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To Set the Record Straight: The Break-in, the Tapes, The Conspirators, The Pardon

Philip B. Kurland

The Power and the Glory: Passing Thoughts on Reading Judge Sirica's Watergate Exposé

Philip B. Kurland*

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I.

At the last he signed to Doctor Hugh to listen and, when he was down on his knees by the pillow, brought him very near. "You've made me think it all a delusion."

"Not your glory, my dear friend," stammered the young man.

"Not my glory—what there is of it! It is *glory—to have been tested, to have had our little quality and cast our little spell. The thing is to have made somebody care. You happen to be crazy of course, but that doesn't affect the law."*

"You're a great success!" said Doctor Hugh, putting in his young voice the ring of a marriage-bell.

*Dencombe lay taking this in; then he gathered strength to speak once more. "A second chance—*that's *the delusion. There never was to be but one. We work in the dark—we do what we can—we give what we have. Our doubt is our passion and our passion is our task. The rest is the madness of art."*

"If you've doubted, if you've despaired, you've always 'done' it," his visitor subtly argued.

"We've done something or other," Dencombe conceded.

"Something or other is everything. It's the feasible. It's you."

"Comforter!" poor Dencombe ironically sighed.

"But it's true," insisted his friend.

"It's true. It's frustration that doesn't count."

"Frustration's only life," said Doctor Hugh.

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* A.B. 1942, University of Pennsylvania; LL.B. 1944, Harvard University. William R. Kenan, Jr., Distinguished Service Professor in the College, Professor of Law, University of Chicago.

"Yes, it's what passes." Poor Dencombe was barely audible, but he had marked with the words the virtual end of his first and only chance."[1]

II.

In our times truth in advertising has become one of the federal government's important concerns and enforced commands.[2] Cigarettes and diet soft drinks must state their cancer causing proclivities on their labels; mouthwashes must assert that they, like the medical profession at large, do not cure common colds. Yet book publishers retain their immunity from chastisement for their exaggerations (not to say lies) whether on the labels of their packages—the blurbs on the bookjackets—or in their newspaper and magazine advertisements. And Congressman Edwards has made no demand for laws outlawing lurid paperback covers because they entice users to what should not be used, as he has for pictorial cigarette ads. It may be that the first amendment protects the hucksters of books and magazines against government censorship.[3] Or it may be that books are beyond the asserted scientific measurements of the FTC. After all, who can tell whether a book is truthfully advertised as the equal of James, Mann, Melville, Dickens, Austen, Trollope, Tolstoi, Kafka, Proust, Woolf, or Conrad? Had such book advertising but a glimmer of truth, what a wonderful literature we should be enjoying.

We are prepared to tolerate some advertisements that are merely sensational so long as, unlike Califano and Edwards, we are not reformed sinners. After all, who am I to cast stones at vilifiers of the Supreme Court of the United States? And yet I am piqued—angered not interested—by the advertisement for Woodward and Armstrong's forthcoming book *The Brethren: Inside the Burger Court*, which a full cover on *Publisher's Weekly* for June 11, 1979 modestly presents as "The most revealing book ever written about the world's most powerful secret society." "Secret society" indeed! With the love/hate attitude of so much of the press toward the Court, the Justices' actions are about as secret as the main ring of a Barnum & Bailey circus. Certainly, the Court is far less a "secret society" than the editorial board of any of our major newspapers or newsmagazines. To the extent that the work of the Court is secret, it is arcane

1. H. JAMES, *The Middle Years*, in 16 THE NOVELS AND TALES OF HENRY JAMES 105-06 (1909), *quoted in* P. ROTH, THE GHOST WRITER 115-16 (1979).

2. *See, e.g.*, Comment, *Fairness and Unfairness in Television Product Advertising*, 76 MICH. L. REV. 498 (1978); Comment, *Unsafe for Little Ears? The Regulation of Broadcast Advertising to Children*, 25 U.C.L.A. L. REV. 1131 (1978).

