

Gerald Ford's Pardon of Richard Nixon

The Most Historic Presidential Pardon

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In Article II, Section 2 of the United States Constitution, the President of the United States is given the power to “grand reprieves and pardons for offenses against the United States” (Crouch 9). The first presidential pardon was issued in 1795 when George Washington pardoned two men accused of treason by leading the Whiskey Rebellion. Over the course of the twentieth century, approximately 20,000 pardons and clemencies have been issued. In August of 1974, President Richard Nixon resigned the Presidency of the United States due to suspicion of crimes against the country in the Watergate scandal, making Vice President Gerald Ford the 38th President of the United States. On September 8th, 1974, just one month into his presidency, President Ford delivered the most notable pardon in American history to date, to President Nixon, before he had been convicted of any crimes. Although Nixon had not yet been charged with any crimes, Ford believed the pardon was necessary in order for the country to move on and focus on other more pressing issues, and leave behind the two-year-old Watergate scandal.

In 1972, incumbent Republican President Richard Nixon was running for reelection against the Democratic candidate, Senator George McGovern of South Dakota. During the time of the election campaign, the country was in the middle of the Vietnam War, which to this point had lasted seventeen years. As a result, Nixon’s campaign staff believed that he needed a strong and aggressive campaign to win reelection because the country had been fighting a war for so long. However, the election campaign’s “aggressive tactics included what turned out to be illegal espionage” (History.com Staff, 2009). In May of 1972, G. Gordon Liddy and E. Howard Hunt, the leaders of Nixon’s Committee to Re-Elect the President (CRP), sent five burglars to break into the Democratic National Convention office in the Watergate building in Washington, D.C. to steal copies of top-secret documents and wiretap the phones to gain intelligence about their opponent’s campaign. The wires on the phones did not work, so the burglars were sent back to

fix them on June 17, 1972. They were caught during this second break-in. At this time, allegedly no one at the White House was aware of the break-in. When President Nixon learned of the situation, him and his Chief of Staff, Bob Haldeman, agreed to ask the Central Intelligence Agency to get the Federal Bureau of Investigation to limit its investigation of the Watergate burglars. On July 1, 1972, John Mitchell, the director of Nixon's reelection campaign, resigned citing the excuse that he needed to take care of his wife's alcoholism, which had also provided Nixon's reelection with controversy. However, the actual reason that Mitchell resigned was because the burglary would have been traced back to him because of his alleged approval of the CRP's campaign intelligence plan; thus, Mitchell was essentially fired by Nixon, but was allowed to publicly resign instead in order to avoid the additional controversy. For Nixon, "this apparent act of kindness would cost him his presidency" (Shepard 21).

When the Watergate scandal became public, the Nixon administration wanted to contain it within the CRP, so that no staff at the White House would be at risk of prosecution. They gave John Dean, a member of Nixon's counsel, the assignment of containing the scandal to the CRP. However, Dean failed to successfully complete this task, because he was actually the one who recruited Liddy to develop the illegal campaign intelligence plan and had attended two meetings in Mitchell's office where the plans were detailed. On March 21, 1973, Dean met with Nixon to inform him of the specifics of the Watergate scandal, and described it as a "cancer on the presidency, which was spreading" (Shepard 23). At this time, one of the burglars of the Watergate building, Howard Hunt, had pleaded guilty to all six crimes he was charged with at the beginning of the Watergate trials. He requested money from the CRP, which had been subsidizing the burglars since the time of their arrests. Nixon pretended to entertain the idea of meeting Hunt's demands, but only wanted to buy time to get ahead of his threatened disclosures.

Later on this day, Dean, Haldeman, and John Ehrlichman, also a part of Nixon's counsel, met with Nixon and sent \$75,000 to Hunt's lawyer.

On March 22, 1973, the group met again with John Mitchell, where they all agreed that if Mitchell testified, "the unspoken assumption was that any such appearance by Mitchell would require him either to commit perjury or to take responsibility for authorizing the Watergate break-in" (Shepard 23). Therefore, Nixon instructed Mitchell to "stonewall," which meant that he should keep quiet about everything. The next day was the final sentencing of the Watergate burglars. Trial Judge John Sirica sentenced the burglars up to 35 years in prison, with the provisions that the sentences could be reduced with cooperation with the investigation. Nixon had also assigned Dean the task of writing a report discussing all of the information that Nixon knew of the Watergate investigation. Dean was sent to Camp David to write this report, but he failed to complete it because he realized that "anything he wrote, if remotely true, would have been self-incriminating" (Shepard 24). Dean's next move was to hire defense counsel Charles Shaffer on March 28, 1973, who was able to get Dean free with no harm.

