

POLITICAL DISCOURSE

a case study
of the
Watergate
Affair

L. H. LaRue

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A CASE STUDY
OF THE
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1 THE QUESTION

As I finish this book, a decade has passed since Richard Nixon resigned and thus gave up the office of the presidency. He did so under pressure, for it seemed clear that he was going to be impeached and then convicted of “high crimes and misdemeanors” (this is the constitutional phrase for an impeachable offense) because of his role in what was called “the Watergate affair.” Had he been convicted, he would have been removed from office involuntarily. One can say that he left so that he wouldn’t be thrown out.

But what did he do that was so bad? Why was it bad? I shall write about this matter, but I wish to write mainly about something else: What about us? Why did we think that what he did was a “high crime and misdemeanor”? This latter question is important, since our actions in those days, what we said and what we did, say as much about us as they do about Nixon. The general principle behind this assertion—that what we said reveals as much about us as about him—is a simple and obvious one. There are many ways to describe events like Watergate, and of course, this assertion is true of most events. One selects facts, characterizes them, and arranges them, and there are countless ways of selecting and characterizing. Since there are so many ways of describing, it is likely that any particular description will tell us more about the person describing than the event described. So too with Watergate.

In short, my thesis is that the rhetoric of the public debate over Watergate tells us some important things about ourselves, our character, and our aspirations as a people. This debate occurred in many places, from arguments over coffee or beer to arguments in the Capitol Building of the United States. All of this discussion, from the most informal to the most formal, could be examined for clues

about what it might reveal of our character and aspirations. No record was left of most of these debates, but our representatives in Congress did leave a public record of their argument. They were our representatives, and so I would like to examine what they represented us to be. Those who serve in Congress are experts in many things, but one feature of their expertise is that they are knowledgeable about what can safely be said in public. Members of Congress who say things that are not publicly acceptable will soon be voted out. Consequently, I think that we should pay especial attention to what they did say. In offering their arguments about Watergate, they made judgments about the types of rhetoric that were publicly acceptable. In doing so, they made judgments about who we are. I wish to ask whether they portrayed us as we would wish to be portrayed.

As one examines our representatives' arguments, it becomes apparent that they disagreed about many of the most important sorts of things. Their rhetoric does not reveal a uniform harmony. There are inconsistencies, contradictions, and conflict. My thesis shall be that the most fundamental conflict was over the choice between two metaphors, the metaphor of "the rule of law" and the metaphor of "a breach of trust." I wish to present in this book the way in which these two metaphors were used, the way in which they could lead to different sorts of judgments, and the importance of the difference.

My own judgment is that the rhetoric which prevailed, the primary rhetoric that was employed, was the rhetoric centered in the metaphor of the rule of law. In many ways the rhetoric was admirable, but I also think that this way of talking about Watergate and the impeachment of the president failed in expressing what was at stake. To the extent that our representatives limited themselves to talk about the rule of law, they failed us. I do not wish to suggest that what they said was wrong, or misplaced, but I do wish to argue that it was seriously incomplete. My own judgment is that the metaphor of breach of trust would have been better: less legalistic, more inclusive, more reflective of the ethical issues that were at stake. In using the metaphor of the rule of law, our representatives did express some of our cultural expectations and aspirations; even so, they could have expressed more. Had they made the metaphor of a breach of trust their primary

one, they would have been able to incorporate more of our hopes; they would have represented us better.

However, my judgment about what we should say is a conclusion, not a beginning, and it belongs at the end of the book. I put it up front so that readers may know where I am heading—forewarned is forearmed—but now I must make a proper beginning. I shall do so by justifying my enterprise, and my justification begins with one of the most interesting “facts” about the Watergate affair: in the eyes of the world, what we did was strange. Conversations with people who are citizens of another country quickly show that those whose culture differs from ours were astonished that we would drive a president from office because of what had happened; in their judgment, what happened was trivial. We differ from the world, and yet despite this difference, none of the books on Watergate try to explain what is different about us. The fault I find with most books on Watergate is that they are written on the assumption that Nixon and his associates are the only ones who are strange, so that the only thing that needs to be explained is them. I would like to start with the assumption that we too need to be explained. Of course, we can pretend that our response was “natural” and that any “rational” person would respond as we did. But this claim would be absurd. Rational people in other nations did not “naturally” respond to the revelations about Nixon as we did. Consequently, I am confident that we need to know more about who we are, about what sort of people we are, and about how different we are.