3. *But see* Ginzburg v. United States, 383 U.S. 463 (1966).

largely because of the incapacities of the news media to understand that there is a greater complexity to the Justices' function than a simple adherence to acquiescence in editorial opinion. Or it may be that the Court's mysteries derive from the fact that its opinions do not say what they mean or do not mean what they say. It is surely no secret any longer that the Court exercises will and force as well as judgment. Most potential readers of this new muckraking effort will have forgotten, if they ever knew, Pearson and Allen's *The Nine Old Men*, which did for the Hughes Court in the thirties what the new book promises to do for the Burger Court in the eighties.

Woodward's book would not likely be a selection of the Book-of-the-Month Club except for the reputation he made—to some degree on "evidence" provided by a still unidentified (fictional?) character named "Deep Throat"—with his first Watergate book *All the President's Men*, based on work as an "investigative reporter" for the *Washington Post*. Sirica has much praise for Woodward's efforts. "The two young reporters at the *Washington Post*, Carl Bernstein and Bob Woodward, became popular heroes for a time after their work helped keep the pressure of public scrutiny on the unanswered questions in the Watergate case. They deserve the attention and the acclaim, of course."[4] Indeed, for Judge Sirica, there is enough glory to go around to include Senator Sam Ervin and Congressman Peter Rodino, although the lion's share belongs to the federal judiciary:

> The judiciary, standing above politics as the enforcer and arbiter of our laws, was the critical branch of government in the resolution of the Watergate crisis. And it is our faith and trust in the law, our devotion to the notion that ours should be a government of laws and not men, that saved us from this scandal.
>
> It was the courts and the law that throughout this crisis could compel that the truth be told. Despite efforts in our executive branch to distort the truth, to fabricate a set of facts that looked innocent, *the court system served to set the record straight*.[5]

Never mind that the truth, as Sirica sees it, was derived from the discovery of the White House tapes by the staff of the Senate Select Committee—not by the courts or by the special prosecutor.[6] Never mind that the courts could and the Congress could not secure access to the tapes only because the courts frustrated congressional access.[7]

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4. P. 300.

5. P. 301 (emphasis in original).

6. *See* S. DASH, CHIEF COUNSEL: INSIDE THE ERVIN COMMITTEE—THE UNTOLD STORY OF WATERGATE 176-88 (1976).

7. *See* P. KURLAND, WATERGATE AND THE CONSTITUTION 55-58 (1978).

It was the courts, like the Canadian Mounted Police of Nelson Eddy's image, that saved our heroine from the clutches of that villain Nixon. Or, come to think of it, was it the threat of impeachment and conviction in Congress that did that? Sirica would seem to be of two minds, but it is clear that the conviction on impeachment was made a certainty by the Supreme Court's decision in *United States v. Nixon*.[8]

III.

My earlier reflections on truth in book advertising were stimulated by the repeated newspaper advertisement for the Sirica book that indulged in such exaggeration and misrepresentation as to seem inappropriate for a book whose central theme is the mischief of lying by government personages. The ad reads in part:

> He was the one man who could be trusted to receive the letter that broke the case wide open. He was the one man involved in *all* the trials and all the controversies over the tapes. He is the one man who knows how close Nixon came to being indicted and how overwhelming the evidence would have been for his conviction. He is the one man able *to set the record straight*—and in this exciting, angry, and inspiring book, he does just that. His is the final word, the complete and inside account of the five-year struggle that helped preserve the rule of law in America.[9]

It must be remembered that most of these claims are not those of Sirica, but those of his publisher's advertising copywriter. They have not been disowned by Sirica, so far as I know, but neither have they been openly adopted by him. The fact is that this ad is more than hyperbole. Almost every proposition in it is false.

