

TRUMP, THE INSURRECTION, AND NIXON'S PARDON

Carl Golden, March 10, 2022



Nearly 48 years ago, President Gerald Ford granted a “full, free and absolute pardon to Richard Nixon,” shielding the former president from prosecution for conspiring to cover up the break-in at the Democratic National Committee headquarters in the Watergate office complex in 1972.

According to the document signed by Ford, the pardon covered “all offenses against the United States which Nixon committed or may have committed or taken part in during the period from Jan. 20, 1969, to Aug. 9, 1974.”

The pardon unleashed a firestorm of media and partisan outrage and, according to many observers, contributed significantly to Ford’s narrow loss to Jimmy Carter in 1976.

Ford justified his decision, writing: "The prospect of a trial will cause prolonged and divisive debate over the propriety of exposing to further punishment and degradation a man who has already paid the unprecedented penalty of relinquishing the highest elective office of the United States."

The evidence against Nixon was so overwhelming that Senate conviction on impeachment charges was certain. Resignation was his sole option.

The Congressional committee investigating the Jan. 6, 2021, siege on the U. S. Capitol is reportedly poised to issue a criminal referral to the Justice Department accusing former president Donald Trump of participating in a conspiracy to overturn the 2020 election. The decision by Attorney General Merrick Garland whether to pursue an indictment against Trump will be the most politically momentous in modern history.

Congressional Republicans have already begun to frame the debate around the validity of the committee itself, characterizing it as a brazen political attempt by Democrats to construct a criminal case against Trump without regard for evidence of illegality.

The committee's findings and recommendations, Republicans argue, are forever and fatally tainted by crass political motives.

Ford's warning of a "prolonged and divisive debate" over Nixon's criminal culpability seems almost polite and courtly compared to the poisonous partisan atmosphere blanketing today's political discourse.

A criminal referral will unleash an acrimony never before experienced.

The committee Democrats, by leaving the decision to prosecute or not up to Garland, have immunized themselves somewhat by claiming they merely gathered evidence and will look to the Attorney General to assess its strength and viability.

Republicans, though, have threatened an all-out take no prisoners war, including a warning that if they take control of the Congress in this year's midterm election, they will immediately investigate business dealings involving the president's son, Hunter, and the president himself for actions he took as vice president.

Garland must tread a fine line, exercising care to avoid the perception that his department has caved to political pressures while at the same time remaining aware that declining to prosecute will, in effect, be interpreted as a victory for Trump and a repudiation of the committee's findings.

Democrats fret as well that if criminal charges are filed and dismissals or acquittals result, Trump will claim vindication and validation of his contention the committee spent millions of dollars on a political witch hunt.

The committee has alleged that Trump's insistence that the 2020 election was stolen from him, promoting a narrative he knew to be false, and his attempts to halt official congressional certification of the results were proof of participation in a conspiracy that rose to criminal level.

It will fall to Garland to determine if Trump's actions went beyond the assertions of a candidate unwilling to accept defeat and attempted to impose his beliefs and obstruct an official proceeding of Congress.

A prosecution will drain the oxygen from the political environment in the short term, affecting campaigns and elections, while a final disposition could consume years.

In the interim, political polarization - already at an unprecedented level - will intensify, further dividing the American people and creating an unyielding rigidity of opposing beliefs.

Nixon left office voluntarily in the face of certain impeachment; Trump left kicking and screaming while insisting he was victimized by a corrupt system.

Ford took a political risk, choosing to spare the country the ignoble spectacle of a former president in the dock.

Nixon was pardoned; Trump was defeated. It will be Merrick Garland's task to determine whether rejection by the voters is punishment enough.

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