An inquiry into what we did and who we are is hard to make, and one of the difficulties is that it is hard to avoid self-deception. It is easy to lie to oneself. One of the things that we can lie about is the degree to which our reaction to Watergate was merely rational, not emotional, and yet anyone who remembers those days will also remember the strong emotions aroused by everything that happened. When I think of this part of our story, I am reminded of words of Edmund Burke:

You see, Sir, that in this enlightened age I am bold enough to confess that we are generally men of untaught feelings, that, instead of casting away all

our old prejudices, we cherish them to a considerable degree, and, to take more shame to ourselves, we cherish them because they are prejudices; and the longer they have lasted and the more generally they have prevailed, the more we cherish them. We are afraid to put men to live and trade each on his own private stock of reason, because we suspect that this stock in each man is small, and that the individuals would do better to avail themselves of the general bank and capital of nations and ages.

There is much in this passage that seems true about our reaction to Watergate, even though the tone of the passage is distinctly foreign to our sensibilities. The fear of individual initiative sounds wrong, for we live in a culture that honors individualism. But what rings true about it, as a description of the way we responded to Watergate, is that Richard Nixon seemed to offend our deepest sensibilities, our "prejudices," about right and wrong. We would not say nowadays that prejudices are "untaught," for we know that they are; but we also know that the most important teaching is the nonformal, almost subliminal kind, and so Burke is only slightly off target here. "Not consciously taught" is perhaps more accurate than "untaught."

Burke's sentences remind us that we need to look beyond the immediate issues into the passions that lie beneath them. The point to be made is that we are all too likely, when speaking of political events, to focus on the issues that become the explicit points for debate. For example, in the days of the Watergate affair, there was an extended debate about the facts. It quickly became established that crimes had been committed. But did Nixon know about them? Did he approve? And so there was a debate about who said what to whom and when—for it is out of details such as these that one constructs the chain of inferences about what appear to have been the facts.

Factual debates of this sort are understandable, indeed important. When we act, we ought to act on a correct understanding of the facts. However, there are some dangers in letting ourselves be swept up in the debate about the facts, for in doing so we can lose sight of the issue. After all, facts are important to us because they are relevant to something that we care about. But we should ask what that something is—what we *do* care about, and why.

If we ask these questions, Burke is a useful reminder to us, for he cautions us to look in the right place. He reminds us that our "untaught feelings" are crucial. To be sure, there was rational argument about the evidence; but there was also passion. Not only does Burke remind us to remember that passion has its place in politics, he also asks us not to be ashamed of this fact. Indeed, the major point of his essay is that a politics governed solely by either passion or reason is bound to be a bad politics; the only healthy politics is one in which reason and passion are yoked together so as to strengthen each other.

I have quoted two sentences from Burke. I would now like to quote the two that follow next:

Many of our men of speculation, instead of exploding general prejudices, employ their sagacity to discover the latent wisdom which prevail in them. If they find what they seek, and they seldom fail, they think it more important to continue the prejudice, with the reason involved, than to cast away the coat of prejudice and to leave nothing but the naked reason; because prejudice, with its reason, has a motive to give action to that reason, and an affection which will give it permanence.

There is a lesson in this passage, if we can get past the parts that offend our own sensibilities, the "prejudices" that we hold to so firmly. None of us would want to say, nowadays, that we would expect to find, on examining our prejudices, that they are rational. Nor would we say that we are unwilling "to cast away the coat of prejudice" and rely on the reason that underlies it. Even so, the fact remains that we hold deep prejudices that were offended by Nixon and his associates. The rest of the world did not seem to be offended in the way that we were. If one judges what we did by cosmopolitan and international standards, our response to what we learned about Watergate, our sense of disgust with all of it, was parochial and narrow. How then can we justify our revulsion, except by examining our prejudices for the "latent wisdom" that might lie within? At any rate, this is what I would like to do. But I differ from Burke; I fear that our "latent wisdom" may also be folly.