The "letter" to which the advertisement refers is that of James McCord to the judge. It was addressed to him because McCord was about to be sentenced for his conviction in the Watergate burglary. Sirica had made it clear that his sentencing would depend on the willingness of the defendants to come forth with information about the involvement of "higher-ups." It was in the hope of mitigating his sentence that McCord sent the letter to Sirica. Sirica was the appropriate recipient because only he was then in a position to mitigate the sentence that McCord would receive, not because he was the only person to be "trusted" with the data. As for the trust that the burglar placed in the judge, it must be said, as Sirica himself says: "I learned later that McCord hadn't even fully trusted me; he had given

8. 418 U.S. 683 (1974).

9. *E.g.*, N.Y. Times Book Rev., Apr. 22, 1979, at 5, col. 1 (emphasis in original).

Bob Jackson, of the *Los Angeles Times*, a copy of the letter in return for a promise to print it if I didn't take some action."[10]

That "he was the one man involved in *all* the trials and all the controversies over the tapes" is equally dubious. The special prosecutor's office certainly contained many whose role in securing the tapes was at least as extensive as his.[11] And it was Judge Gesell who cut off the access of the Senate Select Committee to the tapes,[12] after Sirica had declined jurisdiction[13] and Congress had created the necessary jurisdictional basis.

As for Sirica being the "one man who knows how close Nixon came to being indicted and how overwhelming the evidence would have been for his conviction," there is a total absence of support for the statement. Only the grand jurors and the special prosecutor's force that brought the evidence before the grand jury had complete knowledge of these things. Sirica's information came from them. For example:

> In early May, the prosecutors, the lawyers for the cover-up defendants, and the president's lawyers gathered in my office to review the briefs filed by Jaworski and the White House. Jaworski had already informed the White House counsel, but the defense lawyers and I were surprised when we saw that when indicting the seven defendants in the cover-up, the grand jury had also named the president of the United States as unindicted co-conspirator. That meant that the jurors had concluded that he was part of the conspiracy to obstruct justice in the Watergate investigation. But they had decided not to indict him because of the constitutional problems and because of the pending impeachment proceeding in the House of Representatives. Incredibly, this piece of information had been kept absolutely secret. I had not been told, nor, until a few days before this meeting, had the president's lawyers. . . . I figured the president was doomed.[14]

If he had facts in his possession that no one else had about the weight of the evidence or the grand jury's likely indictment, he certainly does not reveal them in his book, nor does he indicate any sources for his information that were not previously published sources. The inside story here may better be garnered from the books of eyewitness participants, particularly those in the prosecutor's office, Ben-Veniste

10. P. 108.

11. *See* R. BEN-VENISTE & G. FRAMPTON, STONEWALL: THE REAL STORY OF THE WATERGATE PROSECUTION (1977); J. DOYLE, NOT ABOVE THE LAW (1977).

12. *See* Senate Select Comm. on Presidential Campaign Activities v. Nixon, 370 F. Supp. 521 (D.D.C. 1974).

13. *See* Senate Select Comm. on Presidential Campaign Activities v. Nixon, 366 F. Supp. 51 (D.D.C. 1973).

14. P. 223.

and Frampton, Jaworski, and Doyle.[15]

Nor was there any contribution to "setting the record straight." So far as I can discern, there isn't any contribution to amending the received wisdom about what went on during the course of the Watergate experience or thereafter, aside from revelations of Sirica's own state of mind at various times in the proceedings. He does venture to express opinions chastising members of the White House gang, including Nixon, for their behavior. This is done not in terms of any corrected "record," but only in terms of his personal opinions.

Finally, the "preservation of the rule of law in America" is the most doubtful proposition of all. Unless "the rule of law" is whatever a court of law says it is, there's not much to his contribution. Sirica's "rule of law" seems much like that of those he condemns, except that he invokes it on behalf of judicial power, they on behalf of executive authority: The end justifies the means.

