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THE WHITE HOUSE

WASHINGTON

January 27, 1974

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MEMORANDUM FOR THE PRESIDENT

FROM: RON ZIEGLER
FRANK GANNON
SUBJECT: State of the Union Address

In an historic speech like this, where the central point is a sophisticated (and potentially an unpopular) one, organization and tone are especially important.

We agree that the speech should begin with a low-keyed business-as-usual summary of the State of the Union's domestic and foreign proposals. Taking attention-spans and TV time into account, this part should not last for more than fifteen minutes.

The Watergate section, if included, should not be more than ten minutes, and should be at least partially aimed at taking advantage of certain aspects of public opinion.

Basically, we think that Watergate exists in the public mind more as a short-hand symbol for corruption in government, and particularly in this Administration, than as the complicated congeries of charges and counter-charges that people who live very close to it, like us and the media, tend to think of it as being.

Most people don't think of Watergate in "we-they" "goodguy-bad guy" terms; but the media does, and if we keep this difference in mind and approach people on the level relevant to them, then the President's speech could begin to drive a decisive wedge between public opinion and the media in this area.

If we operate from this understanding of public opinion, we will already have a leg up on the media which has become smug and myopic in its gleeful preoccupation with the minutiae of impeachment.

The main thing that people want and need from the President now is some kind of "hook" to hang Watergate on so they can get it off their backs -- and off his back too. They need something to say when they argue with

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their kids or with the McGovern Democrat down the block about it. If the speech could provide something like this (which can be as much a matter of tone and style as of substance) our side would be well served.

We are attaching a rough "prose outline" covering one possible direction for the substance of the speech. It is not meant to be a reading text, or a finished copy, but we feel that it conveys better than a bare outline or collection of bridge-paragraphs something of the over-all approach this memorandum recommends.

This option involves drawing a line against further Congressional encroachment on Presidential prerogative by building a philosophical and historical case for the principle of executive privilege. An example of the kind of historical precedence is for this case is appended as Page A; others could be provided as needed.

We should add that this kind of approach does not have many elements of popular appeal, and it isn't in the cards that executive privilege will ever become a slogan that stirs men's souls.

But the case is valid, the threat is real, and the time is right.

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I would not have fully examined the State of our Union if I did not say something about the issue that has consumed so much time and so much passion during the last year.

I know that the American people are looking for a solution to Watergate, which has too long preoccupied this nation and so many of its leaders when their time and their talents are needed to do the people's business. The people want an explanation and a resolution so that we can move on to the important things on America's agenda for the 1970's.

But it has become clear that no one person can provide the complete explanation. Questions of motive, and individual understanding remain complicated; questions of guilt and innocence in many cases have not been determined. We must above all avoid an easy rush to judgement, just so that we can explain the matter neatly away.

And still, I can only say for sure, what I know for sure:

I have taken the Presidential oath of office two times. It is a solemn pledge, and one which I would never dishonor. Nothing means more to me than the responsibilities it imposes.

I can swear on that oath, that I did not know about the Watergate

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break-in before it happened; nor, until March 21, did I begin to learn the sad, piece-meal accumulation of suspicion and fact about what transpired later.

But this I have said before, and I recognize that over these months the charges have been too constant, and too magnified for my assertions alone to repeal the effect of the accusations.

I have three years left in which to carry out the mandate I was given by the American people.

I cannot, and will not, spend these years consumed by an effort to defend myself, or prove my innocence.

Ultimately, history will judge this Administration on what it accomplished for the American people. I am proud of what we have achieved for the nation, and I intend to do everything in these years to enrich and enlarge the record of accomplishments in the great areas of public concern which are the prime responsibility of an American President.

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This brings me to the important decisions I have had to make over the last days.

From the beginning of the investigation of the Watergate affair, there has been a conflict between two critical requirements:

- the need for a complete and thorough investigation;
- and the need to make sure that the investigation was handled in a way that the important Constitutional boundaries between the branches of government were respected and retained.

When the Senate Watergate Committee's hearings first began, in order to help get the answers everyone wanted, I agreed to waive executive privilege and permit all White House aides to testify.

As a result of my decision, the Senate Committee took _____ hours of testimony, over _____ days.

Then, last July, the Senate Committee told us that five tape recordings were critical to the completion of its work. The court however, determined that it could not rule on their case.

Now, the same Committee that thought five tapes were critical in July is back with a request for 500 tapes...and thousands of documents, without even the remotest reason to believe that these are relevant to their investigation.

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The Special Prosecutor's force appears now to be embarked on a similar course. Back in (July, August), Assistant Attorney General Petersen told the Watergate Committee that his investigation of the Watergate and coverup was 90% complete. Later, in (October?), Archibald Cox said that his investigation was 99% complete...and he required only the subpoenaed tapes to complete it.

