Opinion

Nixon immunity decision was right

The surprising aspect of the U.S. Supreme Court decision that granted immunity to former President Nixon for actions taken while in office was the narrowness of its 5-4 margin.

Admittedly, there is some difficulty in going beyond the immediate question of whether Ernest Fitzgerald, a former Air Force official, was entitled to damages from Mr. Nixon, who had him fired for blowing the whistle on extensive cost overruns on the C-5A transport plane. The larger issue, of course, is whether a U.S. president can be sued for damages for whatever actions he may take in office.

We are convinced the court majority reached the correct decision. As Justice Lewis Powell in the prevailing view emphasized, "immunity...(is) rooted in the constitutional tradition of the separation of powers and supported by our history..."

Legislators from the Congress on down to local jurisdictions are granted immunity from libel and other lawsuits during the course of carrying out their official duties. The same is true of judges and other participants in the judicial system. For the president alone to be exposed to litigation for his acts would clearly create an imbalance of power in favor of the judiciary. The president, if not immune to damages, could be intimidated from decisive action.

In his vigorous dissent, Justice Byron White curiously ignored the overriding constitutional question in this landmark case and simply argued that the president could operate effectively without immunity, that he should be held accountable for deliberately inflicting "injury on others by conduct that he knows violates the law."

Justice Powell's majority opinion offered the historic reassurance against presidential misconduct — "the constitutional remedy of impeachment." It was, remember, the threat of that constitutional remedy which was perhaps President Nixon's largest motivation for resigning.

In a separate decision handed down Thursday, the justices ruled 8-1 that the blanket protection extended the president against the threat of money damages applied only partially to his chief aides. Bryce Harlow and Alexander Butterfield, who were also sued for participating in a presidential conspiracy to fire Mr. Fitzgerald, were conceded qualified immunity. This, the court ruled, would shield high government officials from civil damage suits as long as their conduct does not violate a person's "clearly established legal or constitutional rights." Accordingly, the Harlow-Butterfield aspect of the case was sent back to a federal district court for further proceedings.

Well and good. There are few, we believe, who would contend that presidential aides should be entitled to the same constitutional safeguards as those extended to the president himself.

Meanwhile, only a few days ago, Mr. Fitzgerald's suit against the government was settled with an Air Force promotion for him and payment of all his legal fees.

So, while we are heartened that justice has been rendered in favor of Mr. Fitzgerald and the delicate balance of powers defined in the Constitution is undisturbed, still, it's discouraging that a conscientious government official who tries to save the taxpayers' money should be put through such an ordeal. The Fitzgerald case abides as one more indictment of the Nixon administration.

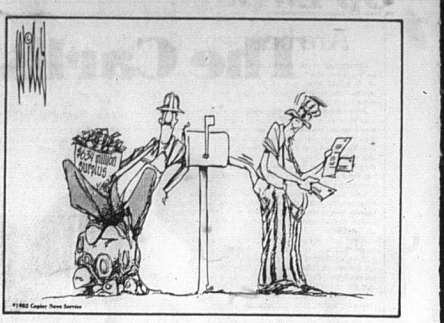
Modesty

So many arrogant and ill-tempered young men have dominated the tennis courts of late that we had begun to fear those characteristics were prerequisites for championship tennis.

Now we know that is not so. Ivan Lendl, the sensational young Czech star who has won 89 of his past 92 matches (and earned over $1 million in four months), is not of the McEnroe-Nastase ilk. He is refreshingly modest.

Lendl had refused to proclaim himself the No. 1 tennis player, explaining that "the European mentality is a little different from the mentality of Americans. Usually in Europe, if a person achieves something, he doesn't go around saying, 'I did this,' or 'I did that.' Here, businesswise, you promote everything. I can win a thousand matches in a row, and you won't hear me get up and say I should be No. 1."

We suspect that what Lendl says is true. Tennis used to be a gentleman's game. What is sad is not just that the game has changed. With so much importance on success, it may be that something has gone out of the American character. Such things as gentleness and graciousness.



Agree or not

Mandatory balanced budget won't work; politicians won't let it

by S.C. Van Curen

Taxpayers should not expect a miracle just because there are suggestions from Congress that a constitutional amendment should be adopted requiring a balanced budget like Kentucky and many other states have.

Last year Congress upped the national debt limit to one trillion dollars, and the way things are going now it won't be long until the figure will have to be raised since the deficit in the proposed new budget will be just under $100 billion, and don't hold Congress to this figure.

Congress has a way of always exceeding the budget before the fiscal year ends the first of October.

The word seems to be seeping through to our federal lawmakers that taxpayers are fed up with excessive spending and borrowing that has driven interest rates to new limits within the past two years.

Thirty-one states have passed resolutions asking Congress to amend the Constitution requiring a balanced budget.

Resolutions were introduced in both the House and Senate of the Kentucky General Assembly asking Congress for the balanced federal budget, but it failed to pass because, for one reason, Speaker Bobby Richardson opposed the move.

And, he was probably right since the balanced budget requirement isn't an iron-clad barrier that governing bodies can't circumvent. Take Kentucky for example. Several loopholes and dodges have been created to go into debt without breaching the budget and without a vote of the people, as the Constitution requires.

The most favorite dodge used by state government and the state-supported colleges and universities is the revenue bond. This is a tax-free bond for investors and has been popular for years.

In the case of the universities, the fees for classroom buildings or rentals for dormitories are used to retire the bonds. For state buildings, the dodge is to charge a department rent for use of the building to meet the bond requirements. It comes from the department appropriations in the budget for state buildings which means a portion of the general fund.

Sometimes colleges have to dip into their state appropriations to meet the bond costs. Our parks were built with revenue bonds.

Then, there is the Kentucky Housing Corporation that has borrowed several million dollars to loan for home construction for supposedly low-income families.