Certainly there must be doubt that the rule of law contemplates prejudgment of guilt or innocence of the defendants by the judge before whom they are tried. Yet Sirica leaves no doubt that he was early convinced of the guilt of Nixon, Haldeman, and Ehrlichman, largely on the basis of the tapes that he heard before trial in order to rule on their admissibility. After hearing the March 22 tape, "there was no longer any doubt in my mind that there had been a conspiracy to obstruct justice operating inside the White House. . . . Nixon, it was clear from his own words, was deeply involved in the whole rotten mess. . . . I had heard for myself the president of the United States order a pay-off to a criminal defendant to buy his silence. . . . It provided indisputable evidence, as far as I could tell, of the president's engaging in a criminal act."[16] These tapes, of course, have long since been published over and over again. And although on the prosecution's own theory of the case the guilt or innocence of each of them depended on their motives, their mental states, Sirica knew they were guilty without the need for hearing their evidence. "The answer was obvious to everyone. . . . It was a solid case, a case so difficult to defend that I really couldn't imagine what the defendants' lawyers would or could do."[17] Hindsight or bias?

Sirica did think it necessary to explain why, despite his prior in-

15. *See* R. BEN-VENISTE & G. FRAMPTON, *supra* note 11; J. DOYLE, *supra* note 11; L. JAWORSKI, THE RIGHT AND THE POWER (1976).

16. Pp. 205, 208.

17. Pp. 270, 280.

volvement in the case, he assigned himself the trial of the White House defendants. The reason he suggests was that he was the best judge to protect the rights of the defendants. Rather than paraphrase an explanation that seems somewhat suspect on its face, I offer his own words:

> When the indictment came in on March 1, I immediately assigned myself to the cover-up case. Had the indictments come just two and a half weeks later, after I had stepped down as chief judge, the case probably would have gone to someone else. . . .
>
> As soon as I assigned myself to the case the defendants' lawyers began bombarding me with motions of all sorts. . . . That I was going to hear the case was obviously not pleasing to the defendants. They argued that I should be disqualified because of my involvement in the break-in trial and my active attempt to get beyond the cover stories fabricated by those defendants. Because McCord had sought me out when he began his withdrawal from the cover-up conspiracy, and because of my role in the year-long controversy over the presidential tapes, they argued, I had a personal stake in the outcome of the final trial. My view was quite the opposite. I felt that my experience with the case made me better qualified than any other judge on our court to handle the trial. I also felt that my only interest was in seeing that the trial was fair. Looking back now, I think I was more concerned with protecting the rights of the defendants than with any other aspect of the proceedings. . . .[18]

One wonders whether the judges in similar epitomes of this "rule of law"—Medina in the Communist case, Kaufman in the Rosenberg case, or Hoffman in the Chicago Seven case—would have the same explanation of their failure to recuse themselves.

Does the rule of law include the use of judicial sentencing power to extort information of other crimes from defendants about to be sentenced? Thus far, at least, the circuits seem divided on the question.[19]

Does the rule of law *ipso facto* require the subordination of the executive and legislative powers of the government to those of the judiciary? That seemed to be the ultimate question answered affirmatively by Sirica and the Supreme Court.

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18. Pp. 242-43.

19. *Compare* United States v. Vermuelen, 436 F.2d 72 (2d Cir. 1970), *and* United States v. Sweig, 454 F.2d 181 (2d Cir. 1972), *and* United States v. Hayward, 471 F.2d 388 (7th Cir. 1972), *and* Mitchell v. Sirica, 502 F.2d 375, 384 n.17 (D.C. Cir. 1974), *with* United States v. Rogers, 504 F.2d 1079 (5th Cir. 1975), *and* United States v. Acosta, 509 F.2d 539 (5th Cir. 1975), *and* United States v. Garcia, 544 F.2d 681 (3d Cir. 1976).

IV.

