pardon which you issued, the secrecy with which it was issued, and the reasons for which it was issued which made people question whether or not, in fact, it was a deal.

THE PRESIDENT. May I comment there? I want to assure you, the members of this subcommittee, the Mem-

bers of the Congress, and the American people, there was no deal, period, under no circumstances.

CONGRESSWOMAN HOLTZMAN. Mr. President, I appreciate that statement, and I am sure many of the American people do, as well. But they also are asking questions about the pardon, and I would like to specify a few of them for you so that perhaps we can have some of these answered.

I think, from the mail I have received from all over the country, as well as my own district, I know that the people want to understand how you can explain having pardoned Richard Nixon without specifying any of the crimes for which he was pardoned. And how can you explain pardoning Richard Nixon without obtaining any acknowledgement of guilt from him? How do you explain the failure to consult the Attorney General of the United States with respect to the issuance of the pardon, even though in your confirmation hearings you had indicated the Attorney General's opinion would be critical in any decision to pardon the former President?

How can this extraordinary haste in which the pardon was decided on and the secrecy with which it was carried out be explained, and how can you explain the pardon of Richard Nixon, accompanied by an agreement with respect to the tapes which, in essence, in the public's mind, hampered the Special Prosecutor's access to these materials, and this was done, also, in the public's mind, in disregard of the public's right to know the full story about Richard Nixon's misconduct in office.

And, in addition, the public, I think, wants an explanation of how Benton Becker was used to represent the interests of the United States in negotiating a tapes agreement when at that very time, he was under investigation by the United States for possible criminal charges?

And how, also, can you explain not having consulted Leon Jaworski, the Special Prosecutor, before approving of the tapes agreement? And I think, Mr. President, that these are only a few of the questions that have existed in the public's mind before and unfortunately still remain not resolved. And since I have very brief time, I would like to ask you, in addition to these questions, one further one, and that is that suspicions have been raised that the reason for the pardon and the simultaneous tapes agreement was to insure that the tape recordings between yourself and Richard Nixon never came out in public. To alleviate this suspicion once and for all, would you be willing to turn over to this subcommittee all tape recordings of conversations between yourself and Richard Nixon?

THE PRESIDENT. Those tapes, under an opinion of the Attorney General which I sought, according to the Attorney General—and, I might add, according to past precedent—belong to President Nixon. Those tapes are in our control. They are under an agreement which protects them, totally, fully, for the Special Prosecutor's office or for any other criminal proceedings.

Those tapes will not be delivered to anybody until a satisfactory agreement is reached with the Special Prosecutor's office. We have held them because his office did request that, and as long as we have them held in our possession for the Special Prosecutor's benefit, I see no way whatsoever that they can be destroyed, that they can be kept from proper utilization in criminal proceedings.

Now, those tapes belong to Mr. Nixon according to the Attorney General, but they are being held for the benefit of the Special Prosecutor, and I think that is the proper place for them to be kept.

CONGRESSMAN HUNGATE. The gentleman from Maryland, Mr. Hogan.

CONGRESSMAN LAWRENCE J. HOGAN. Thank you, Mr. Chairman. I am frankly amazed at my good friend, the gentelady from New York, and her accusatory opening speech, because certainly, the gentelady knows it is the usual and ordinary and routine procedure of this subcommittee and this committee, to operate under the 5-minute rule.

There is nothing extraordinary about us today allocating 5 minutes of time for questioning to each member of the committee. We always operate this way.

Her other observation about not doing any preparatory work by calling other witnesses was rejected as far as I recall by all other members of the subcommittee on the basis that this resolution of inquiry is directed to the President of the United States and properly so.

So, it would be totally inappropriate for the resolution of inquiry to address itself to individuals other than the subject of that resolution of inquiry.

Mr. President, I would like to join, too, in commending you for your statement and your openness and candor in coming in this very historic event.

Frankly, I am concerned at some of the questioning by my colleagues, asking questions, if all men are not equal under the law, because certainly, being the outstanding lawyers that they are, they know that the pardoning power itself is inherently inequitable, but for a larger purpose, it grants to the Chief Executive of the Federal Government or the State, in the case of State crimes, to pardon individuals who may or have been indicted or convicted of crimes.

