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Watergate Prosecutor

William H. Merrill
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“No one—not even the president—can break the law in order to enforce it nor violate the Constitution in order to protect it.” This line-in-the sand observation, made by the author when he was a special prosecutor during the Watergate Affair, resonates with as much urgency now as it did in 1974. Merrill wrote this memoir in 1978, but it wasn’t published until this year.

As special prosecutor, Merrill was assigned the case of the White House Plumbers, the malevolent but bumbling unit of Nixon stooges assigned the task of plugging leaks to the media. Specifically, this trial indicted Nixon’s heavy hitters—John Ehrlichman, Charles Colson, and G. Gordon Liddy—for arranging the break-in of Dr. Lewis Fielding’s office. Fielding was Daniel Ellsberg’s psychiatrist. Ellsberg, a former Rand Corporation employee, leaked the Pentagon Papers, an historical account of the Vietnam War, to the *New York Times* and the *Washington Post* in 1971, making him a prime target of the administration. The Plumbers lusted after information that could discredit the whistleblower.

Merrill covers in detail the events of Plumbers’ Trial, which was held in 1974, three years after the break-in. The author emerges as an idealistic attorney full of compassion for the men on trial, but none for the president who was willing to sacrifice the careers of these men and others to save his presidency. Both Ehrlichman and Colson credited Merrill for his consideration: his “capacity to care about those he felled,” Colson noted.

The defendants claimed that they were acting on the orders of others, presumably Nixon, or that the break-in was done in the name of national security. These weak defenses were no match for Merrill who demonstrated beyond a reasonable doubt that Fielding’s Fourth Amendment protection against unreasonable search and seizure was violated. All three defendants were convicted and after unsuccessful appeals, were sentenced to prison.

Like many political memoirs, this one is guilty of overabundance of detail. Yet, the informative recounting of an important trial that has received much less attention than that of the Watergate break-in—which occurred one year later, in 1972—will hold the reader’s attention.
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