In this book I shall focus primarily on what thirty-eight people said, the thirty-eight who were members of the House Judiciary

Committee. Of course, these members of Congress were statistically unrepresentative; their social class and income ran well above the average, and they were all trained as lawyers. Indeed, it would be hard to imagine a group that would be less typical of the country, although it could be argued that they were ideal as a "jury of one's peers" for Richard Milhous Nixon. However, these thirty-eight individuals were our legal representatives. They had the legal and constitutional power to speak on our behalf. We could write letters to them, and we could try to affect the course of opinion in our communities, hoping that changes there might affect them in turn. Yet even if we were successful our language would be translated by them into their own tongue. Even though our words could have a part in shaping and reshaping our polity, their words were important in some special way, for it was they who occupied the strategically important position.

Consequently, I suspect that their words might have a historical importance that should make us wary. If we ever go through this process again, it might be that our successors will look back to what these thirty-eight men and women did, reread what they said, and take their positions as a precedent. Would we want that? Did our representatives represent us? Did they say what we would have had them say, understand it as we understood it, give it the meaning that we would have had them give it? And further, if we do object, can we do anything about it?

I have been asking the question: "If this is the way we talk, who are we?" I could amend this question to read: "As for the members of the Judiciary Committee, if this is the way they talked, who were they?" But I don't want to amend it in this way, for if I ask it thus, it sounds too personal, too psychological; I do not wish to invade their psyches. I did not choose them from out of the millions who talked because I find them to be personally striking, but because of the constitutional and legal fact that they represented us. So the question must go something like this: "If they represented us, and if they talked this way, then what did they represent us to be?" If this is the question, then we should be concerned with the answer, for we should care whether they misrepresented us or told the truth about us.

2

CHRONOLOGY

The first step toward understanding what was said is to put it in context, which can be done by telling part of the story, by giving enough of the chronology so that one may have a better feel for the events of which our representatives spoke. The retelling of this often-told story is not merely desirable, it is necessary. The events that we know as Watergate are in the past now, and memory has begun to fade. Just as time brings a loss of memory, it also brings something good, new citizens too young to remember or else not then born. Consequently, I think it good to set forth a brief chronology, to remind the old and inform the young.

The dates that mark off the bounds of this chronology are June 17, 1972, when the burglary occurred, a burglary of the headquarters of the Democratic National Committee, and August 9, 1974, when Nixon gave his farewell speech following his resignation. In the beginning, it was inconceivable that the burglary would have the important consequences that were to follow. At first, the burglary seemed minor enough so that the editors of the *Washington Post* assigned Bob Woodward to cover it; he was young (twenty-nine years old) and a relatively inexperienced reporter. Woodward was soon joined on the story by Carl Bernstein, who was slightly more experienced as a reporter, even though he was a year younger. Their work on the story would make them famous, but if the editors had had any suspicions of where the story might lead, they would not have put these two men in charge of it.

At the time, there was no way that the editors could have known. Even though it was an election year, so that one would expect some political "dirty tricks," still it did not seem likely that a felony such

as burglary would be part of the routine of campaigning. Such a felony would seem beyond the boundary of the rough-and-tumble of politics. In their book, *All the President's Men*, Woodward and Bernstein stated that they too did not imagine, at the outset, that the burglary was linked to larger political events:

Indeed, the thought that the break-in might somehow be the work of the Republicans seemed implausible. On June 17, 1972, less than a month before the Democratic convention, the President stood ahead of all announced Democratic candidates in the polls by no less than 19 points. Richard Nixon's vision of an emerging Republican majority that would dominate the last quarter of a century, much as the Democrats had dominated two previous generations, appeared possible. The Democratic Party was in disarray as a brutal primary season approached its end. Senator George McGovern of South Dakota, considered by the White House and Democratic Party professionals alike to be Nixon's weakest opponent, was emerging as the clear favorite to win the Democrats' nomination for President.