So, we should not expect this to apply as if there were a trial of these criminal offenses. And furthermore, we also know that in our system of criminal justice, even the prosecutors themselves exercise prosecutive discretion. There is no question whatsoever that the Constitution gives to the President of the United States broad and absolute power to pardon individuals of criminal offenses.

We also know, from the debates of the framers of the Constitution, that they specifically rejected, including in the Constitution the words "after conviction."

They also, in the debate at that time, indicated situations where it might be necessary or desirable to grant

a pardon even before indictment, as was the case in this instance.

Mr. President, I know that you followed very carefully the deliberations of this committee during the impeachment inquiry, and I know you are also aware that this committee unanimously concluded that the President was guilty of an impeachable offense growing out of obstruction of justice.

So, in a sense, couldn't we not say that this was at least the basis for a possible criminal charge which was already spread on the record with ample evidence to justify it? So, those who say you should have waited until there were formalized charges really are overlooking the fact that there was a very formalized charge and indictment, if you will, by this committee.

THE PRESIDENT. Well, the unanimous vote of the House Committee on the Judiciary, all 35 members, certainly is very, very substantial evidence that the former President was guilty of an impeachable offense.

There is no doubt in my mind that that recommendation of this full committee would have carried in the House, which would have been even more formal as an indication of criminal activity, or certainly to be more specific, an impeachable offense. And, of course, the prospects in the Senate with such a formidable vote in the committee and in the House would have been even more persuasive.

CONGRESSMAN HOGAN. Mr. President, referring to the memorandum from Mr. Ruth to Mr. Jaworski enumerating the 10 possible criminal offenses, it is true that this committee addressed itself, if I am not mistaken, to every single one of these charges and assessed evidence as to each one of them, and we found them wanting, that they were not sufficient justification for an impeachable offense.

The last paragraph of that memorandum says, and I quote, "None of these matters at the moment rises to the level of our ability to prove even a probable criminal violation by Mr. Nixon."

Now, this memorandum does not include the obstruction of justice which I addressed myself to earlier, so I think we can logically assume that there would not have been any indictments resulting from Mr. Jaworski's activities other than in the area of obstruction of justice and with further corroboration of that point, I allude to a story in the Wall Street Journal yesterday where Mr. Jaworski—who, incidentally, not only agrees with your pardon but also the legality and the timeliness of it—and he says very specifically that there was going to be no additional disclosures resulting from his activities that the public was not already aware of relating to Mr. Nixon.

So, those who are saying we should wait until there is a formal charge I think are missing the point that there already has been a formal charge approved by this committee.

Mr. President, don't you feel that the very acceptance

of the pardon by the former President is tantamount to an admission of guilt on his part?

THE PRESIDENT. I do, sir.

CONGRESSMAN HOGAN. So, those who say again that they would have preferred that the President admit his culpability before a pardon being issued again are overlooking that fact?

THE PRESIDENT. The acceptance of a pardon, according to the legal authorities—and we have checked them out very carefully—does indicate that by the acceptance, the person who has accepted it does in effect admit guilt.

CONGRESSMAN HOGAN. Thank you, Mr. President, and again I would like to express my personal appreciation for your candor and your openness and your cooperation with the co-equal branch.

THE PRESIDENT. Thank you very much.

CONGRESSMAN HUNGATE. Mr. President, as you can see, the peculiar strength of this subcommittee lies in the fact that the subcommittee members bring so much knowledge to it and the subcommittee Chairman takes so little away.

And I noticed in page 10 [p. 1304 of this issue] of your statement that when you were first hit with the possibility of this responsibility, you indicated you wanted to talk to your wife before making a decision.

Mr. President, did you do that?

THE PRESIDENT. I certainly did, Mr. Chairman, because the probability or possibility of my becoming President obviously would have had a significant impact on her life as well as our lives.

CONGRESSMAN HUNGATE. That destroys my theory that, if you had talked to her, you would have waited until indictment or Christmas Eve, one or the other.