On July 24, the Supreme Court ruled unanimously in *United States v. Nixon (1974)*, that Nixon was to be ordered to turn over 64 subpoenaed tape recordings for review for relevancy to the Watergate prosecutions. This Supreme Court decision was followed by a debate on the House Judiciary Committee on articles of impeachment for Nixon. Five days later, on July 29th, the "committee recommended adoption of three articles of impeachment for (1) obstructing the investigation of the Watergate burglary inquiry, (2) misusing law enforcement and intelligence agencies for political purposes, and (3) refusing to comply with the Judiciary Committee's subpoenas for White House tapes" (Shepard 24). The House of Representatives later voted to accept the House Judiciary Committee's findings that Nixon's actions warranted the three

articles of impeachment aforementioned. A tape of a conversation between Nixon and Haldeman was released on August 5, 1974, and contained an eighteen-minute gap, which seemed like a deliberate erasure of recording. This erasure “appeared to reveal a clear obstruction of justice and led to Nixon’s resignation three days later,” as Haldeman’s notes from the meeting also contained the word ‘Watergate’ (Shepard 21). This tape is now known as the “smoking gun” tape because it seemed to show obvious proof that Nixon had been involved in the Watergate cover-up from its origination. Three days later, Nixon announced his resignation from the Presidency, very closely escaping impeachment, making his Vice President Gerald Ford the 38th President of the United States.

With Nixon back in his hometown of San Clemente, California, Ford had control of the Oval Office, but “the specter of Richard Nixon continued to haunt Ford’s White House” (Cannon 217). Ford was left to deal with the aftermath of the Watergate scandal and Nixon’s resignation. Ford’s Chief of Staff Alexander Haig promised to deliver Nixon’s documents and tapes to his home in California, but Ford stopped this action because he determined that he “would be held responsible to protect evidence that might be subpoenaed by the Special Prosecutor or the Federal Court for the trials of Mitchell and the other Watergate defendants, and Nixon himself if and when indicted” (Cannon 218). Therefore, Ford ordered the Nixon documents and tapes to be locked in the Executive Office building and issued a Presidential order that allowed only Nixon’s personal clothing to be removed from the White House’s premises.

Ford desperately wanted to move on from the scandal and have his own presidency focus on more pressing issues, such as the economy and foreign policy. The country was in the worst economic recession since the Great Depression, and was entangled in the Vietnam War. Ford’s approval rating during his first ten days in office was 71 percent, as indicated by a Gallup poll.

Ford was able to earn the respect and support of his country, and wanted his presidency to be his own; Ford did not want to govern in the shadow of dishonored predecessor. Nevertheless, Leonard Garment, Nixon's longtime friend and part of Ford's White House counsel, revealed a plan to pardon Nixon to Haig, who then instructed Garment to introduce the idea to Ford. Garment drafted a legal brief overnight to bring to Ford the next day. The following morning, Haig told Garment that Ford would announce the pardon that day in his afternoon press conference on August 28, 1974.

By the time that Gerald Ford entered the White House Press Room in the afternoon, he had spent his entire day listening to conflicting advice about whether or not to issue Nixon a pardon. Ford had heard "Haig urging a pardon; Hartmann and terHorst suggesting caution; Buchen proposing delay; Zeoli preaching mercy...it was enough to muddle his mind" (Cannon 222). While his staff had prepared Ford for the press conference by practicing answering aggressive and controversial questions about Nixon, Ford insisted that the reporters would not ask about Nixon; instead, they would be curious about Ford's domestic and foreign policies. Although his staff tried to train him for the contentious questions he would be faced with, Ford was not open-minded and therefore, was not fully prepared as he could have been for this monumental press conference. Helen Thomas, United Press International's White House correspondent, asked the first question in the press conference. She inquired if President Ford believed that Nixon should have immunity from prosecution, and if Ford would use his pardon power if deemed necessary. Ford replied, "until any legal process has been undertaken, I think it unwise and untimely for me to make any commitment" (Cannon 223). Ford also declared that he was not ruling out the option of a pardon, but did not want to prematurely commit himself to a specific decision.