In an unpublished fragment of autobiography, Robert H. Jackson once wrote: "There are many excuses but only one reason for writing one's story: that is to gratify the author's egotism." Yet, although there are a large number of federal judges whose egos demand gratification, there are remarkably few judicial autobiographies. Even at the level of the Platonic Guardians, only the partially published autobiography of William O. Douglas[20]—a Horatio Alger story, as much fiction as fact—and Earl Warren's posthumously published volume[21] come to mind.[22]

Few federal trial judges have made any claim on history. Like the bureaucrats of the executive branch, theirs, too, is the job of exercising power over other human beings. But they too are small cogs in big machines, concerned for the most part with dross, with the pathology of human existence. They spend a greater part of their time on criminal trials—drug cases, thefts, and mail frauds loom large. Their efforts are occasionally newsworthy. And the news reports feed egos that need nourishment. They are awesome figures, to the extent they are, in part because of their robes and because modern federal courtrooms are designed more for theatre than for efficiency. The lavish sets created as courtrooms are meant to enhance the figure that embodies the law.[23] The judge, the only player in costume, is ensconced

20. W. DOUGLAS, GO EAST YOUNG MAN: THE EARLY YEARS (1974) is the published volume. For many reasons the epigraph quoted at the beginning of his work is more revealing of the author than anything later stated: " 'All your anxiety is because of your desire for harmony. Seek disharmony; then you will gain peace.'—Jalal-Ud-Din Rumi, Persian Poet 1207–1293."

21. E. WARREN, THE MEMOIRS OF CHIEF JUSTICE EARL WARREN (1977).

22. Perhaps Felix Frankfurter's "oral history," an extraordinarily true portrait, published as H. PHILLIPS, FELIX FRANKFURTER REMINISCES (1960), should be added, although it is a recording of reminiscences rather than an autobiography. For the extrajudicial writings of Supreme Court Justices, see A. WESTIN, AN AUTOBIOGRAPHY OF THE SUPREME COURT (1963).

23. Sirica described the two courtrooms he used in the course of the Watergate trials:

(1) "The ceremonial courtroom on the sixth floor was packed on the morning of January 10, 1973. Every available seat in the huge, high-ceilinged room was filled. The defendants and their attorneys crowded around two tables to my right; the government prosecutors, Silbert, Seymour Glanzer, and Donald Campbell at a table to my left. Artists from the television networks, with their large sketch pads and colored pencils, crowded in among the scores of reporters gathered to hear the beginning of the trial of the seven Watergate defendants. [Television cameras and other cameras are generally verboten in federal courtrooms.] The usual rustling and shuffling caused by my marshal's call, 'All rise,' was magnified by the unusual number of people assembled to watch the proceedings. I felt very much alone as I took my place on the bench. Behind me on the raised second tier of the bench was the long row of now empty chairs used by the judges of the court when they sit in special sessions.

on a throne high above the other players. Although he exercises power over life, liberty, and property, he deals essentially with matters of importance only to the litigants themselves. There are exceptions, of course, for federal trial courts are the first step in cases that ultimately reach higher courts whose decisions affect the lives of many, and frequently they shuck their judicial role in favor of a legislative or executive one. But federal trial judges could not perform their functions without a belief in their own importance and the importance of the things they do. Their rewards are in this self-satisfaction, for their tasks do not bring them high monetary compensation. Their salaries approximate those of high-paid law professors, about a fifth of what is earned by the top of the bar. Nevertheless, their jobs are much coveted among lawyers, if not by the best and the brightest of them.

It is not surprising, therefore, that a trial judge who played a major part in so traumatic an event as Watergate should want to record his role for posterity. Sirica tells us that he put this book together for selfless reasons:

> Both because I had already spent so much of my life with Watergate and because so many others had written on the subject, I was not eager to add to that literature. At first, I must say, I found the idea of reliving those years almost too burdensome to contemplate. I felt I had done my share.
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> But I received scores of letters from friends and from the general public urging that I set down my own impressions of that crucial period in our national history. Many friends in the legal profession, judges and lawyers alike, also encouraged me to write this book, mostly because they wanted to see the story of the judiciary's role told more completely than it had been before.
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> I found those pleas very persuasive. I also found that many of

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From the massive gray marble wall behind those empty chairs, the stone figures of Moses, Hammurabi, Justinian, and Solon stared over my shoulder, adding to my own loneliness, but reminding me of the tradition of law I hoped would be upheld." P. 61.