Let me ask if any attempt was made by you or your representative to contact the Federal Pardon Attorney as to his opinion as to customary procedures followed in issuing a pardon?

THE PRESIDENT. I did not, sir.

CONGRESSMAN HUNGATE. Mr. President, I go to page 20 [p. 1306 of this issue] of the statement, and I am addressing myself to the health question. In the first responses provided, the press releases, in one of these, page 3, it refers to September 16 now as the date of this press conference after the pardon decision in which you were quoted, "I asked Dr. Lukash, who is the head physician in the White House, to keep me posted in proper channels as to the former President's health. I have been informed on a routine day-to-day basis, but I don't think I am at liberty to give information."

My question is, Mr. President, had he reported prior to the pardon date or only after?

THE PRESIDENT. Dr. Lukash gave me no information concerning President Nixon's health prior to the time that I issued the pardon. He did, at my request, when I heard rumors about the former President's health, keep me

posted in proper channels, but that all occurred after the pardon took place.

CONGRESSMAN HUNGATE. The gentleman from Indiana is seeking recognition.

CONGRESSMAN DENNIS. Thank you, Mr. Chairman.

I would just like to request that we make a part of the record the text of the opinion of the United States Supreme Court in *Ex Parte Garland* 4 Wall. 333 and also the opinion of the United States Supreme Court in *Burdick against the United States*, 236 U.S. 79, which deals with the point that a pardon must be accepted.

CONGRESSMAN HUNGATE. Without objection, it will be made part of the record.

CONGRESSMAN DENNIS. Mr. Chairman, I would also like to make a part of the record, if I may, the article referred to by my colleague Mr. Hogan, which appeared in the Wall Street Journal of October 16, 1974, and is headed "The Pardon of Nixon Was Timely, Legal, Jaworksi Believes."

CONGRESSMAN HUNGATE. Without objection, it is so ordered, and now briefly—

THE PRESIDENT. Mr. Chairman, may I add to something I said just to make it correct?

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 to, for the record, indicate that the statement of the gentleman from Maryland, Mr. Hogan, the effect that the proposal that this subcommittee try 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 Ms. 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 can 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.

CONGRESSMAN KASTENMEIER. With respect to discussions between General Haig and Mr. Nixon, or other matters in question, too, you indicated you had no personal knowledge, both in writing and I think in your statement today.

I take it you would have no objection if the subcommittee sought to question Mr. Haig or others on the subject before us this morning to supplement this hearing and this inquiry?

THE PRESIDENT. I don't think that is within my prerogative. I have come here to testify as to the specific facts, as I know them, but what the subcommittee does is a judgment for the subcommittee and not me.

CONGRESSMAN KASTENMEIER. The Chair is advised that the House is in recess waiting for the conclusion of this hearing before reconvening, so if I might, I will yield to Mr. Hogan for a question at this point, and then to Ms. Holtzman for a question, and we will then conclude.

Mr. Hogan.

CONGRESSMAN HOGAN. Thank you, Mr. Chairman.

Mr. President, on page 20 [p. 1306 of this issue] of your statement you talk about the health issue and that you had not gotten any official reports from physicians that were controlling in your decision. You state that observations were reported to you from others.

Now, there have been press reports that Dr. Kissinger is alleged to have said to you that he feared that former President Nixon would commit suicide. That's appeared in several news accounts. Is there any truth to that?

THE PRESIDENT. There is no truth to it whatsoever as far as I know.

CONGRESSMAN HOGAN. It appeared in the New York Times, the Washington Post on two occasions, and is alluded to in a research paper prepared for the subcommittee.

THE PRESIDENT. There was no discussion between Dr. Kissinger and myself that included any such comment.

CONGRESSMAN HOGAN. I think if I might add a gratuitous comment, Mr. Chairman, that much of the controversy has been generated by the press, by just such erroneous statements that have been given wide circulation.

Thank you, Mr. President.

CONGRESSMAN HUNGATE. I will ask for one concise question because we want to respect the time.

CONGRESSMAN EDWARDS. Thank you, Mr. Chairman. Mr. President, what were the precise instructions given to Benton Becker by you when he went to San Clemente to negotiate Mr. Nixon's acceptance of the pardon?