This press conference frustrated Ford greatly because he wanted his Presidency to be his own and did not want to live in Nixon's shadow; he desired for his first press conference as President of the United States to be focused his own plans and goals for improving the country. Instead, the press corps was more interested in knowing about the fate of his predecessor. In addition, Ford's frustration stemmed from the fact that he knew he had given contradictory answers to the press about Nixon, and that as a result, the scandal would not end and he would continue to be asked about it. His mistakes in his first press conference "marked a turning point in his Presidency...it provoked his most significant decision – the one for which most Americans will remember him and the action that will intrigue most historians" (Cannon 225). The millions of Americans who watched Ford's first press conference were now anxiously awaiting his decision about the Nixon pardon.

On August 30, 1974, when Ford met with his counsel, he announced, "I am very much inclined to grant Nixon immunity from further prosecution" (Cannon 231). Ford came into this meeting with his mind already made up. He did not ask his counsel for opinions or advice about whether he should pardon Nixon or not, but rather asked for advice about how to execute the pardon. Ford came to the decision to pardon Nixon because he wanted the country to move on from the Watergate scandal. His logic was that, "if eventually Nixon were to be found guilty, the American people might conclude he had suffered enough and insist that the President, whomever he might be at that time, should pardon him," and "if eventually, why not now? Why not get it over with and get on with the urgent business of the nation?" (Cannon 232). Ford decided to pardon Nixon for national interest; he wanted the country to be able to move on from the long scandal and focus themselves on other issues. Ford was so convicted in this sentiment that "he was going to do what was in the national interest whatever the cost to himself" (Cannon 234). In

a conversation with his wife, he said that there were two reasons that he wanted to pardon Nixon. First, he wanted the scandal to be out of the news and out of American minds. Second, he did not want to be continuously asked about Nixon's future and the legality of his documents, when his administration had other problems to think about. Philip Buchen, one of Ford's counsel, drafted a report concerning how much time a potential Nixon trial would take. From this report, it affirmed Ford's fear that the indictment and trial of Nixon would take several years. This was the opposite of what Ford wanted; "it confirmed his expectation that the nightmare of Watergate would not, in fact, have ended; probably, it would dominate the headlines and plague his Administration for as long as he would be in office" (Cannon 239).

When Ford came to the decision to pardon Nixon, Nixon had not yet been indicted. The precedent for pardoning someone who had not yet been indicted was set by President Woodrow Wilson. In 1914, George Burdick, the editor of the *New York Tribune*, refused a court order to reveal sources for customs fraud. Before he was indicted for contempt of court, Wilson pardoned him "for all offenses he has committed or may have committed" (Cannon 236). In *Burdick v. United States*, the Supreme Court held that "the President has power to pardon for a crime of which the individual has not been convicted and which he does not admit" but the pardon "carries an imputation of guilt; acceptance a confession of it" (Cannon 236).

On September 5, 1974, Ford instructed Buchen to arrange for a meeting with Nixon to inform him that Ford was considering a pardon, and to negotiate an agreement about the tapes and documents. Buchen was also to ensure that Nixon would accept the pardon if offered, even though an acceptance meant an admittance of guilt, and obtain Nixon's statement of contrition. Ford was disappointed by Nixon's statement of contrition because he did not admit to any crime or guilt in it. However, Nixon's health was reported to be very poor. Nixon was described as

“thin and frail, his skin wrinkled and his hair disheveled” and “thought to be nearing death” (Cannon 242). On September 8, 1974, a Sunday morning, Ford read a statement announcing his decision to issue a presidential pardon to Nixon on live television and radio. The mission of his statement was to demonstrate to the nation that Ford was issuing this pardon to Nixon solely for national interest, because “he must rid the country of its preoccupation with Nixon’s fate so that he could get on with the more important business of governing” (Cannon 246). However, the statement was not written well, and it seemed to the public that Ford was issuing the pardon out of sympathy for Nixon because Nixon’s deteriorating health was mentioned. On the same day, Ford signed Proclamation 4311, which officially granted Nixon a presidential pardon for all offenses he may or may not have committed against his country. Americans were immediately outraged after the announcement, and Ford blamed himself for failing to explain his reasoning accurately and thoroughly. In addition, Ford’s Acting Press Secretary Jack Hushen told the press corps that pardons for the other Watergate defendants were being considered, although this was completely false. This led the Senate to pass a resolution that Ford should not issue any more Watergate pardons.