As it turned out, McGovern was in fact nominated, and the professionals' judgment about the likely outcome of the campaign was vindicated: Nixon beat McGovern about as decisively as is possible.

At the time, the only things that we could know were a few facts about those who broke into the Democratic headquarters. Three of the men—Bernard Barker, Virgilio Gonzales, and Eugene Martinez—had been born in Cuba and were living in Miami as part of the Cuban exile community. Apparently, some of them had been partisans in Castro's movement, but they had become anti-Castro. Another member of the group was Frank Sturgis, who was born in Norfolk, Virginia, and who was reputed to be a soldier-of-fortune type. The early speculation, which proved to be accurate, was that the four of them had been involved in anti-Castro activities sponsored by the CIA. But this sort of speculation was not widespread among the citizenry; it was limited to Washington insiders.

The leader of the group was James McCord. For twenty years (1951–71) he had worked for the CIA, and before that he had worked for the FBI. After retiring from the CIA in 1971, he set himself up in business as a "security consultant." (The legitimate side of this sort of business is the giving of advice to those who need to protect themselves against bugging or burglary.) All of these facts were

mildly interesting, but the important fact was that he was a security coordinator for the Committee to Re-elect the President (CREEP).

This fact—that McCord was a security coordinator for CREEP—immediately became ambiguous. John Mitchell, the director of the committee, put out a statement that obfuscated the point:

The person involved is the proprietor of a private security agency who was employed by our committee months ago to assist with the installation of our security system. He has, as we understand it, a number of business clients and interests, and we have no knowledge of these relationships. We want to emphasize that this man and the other people involved were not operating on either our behalf or with our consent. There is no place in our campaign or in the electoral process for this type of activity, and we will not permit or condone it.

The statement implied, without stating directly, that McCord was not a full-time employee of CREEP but instead had been merely a consultant. However, when the reporters talked to McCord's friends, they all said that he worked full time for the committee. Since McCord was not giving interviews, there was no way to get his version. Of course, there were business records that could have been used to settle the matter, but reporters do not have the power to compel anyone to produce such records. All these things meant that McCord's actual relationship to the committee was unclear.

The case began in the Metropolitan Police Department, but the investigation was soon taken over by the FBI. The technicalities of bureaucratic jurisdiction—who investigates what—are complicated in this sort of case because of the District of Columbia's special status as a federal enclave; the details of these arrangements change from time to time, and are not today what they were at the time of Watergate.

The newspaper reports on the day after the burglary stated that the burglars had intended to set up a "bugging operation," but the reports did not suggest who was behind the plot to bug the headquarters of the Democratic National Committee. The story was a front-page one, but it made the front page because of the importance of the victim, the Democratic National Committee; the burglars themselves were not front-page individuals. Within two more days, however, there was a headline in the *Washington Post*: "White House

Consultant Linked to Bugging Suspects." Howard Hunt, the consultant, was listed in the address books of two of the suspects. Within six weeks, by the end of July and the start of August, stories appeared in the *Post* in which a financial link was established: checks that had been contributed to the Nixon campaign had been deposited in the bank account of one of the suspects. A Government Accounting Office (GAO) investigation followed up on those charges and corroborated the essentials of the story.

The GAO report did not focus on links to the Watergate break-in. Instead, the investigators looked for violations of the Federal Election Campaign Act of 1971, and they reported five "apparent" and four "possible" violations of that act: these were failures to keep records and make reports. Charges of this sort sound merely technical and therefore did not seem significant. The most dramatic fact that was revealed in the report was the existence of a \$350,000 cash fund that was kept in a safe in Maurice Stans's office. Stans was in charge of fundraising for CREEP, and so it was not unusual for him to have control of large sums of money. However, there is no reason to keep cash in a private safe unless one wishes to avoid leaving the sort of "paper trail" that bank accounts, deposit slips, and checks are sure to leave. One doesn't keep cash like that lying around without some reason, a troubling reason. The GAO report was more significant than the newspaper stories about Howard Hunt. The latter were ambiguous, in that one could doubt what inferences to draw from them. The status of "consultant" is unclear; what was his relationship to important people in the White House? Nor was it clear whether he had merely once been a consultant or was still a consultant. The financial link between the burglars and CREEP was far more significant.