THE PRESIDENT. The precise instructions given to Mr. Becker were actually given by my counsel, Mr. Buchen. In general I knew what they were. They were instructions to negotiate the protection of those documents, including the tapes, for the benefit of the Special Prosecutor in whatever use he felt was essential, and at the same time to keep them inviolate during a period of time which we felt was a proper one.

CONGRESSMAN EDWARDS. But not to offer the pardon unless that agreement had been negotiated?

THE PRESIDENT. Mr. Edwards, those negotiations as to the custody or ownership of the documents, including tapes, were undertaken prior to August 27, because we were or more less besieged—when I say “we,” the White House—as to what to do with those documents, including tapes.

That negotiation had no relevance whatsoever to the decision on my part to pardon the President.

CONGRESSMAN HUNGATE. The Chair would remind all of the constraints of time, and call on Ms. Holtzman for one final question.

CONGRESSWOMAN HOLTZMAN. Thank you, Mr. Chairman.

Mr. Ford, you’ve stated that the theory on which you pardoned Richard Nixon was that he had suffered enough, and I am interested in that theory because the logical consequence of that is that somebody who resigns in the face of virtually certain impeachment or somebody who is impeached should not be punished because the impeachment or the resignation in face of impeachment is punishment enough.

And I wondered whether anybody had brought to your attention the fact the Constitution specifically states that even though somebody is impeached, that person shall nonetheless be liable to punishment according to law.

THE PRESIDENT. Ms. Holtzman, I was fully cognizant of the fact that the President on resignation was accountable for any criminal charges. But I would like to say that the reason I gave the pardon was not as to Mr. Nixon, himself. I repeat, and I repeat with emphasis, the purpose of the pardon was to try and get the United States, the Congress, the President, and the American people focusing on the serious problems we have both at home and abroad, and I was absolutely convinced, then, as I am now, that if we had this series—an indictment, a trial, a conviction, and anything else that transpired after that—that the attention of the President, the Congress, and the American people would have been diverted from the problems that we have to solve.

That was the principal reason for my granting of the pardon.

CONGRESSMAN HUNGATE. Mr. Smith.

CONGRESSMAN SMITH. Mr. Chairman, just before we adjourn this hearing, I again would like to commend the President and thank him for coming.

I think, Mr. President, that you have probably opened a new era between the executive and the legislative departments, and I am very happy for it.

THE PRESIDENT. Mr. Chairman, I want to express to you and to the other members of the committee or subcommittee my appreciation for the fine manner and, I think, the fair way in which this meeting was held this morning.

I felt that it was absolutely essential because I am the only one who could explain the background and the decisionmaking process. And I hope, as I said in my opening statement, Mr. Chairman, that I have at least cleared the air so that most Americans will understand what was done and why it was done.

And again I trust that all of us can get back to the job of trying to solve our problems, both at home and abroad.

I thank you very, very much.

CONGRESSMAN HUNGATE. Mr. President, on behalf of the subcommittee, we express our appreciation to you for your appearance here today and recognition of the responsibility we all have to complete this work and get on with the business.

The transcripts will be furnished as quickly as possible to members of the subcommittee.

The subcommittee will adjourn subject to call of the Chair.

Second Veto of Continuing Appropriations Resolution

The President's Message to the House of Representatives Returning H.J. Res. 1163 Without His Approval Because of Provisions Concerning Military Assistance to Turkey. October 17, 1974

To the House of Representatives:

I greatly regret that for the second time I must return without my approval the Continuing Resolution granting funds for the operation of several departments and agencies and for the temporary continuation of our foreign aid programs, H.J. Res. 1163.

My previous veto message and my public statements on this matter have clearly expressed our objectives with respect to the resolution of the Cyprus dispute as well as the dangers posed by legislative restrictions destroying our ability to assist the parties involved. The Congress, despite the best efforts of the bipartisan leaders of both Houses, has for the second time refused to recognize the realities of the situation.

While the language of this new bill is different, its effect is similar to the earlier Continuing Resolution which required my veto on October 14. I need not reiterate the extensive comments which I made at that time and