(2) "After the first week of the break-in trial, the crowds that had packed the ceremonial courtroom thinned out. We moved downstairs to my regular courtroom [each federal judge usually has a courtroom used only by him or her], on the second floor of the courthouse. Because my courtroom is smaller, it is easier for the jury and for me to hear the witnesses and the attorneys. I felt much more comfortable back in my usual surroundings. Beneath the desk top, to the right and left of my high-backed chair, are small stools on which I can prop my feet while listening to the proceedings. On the top of the desk, but hidden from the courtroom by the oak paneling on the front of the bench, is a small white lamp that could be lighted by my clerk, sitting below, to alert me to his messages. With a button next to the lamp I can turn on a small light on the clerk's desk to get his attention. The entire front of the bench is lined with steel to protect me if someone goes beserk in the courtroom and starts shooting. There is also a special switch beneath the bench which lets me sound an alarm in the marshal's headquarters down the hall, should I need a lot of help in a hurry." P. 83.

> the previous accounts were self-serving. I felt I had an obligation to set the record straight. After waiting until the very last of the Watergate matters had passed through the courts, I agreed to undertake this book, feeling that if the story was to be told, I would rather tell it myself.[24]

His announced mission—"to set the record straight"—remains unfulfilled. Except for expressing opinions contradicting President Nixon's expressions of opinions in his autobiography, there is no suggestion of where "the record" called for correction. The only fact recorded here that I failed to recognize—in addition, of course, to statements about Sirica's own state of mind—was that Sirica received a call from William Simon, then Secretary of the Treasury, and Henry Kissinger, then Secretary of State, who wished to speak to him on behalf of John Mitchell to secure a reduction of sentence.[25] Sirica very properly refused to hear them on that issue.

Yet, it must be conceded, Sirica's story is unique, if no less "self-serving" than previous accounts. For like each player in the drama, whether defendant,[26] committee counsel,[27] prosecutor,[28] or judge, only he knows what he thought and only he knows what he did when not under the eyes of others. And in their tellings, each of the main characters revealed more of himself than he knew he was doing.

In autobiography there can be but one protagonist, even when the theme is *mea culpa*. Sirica seemed to see the case in terms of David and Goliath. He, of course, was David, and Nixon was Goliath. "The enormous distance from a nomadic childhood in a poor and constantly struggling family to a career in the law, and then to the federal bench and to a critical confrontation with the most powerful man in the world, is nearly incomprehensible. . . ."[29] As I waited for Nixon's lawyers to respond to the show cause order, it gradually became clear to me just what I was involved in. Here I was, an obscure judge, facing the president of the United States. . . ."[30] I felt, to a large extent I was being asked to decide the fate of the Nixon presidency. . . ."[31] As I traveled back from Connecticut I was determined that the president was not going to fool

24. P. 11.
25. Pp. 294–95.
26. *See, e.g.*, J. DEAN, BLIND AMBITION (1976); H. HALDEMAN, THE ENDS OF POWER (1978); J. MAGRUDER, AN AMERICAN LIFE (1974).
27. *See* note 6 *supra*.
28. *See* notes 11, 15 *supra*.
29. P. 18.
30. P. 143.
31. P. 152.

around with the courts the way he had with Cox. . . .[32] The president had backed down from the confrontation. . . .[33] I would have loved to have Nixon in court. I had a few questions I wanted to ask him myself."[34] Having succeeded in slaying the giant, if only by indirection, Sirica assures the reader that, had Nixon been brought to trial as he should have been, and had he been convicted, as he should have been, Sirica would have handed him a stiff prison sentence, essentially on the principle that all Watergate defendants are equal.[35]