However, the indictments that were filed in the middle of September 1972 were limited in their scope: they focused on the burglary, the unlawful entry with intent to "bug", but they did not do more; Howard Hunt and Gordon Liddy were added to the initial five as defendants, but they were political operators and had nothing to do with the money. Perhaps the prosecutors had reason to think this was good strategy, but by omitting any details about how the defendants were funded, the prosecutors caused many people to become even

more suspicious. Wright Patman, who chaired the House Banking and Currency Committee, was one of the suspicious. He tried to start a probe into the campaign finances of Nixon's reelection campaign; but on October 3, 1972, six of the Democrats joined the fourteen Republicans on his committee to vote down by a 20-15 vote any probe into campaign finances.

At this point the members of Congress cease to be actors. An election was approaching, and there would soon be a new Congress and a reelected president. The center of any talk and action was in the press, where stories about foul play in the campaign began to appear, and in the judiciary, where the processes of criminal procedure moved along in their stately way. The matter received sustained attention in the press, but the revelations about Watergate were limited, and there was no damage to the Nixon campaign. Even when the *Washington Post* reported, on October 10, 1972, that CREEP had been directing a wide-ranging campaign of espionage and dirty tricks against the Democrats, this report did not seem to affect public opinion. The story described such dirty tricks as forging letters on stationery that bore Democratic letterheads, leaking false information to the press, and also acts that went beyond the dirty-tricks category—for example, theft of confidential files. Aside from legalities and illegalities, the nastiest act was forging a letter that charged Sen. Edmund Muskie with having spoken of Americans of French-Canadian descent as "Canucks," a letter that had damaged Muskie's campaign to be the Democratic nominee for president.

All these things appeared to be linked to the Watergate break-in, but it was not clear exactly what was the link. According to the newspapers, the link was financial, in that the sabotage operations were paid for from a secret cash fund, and so was the break-in. However, it was not yet clear who controlled these funds, how they operated, and so forth, and until it could be shown that all of the acts uncovered were directed by the same group of people, there was not much that could be made of them. The suspicious among us thought that these new revelations were to be connected with the earlier reporting, but the general public was not suspicious. In November 1972 Richard Nixon was reelected in a landslide.

In January 1973 the trial of the Watergate burglars began in the

U.S. District Court for the District of Columbia. John Sirica was the chief judge of the court at that time, and he assigned the case to himself. Hunt, Barker, Sturgis, Martinez, and Gonzalez pleaded guilty. Whenever a defendant pleads guilty, the judge must ask questions to find out if the plea is truly voluntary and rests upon an accurate understanding of the exact nature of the charges and of what the consequences of the guilty plea will be. Sirica tried to use this procedure to make public what had happened, but defense counsel objected to the judge's questions on the grounds that the defendants were still under investigation for other matters; the objection was legally proper, and so Sirica, with visible reluctance, abandoned his inquiry.

Liddy and McCord pleaded not guilty and the trial went forward against them; they were convicted. The trial itself became one of the notable events of that January, largely because of Sirica's actions. The lawyers were focusing upon the question of guilt or innocence with respect to the break-in, but Sirica intervened from time to time to ask questions about the other matters that were relevant to the overall problem. Within the legal community, there was considerable criticism of Sirica, since many lawyers thought that this sort of judicial intervention was not part of his proper role as a judge. The argument was that he should have limited himself to the trial before him. However, the general public seemed to approve, perhaps because this was the first chance for facts about Watergate to be made public in some sort of regular and authorized manner. There was a real desire to know the truth, and this was the first public hearing on the truth about Watergate. At any rate, despite Sirica's attempts, nothing much came out and so the focus of the action returned to the legislative arena; it was time for a new Congress to meet.

While the trial was under way, the new Congress (the Ninety-third) convened, and our representatives once again had a chance to act. After the customary and expected to'ing and fro'ing, the first significant act came on February 7, 1973: the Senate Select Committee on Presidential Campaign Activities, more popularly known as the Ervin committee, was established. The public curiosity for knowledge about Watergate was so great that not a single senator