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“THANK GOD FOR WATERGATE”

MARIO M. CUOMO*

Predominantly, the rhetoric arising out of Watergate is dark and depressing. Watergate means the corruption of executive power, duplicity, betrayal of oaths, perjury, cheap—and sometimes perfidious—sniping; seamy, slimy character assassination; a loss of first principles, a loss of morality, the utter debasement of our political system.

And the public at large—if their reaction can accurately be measured by the media of this nation—have reacted, first in shock, then revulsion, and now almost pervasive disgust. People talk in despairing terms about the hopelessness of any attempt to improve the political system. The sins of hundreds of years past are recalled and Watergate is pointed to as the proof of their inevitability. We are assaulted by solemn and ponderous reminders of historical debacles, like Arnold Toynbee's assertion that 19 great nations in the history of the world were destroyed by just the kind of inner deterioration which Watergate represents.

Many have decided now to turn away their gaze, not out of disbelief or boredom, but rather out of their disgust and their sense of hopelessness.

And surely there is some element of truth in the dire and denunciatory descriptions of Watergate. There is no way of describing this extraordinary accumulation of omissions and impure commissions, except in terms of its unhealthiness—indeed, its essential evil.

Still, there is in many of us, if not most of us, the constant desire, if not necessity, of seeing something better in people and things. The desire to look up toward the light, instead of down into the pit. Lawyers are amongst these and the lawyer is particularly well equipped to do it. He is by training, inclination and force of his experience, a man of many parts. An historian, philosopher and, inevitably, an eternal optimist. A man who must, by virtue of his function, see in every cause, no matter how one-sided it may at first appear, room for a plausible contrary argument. Another side to every case. He takes situations and spins, turns, reduces, analyzes and re-assembles until he finds a new dimension.

He can do it here. As an historian, he can find evidence which, while not excusing Watergate, at least dulls its impact. He knows that for thousands of years great institutions, and even the institutions of our own

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democracy, have suffered and survived this kind of moral assault. He sees it in the Roosevelt administration, where dirty tricks abounded. He sees it in a hundred places where the public confidence in government was shaken, but eventually righted itself. He sees it in the other great institutions, like the Roman Catholic Church, which has survived popes who were venal and even popes who were personally corrupt. He finds it in the economic history of a nation that outlived a depression so great, hundreds took their own lives because they could not find the hope that the situation would correct itself.

It is an eternal verity—"Corruption's not of modern date; it hath been tried in every state" was an aphoristic rhyme written in 1738.

As a philosopher, he can find even greater consolation in philosophies that have lived through ages and satisfied the minds and hearts of thousands of eminent and diligent seekers after the truth. He knows that the principal intellectual conundrum of the philosopher—or at least the philosopher who is theologically oriented—is the search for an explanation for the existence of evil in the universe. And he finds comfort in the conclusion of these philosophers that evil and concupiscence are permitted by some eternal and all-responsible force, not as a cruel joke upon the products of His creative instinct, but rather as an opportunity for their fulfillment. As Augustine put it, "God judged it better to bring good out of evil than to suffer no evil to exist." He finds refuge in their belief that it is the reaction to evil that perfects the soul so that the tribulations of a Job result in a final happiness that is even greater than his first. And he is able to believe, as a result, that out of Watergate will come a purifying of the political soul; will come a reaction that strives for honor and higher ideals—new laws, more demanding; closer attention to their operation; better enforcement. And, in the end, a better political system arising from the ashes of the old, just as a better economic system came out of the depression of 1929.

But his principal consolation comes as a lawyer. It is as a lawyer that he understands and respects the fact that the evil of the moment is confined to the political system, a system which is separate and apart from the legal system to which he, as a lawyer, owes his first allegiance and in which he finds his greatest strength. And that strength has been undiminished by Watergate.

The sins of Watergate, the seaminess of the dirty tricks, the shocking grossness and crassness in the abdication of executive responsibility was not the product of our law, but rather the violation of it. It was not the weakness of our legal system, but the weakness of men operating outside the legal system.

Now, in fact, the Deans, the Magruders, the Ehrlichmans, the Mitchells, are lawyers. But in the context of their wrongdoing—if that be proven—they were only accidentally lawyers. Their fault, to the extent it's already been shown, was not the perversion of the law, but their own

perversion—and the disgrace is not the law's, but theirs. There is no fair sin of attribution here.

At least so far, the law—our law—has not been defiled. Indeed, it has to this point been glorified. It has operated effectively against the mightiest people in our society, as fully as it does against the lowest and least effectual. It has, so far, proven its equity, its superiority to men, its freedom from control. As embodied in the work of a single federal judge, one John Sirica, it has proven its steadfastness, its intelligent flexibility and its vast potential for righting wrongs and for protecting society against the wrongdoers. Remember that it was the law in operation, courageously and intelligently implemented by Judge Sirica, that made the full disclosure of Watergate possible and that in so doing provided society with the occasion to profit from this wound, as Job profited from his.

Of course, the large challenge still lies ahead for the law. It will be tested and watched closely in the process in the months to come. But, on the evidence at hand, on the basis of what has occurred to this point, one can confidently say that the law will meet this challenge to its efficacy, and will be true to itself and the society that depends upon it. It can be confidently predicted that whether guilty or not guilty, whether disclosure is ordered or is not ordered, that the decisions will be made on the basis of reason and precedent and social policy with the single motivation being not a corrupt protection of the guilty-but-powerful, but rather the good of a whole nation now, and for the future. It can be confidently predicted that it will realize itself here as the great and beautiful instrument that it is and this prediction can be made, not only from the immediate evidences of the last several months, but from thousands of years of Anglo-Saxon jurisprudence. Because since the beginning our jurisprudence has moved always toward the light. Surely there have been aberrations. Surely on occasion—in the pursuit of perfection—the law has temporarily stood still or even slid backwards, but inexorably—over-all, the direction is forward and upward. It moves always toward the maximization of liberties, the securing of equities and rights, the protection of the common good. It moves to the Magna Carta, to the assurances of civil rights, to the assurance of equal protection. It firms up the protection of property and conscience and privacy. And all the while it metes out its punishment firmly and fairly to the guilty.

The predictability of this firmness in good striving, gives a reassurance—an object to belief—that is desperately important, particularly in times like this—times where religious conviction is challenged, where philosophies crumble, where souls wander through lifetimes searching for meaningfulness. When the sense of soul is threatened; when the fates seem to operate most frivolously, it is good to have law which functions regularly, universally, and fairly—without respect to class or condition.

So that when all is said and done and Watergate has become an

obscure footnote in history, I believe that students may very well see in Watergate and its sequellae the glorification of the law. They may well see that our Lady of the Law proved greater than the mightiest of men and stronger than the sins of her acolytes. That the rule of reason survived and even flourished as a result of Watergate. So that students and lawyers and theologians will be able to say: "Thank God for the blindness that teaches us to see. Thank God for the lameness that teaches us to walk. Thank God for the corruption that forces us to make ourselves clean—And—for the law, its makers, its judges and even its lawyers—Thank God!"