There are other aspects of the hero's character. At one point he plays Polonius, responding to the request of parents who had named their child after him: "The first thing I'd tell him when he gets old enough is that he should always obey his mother and father; that he should try to get a wonderful education; that he should be a good and honest American, and above all that he must strive to do what he thinks is right."[36] (Maybe Shakespeare put it better, but the essence of the thing is there.) He was a bit of a toady.[37] He was much concerned with public opinion as expressed in polls and on television,[38] and particularly about how his actions would appear to others:

> "Suppose I'm wrong in my decision," I would think. I could see the criticism that I had overreached my authority. I could hear the people saying that I was trying to get publicity by confronting the president, that I had adopted a sensationalist approach and taken advantage of my office as a judge. I felt like hell.[39]

There was also a bit of Walter Mitty in him:

> I'd walk outside on the west side of the building, onto a one-block street called John Marshall Place. That always reminded me that Chief Justice John Marshall had lived on the very site where our courthouse now stands. Marshall, perhaps the greatest judicial figure in our history, and the only other judge to have dealt with the question of a presidential subpoena. Marshall, who was responsible for many of the early landmark decisions of the Supreme Court, who forged our basic notions of federalism, separation of

32. P. 168.

33. P. 178. At this point, the jacket blurb suggests, came the revelation of the inside story. Sirica reports that had Nixon not then responded to his order to produce the tapes, after that order had been affirmed by the court of appeals, he would have held the President in contempt of court and imposed an enormous daily fine until he complied. "I knew the president loved money." P. 179.

34. P. 287.

35. P. 235.

36. P. 246.

37. *See, e.g.*, p. 256.

38. *See, e.g.*, pp. 143, 156, 186, 212.

39. P. 158.

> powers, and the power of judicial review. John Sirica, a regular trial judge accustomed to trying all kinds of civil and criminal cases, one of hundreds of district-court judges.[40]

There are, indeed, many facets to our judge's character, if there is not much depth. He is who he says he is. A self-styled Horatio Alger hero of the kind no longer seen. He escaped poverty by dint of effort and parental persuasion. His own youthful and constant hero was Jack Dempsey and he admired all the virtues for which Dempsey stood. Sirica was not an intellectual, but few lawyers or judges are, or need to be to perform their tasks well. He earned his way to his judgeship as most federal judges have, through political contributions—not the large cash payments that he deplored, but earnest efforts at the ward level and on the stumps. Throughout the book, he repeatedly seems to shake his head in disbelief as he confesses that he was a Republican who worked for, voted for, and believed in Richard Nixon. He was a prosecutor early in his legal career, and that left a deeper mark on him than his subsequent work in the prestigious Washington firm of Hogan & Hartson. In short, he was a not untypical federal judge who reached the status of chief judge of his district—as all others have done—by dint of his seniority. He was appointed by Eisenhower through the good offices of Len Hall and William Rogers.[41] He was the man in the place when the Watergate affair broke. He played an important and honorable, if not always correct, part in that affair. And his tale, if not novel, remains interesting. Except for the self-righteousness of a kind that marks almost all Watergate books, it is a well-constructed story.

V.

"From out of the morass of Watergate emerged only one true hero. At last he tells the full story, as only he can."[42]

> *After my sudden heart attack in February, 1976, I awoke from a long period of unconsciousness. One of my doctors, Stephen Nealon, was with me in the hospital as I began to realize how close to death I had come and in how much danger I remained. He told me later that I said to him, "If I go out, I'd like to think that I did something for my country."*
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> *I think I did do something for my country. I think I did my job as best I could. I think I did my duty as a citizen and as someone fortunate enough to hold a position of public responsibility in our system of government.*[43]

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40. *Id.*

41. P. 39.

42. *E.g.*, N.Y. Times Book Rev., Apr. 22, 1979, at 5, col. 1 (advertisement for *To Set the Record Straight*).

43. P. 303.