Since then, we have turned over not only originally subpoenaed tapes, but, voluntarily, some _____ additional ones. We have also given over _____ documents. More recently, Mr. Jaworski indicated that his investigations could be wrapped up if we would just provide _____ more tapes. So we did. And now, he is back asking for 40 more.

Those two units combined are operating at an annual cost of some \$4.3 million.

It appears that the tapes and materials, which I offered in good faith, have been taken as a sign of weakness, and have led to demands which if they continue, would virtually mean the complete abolition of the executive as a separate and independent branch of the government.

It would not be a proud day for the Founding Fathers who struggled with themselves and with each other planning how to form this more

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perfect union, to see the distinctions they drew so cautiously being ignored as fuddy-duddy word games.

As we know, however, because many of them have told us, the Founders debated long and hard before they drew upon their best wisdom and created three independent and co-equal branches for our government -- the executive, the legislative, and the judicial. They imagined and intended that these three branches would act as checks and balances upon each other, and they knew that this could only work if each branch was safe and secure in its own independent operation.

What I want the American people to understand is that although executive privilege sounds like a very abstract and impersonal principle, it is in fact a very important and vital part of our way of life in this country. Without it, the power of the Congress, or the Courts, could become virtually unlimited, and the whole system of checks and balances and the separation of powers, which guarantees our freedom, would go out the window.

My initial concession on this principle of executive privilege may have started this trend by creating a false impression about the nature and the strength of my belief in that principle, and my obligation to uphold it.

The oath each President takes, to protect and defend the Constitution, imposes responsibilities upon him that he cannot ignore, whatever the

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cost. One of them is to observe and maintain the principle of executive privilege, a principle which each one of my thirty-six predecessors from George Washington to Lyndon Johnson has preserved and passed on intact.

Already, in fact, I have allowed greater inroads into this principle than any other President in our history.

I cannot, and I shall not, allow any more.

privilege to do the job

Having weighed the gravity of my decision, I have decided to relinquish no more tapes, documents, or memoranda to any investigative or inquisitorial body. No useful purpose would be served by my doing so, only corroboration or what has already been provided in unprecedented volume.

Although I know that this will not be a popular decision, people can hardly expect a President to set a precedent for the destruction of his own office.

I am of course aware of the pending inquiry within the House of Representatives, relating to the matter of impeachment. The national interest dictates that this proceeding be moved to a prompt conclusion. And I believe that the materials already disclosed are fully adequate to this purpose. And I am prepared to consider, at the proper time and with the proper safeguards, ways and means to make relevant materials available -- consistent with my decision today.

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So while I shall continue to cooperate with the Special Prosecutor, the House Committee, and the Judiciary Committee in any way that might speed a settlement of the questions they consider, I shall not go beyond the point I have now reached. Nor will I litigate the matter further in Federal Court.

It would be a sad irony if, just three years before America's two hundredth birthday, the 37th President of the United States casually surrendered one of the most basic principles of government which his predecessors had jealously guarded and carefully preserved.

I shall not leave a devastated executive branch gutted by reckless demands as a legacy to my successor as he begins America's two hundred and first year.

We are truly a blessed nation and a blessed people. But we truly have much still to do.

I must return my full and undivided attention to the peoples' business, and you ladies and gentlemen of the Congress must joine me in working to carry it on, and carry it out.

Because there are still hungry people in America.

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There are still people without jobs, or whose jobs don't pay enough or don't mean enough to them.

There are still families who don't live lives of hope or decency and there are senior citizens whose lives are lonely and sad.

There are Americans who are slaves to drugs, and there are Americans who are shackled by fears of the lawlessness that stalks too many American cities and streets.

There are Americans who know that if they or anyone in their family becomes seriously ill that they may not be able to afford the quality of medical care that might mean the difference between life and death. Or they know that if they can afford it, it will wipe out the savings and the dreams of a lifetime.

I know what those hopes and fears feel like. And I believe that it is the business of government to help provide the tools for people to solve these problems.

It's time and past time that we put the State of the Union back on the plane of the peoples' priorities.

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I ask you to join me in the next three years in my determination to secure the world peace we have already begun to build, and to revive the spirit of opportunity and enterprise which has made America grow and which has made America great. I ask you to join me at this important juncture of our history, as we prepare to lead America into its two hundredth year and into the last quarter of the twentieth century.

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Back in 1796, the first President, George Washington, invoked executive privilege in refusing to send Presidential documents to the House of Representatives because he believed that the House was trying to claim for itself powers the Constitution had never intended or enumerated.

There was a grave crisis, and many people thought that the new nation was going to fall apart before it even had a chance to get going. They begged President Washington to compromise his principles, but he stood firm, because he believed that it was even more important to get America started right as a nation than just to get it started.

What a sad irony it would be if, within three years of its 200th birthday, the 37th President of the United States destroyed the very principle which the first President thought was important enough to risk the whole nation for it!

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