Ford did not anticipate the hostile reaction that he received from the American public in “the most unpopular decision of his young presidency” (Hosansky 2). Ford’s timing did not make sense to his critics because Nixon had not yet been indicted with any crimes. His critics included Senator Sam J. Ervin of North Carolina who headed the committee that investigated the Watergate scandal. Ervin believed that “President Ford ought to have allowed the legal processes to take their course, and not issued any pardon to former President Nixon until he has been indicted, tried and convicted” (Hosansky 3). Additionally, other critics believed that it was unfair of Ford to only pardon Nixon and leave the other Watergate defendants to the fate of their trials.

Ford also refused to issue pardons to draft resisters and deserters during his administration. Ford defended these decisions by prioritizing limited amnesty and pardons in his administration.

The main doubt that remained after Ford's pardon of Nixon pertained to the existence of a deal made between Ford and Nixon. The timing, secretiveness, and hastiness that Ford acted with made it seem like the pardon was previously agreed upon in a deal. Mel Laird, Ford's close Republican friend, said to White House reporters, "It was all fixed. Ford said to Nixon: 'You give me the job. I'll give you the pardon'" (Cannon 251). Bella Abzug, a congresswoman from New York, was extremely wary of the pardon and suspected a deal. Four days after Ford issued the pardon, Abzug instigated a formal House inquiry regarding if Ford or one of his representatives had discussed the idea of a pardon with Nixon or one of Nixon's representatives before Nixon had resigned. William Hungate, Congressman from Missouri and Chairman of the House Subcommittee on Criminal Justice, viewed the inquiry as valid and necessary to answer because "the pardon not only clouded the issue of whether the full story of Watergate would ever be known, but it also raised serious doubts as to the sincerity of the new President" (Cannon 252). When news of the inquiry reached Ford in the White House, he came to the conclusion that the most efficient way to clear everything up was answer the committee's questions in person, rather than through written word. Stonewalling, as Nixon had done, would only provoke even more suspicion. Ford's counsel and Hungate settled on the terms for Ford's testimony: Ford would not be sworn in, but would read a written statement and then take questions from committee members, all on live television.

On October 17, 1974, Ford appeared before Hungate and his committee in "the first documented appearance of a President of the United States before a committee or subcommittee of the United States Congress" (Cannon 255). In Ford's testimony, he repeated that his reasoning

for issuing Nixon's pardon was to refocus the country from a fallen President to other more crucial national interests. He categorically denied the idea of a deal between Nixon and himself. In all of his answers, Ford was consistent and repeated that "[his] prime reason was for the benefit of the country, not for any benefits that might be for Mr. Nixon" (Cannon 257). He explained that in his mind, if the American people had to watch a former President go through an indictment, a long trial, and then a conviction, the attention of all citizens and government would be diverted from issues like the economy and foreign relations. The Watergate scandal would not have concluded for many more years; Ford believed he did what needed to be done to end it once and for all.

Even after Ford's testimony in front of Hungate's committee, rumors of a deal still did not end, and Ford paid the price in the next Presidential election. In the Election of 1976, the incumbent Republican President Gerald Ford ran against Democratic candidate, Georgian Governor Jimmy Carter, in which the Nixon pardon became a main issue in Ford's campaign. In August of 1976, polls showed that 59 percent of responders believed it "was wrong to pardon Nixon," whereas 33 percent did not (Crouch 84). Ford failed to run a successful reelection campaign and lost the Electoral College 240 to 297, but the popular vote by only 2 percent.

In conclusion, Ford's pardon of Nixon proved how much a single decision could affect an entire Presidency. Nixon's resignation gave Ford the Presidency, but Ford's pardon of Nixon effectively ended his chances at another term. Ford stated that his primary motives for coming to the ultimate decision of issuing Nixon a pardon was so that the long Watergate scandal would finally come to an end, and that only then the country would be able to move on and concentrate on other issues. However, Ford received a very negative response to this decision, and the American government and its citizens were unable to ignore suspicions of a deal made between

Nixon and Ford. This reaction from the country to Ford's administration ultimately cost him the Election of 1976. This set a precedent for future presidents; in general, later presidents have waited until the end of their final terms before issuing pardons. In addition, the Watergate scandal and the Nixon pardon generated doubt in the minds of American citizens about the trustworthiness of their government, which is something that is still prevalent in our society 44 years later.