The Toll Road Authority is another agency created for the state to exceed its budget by going into long-term debt. These bonds are supposedly met by the tolls received for use of the roads, but highway department money has had to be used for many of them.

The Kentucky Development Authority is another dodge under which bonds are issued with state backing to help communities develop industrial parks.

In the 1980 legislature the Brown administration created the Industrial Development unit whereby local community tax-free privileges could be used by developers although the state was not responsible, nor was the local government. This authority expired this month when the 1980 legislature refused to renew it.

With the history of log rolling in Congress, our elected legislators would soon discover dodges for the federal level.

Down Memory Lane

Nicholas vs Somerset in Babe Ruth district tourney

Thursday, July 26, 1962

The Nicholas County Babe Ruth All Stars will play the Somerset Babe Ruth All Stars Friday night at 6 o'clock in district tournament 111. "Pressure" Allison, "June" Allison and Wally Fryman are managers and Gene Snapp president.

Carol Ann Hopkins, 17, of Haddonfield, N.J. has been awarded a role in the Children's Theatre production of "Servant of Two Masters" in auditions entered by more than 300 people. The play will be presented at the Playhouse in the Park, Philadelphia. She is the granddaughter of Mrs. Allen Hopkins, Carlisle, and Mrs. Walter Haselrigg, Shirrelburg.

Ralph Wesley, Carlisle, a student at Nicholas County High School, has been elected senior speaker of the second annual University of Kentucky Speech Institute. He is a member of the National Honor Society, Science Club, Mathematics Club and Speech Club.

BORN — To Mr. and Mrs. Craig Barton, a son, Tony Michael, July 22 at the Nicholas County Hospital.

MARRIED — Mrs. Margaret Howard Duncan and Jay V. Daniel, both of Lexington, July 21 at the home of Mr. and Mrs. E.D. Ficco.

DIED — Charles Wayne George, 16, grandson of Mr. and Mrs. Sam George, July 14 near Belavia, Ohio. — E.B. Reid, 81, Thursday at the Nicholas County Hospital. — Mrs. Alice Connell Cook, 81, widow of James E. Cook, Friday at home near Brookville, Bracken County.

Thursday, July 22, 1982

Thirteen Nicholas Countians are now graduated qualified Red Cross Disaster Aid instructors following their successful completion of a course which ended last week in Flemingsburg.

Joe Gilvin, 65 year old Flemingsburg county trader, was hurt seriously and two youths were in the Fleming County Jail this week as the result of the farmer being struck by a car near Fairview, Saturday night.

BORN — To Mr. and Mrs. Ralph Brookshire of Jessamine County, a son, Luther Rodney, July 21 at their home.

MARRIED — Miss Mary Margaret King and G.A. Ratti, Saturday in Mt. Sterling. — Miss Jean Chamberlain English and William R. Fisher Jr., both of Arlington, N.J., July 20 at the Christian Church.

DIED — Charles Wagoner, 79, Sunday in Clintonville. — William M. Crump, 70, Wednesday at his home. — Mrs. Ethel Dee Rogers Moreland, 25, wife of Henry Moreland, Monday at the Cook-Fitzgerrins Hospital. — Judge B. Sapp, Sunday at his home in Myers.

Thursday, July 28, 1922

Gene Inako, Archie Smoot and John Squires Reed are leaving next week for Camp Knox to enter the Citizens Military Training Camp for a month.

BORN — To Mr. and Mrs. George Ellington of near Sproul, a daughter, Eleanor, July 20.

DIED — Mrs. Susan Maybrier, 85, last Friday at her home near Barterville. — Mrs. Harlan McElfresh, 26, Monday at her home near White Chimney. — Killus Snapp, 61, last Friday at his home at Walnut Grove.

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Warren R. Fisher ..... Editor & Publisher
Jim B. Wanke ..... Editor
(Mrs.) Katherine T. Fisher ..... Managing Editor
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Letters from our readers

Festival complaint

To The Carlisle Mercury:

We think Carlisle is a great place! We have been here less than a year, a time full of good experiences at the people, the town, the county, and the state of Kentucky. Such being the case, it is with some hesitation that I take pen in hand to voice what I hope will be received as a constructive criticism. It pertains to the Blackberry Festival.

Most of the week of that event we were away on vacation. We arrived home at about 2 a.m. Friday to be greeted by a sight that is more incongruous the longer I reflect on it. I refer to the beautiful and dignified courthouse building surrounded by a carnival! How utterly inappropriate! Some would even say demeaning. I have no quarrel with carnivals in general nor the Atlanta Amusement Co. in particular, but carnivals do not belong on the lawns of stately civic buildings whose reasons for existing are far more serious ones. Surely there are places close by where it could be staged more appropriately —and with more elbow-room! I mean, if we are going to do this thing, then let us do it in a way that does not make the local seat of law and government look ridiculous. It gives the community a black-eye. Now I understand why so many people we have met in Carlisle express such unhappiness about the event. When the place is so wrong, everything else involved has a strike against it from the start. Too bad. Dignity deserves better.

Yours for an even better Carlisle,
Philip M. Hasiger
104 Mulberry Street
Carlisle, Ky. 40311

cc: Reese Smoot, Judge Executive
Nicholas County Fiscal Court
American Legion Nicholas Post #17

Frank Metts counters rumors

To The Carlisle Mercury:

As you know, there have been countless rumors and accusations regarding the operation of the Kentucky Department of Transportation since I was appointed Secretary of Transportation by Governor Brown in December 1979.

I want to take this opportunity to describe the condition of the Transportation Department at that time so that you and your readers may have a better understanding of my actions during the past 18 months.

As of Dec. 31, 1979, the department had about $50 active projects in various preconstruction phases. Based on estimates prepared in 1979, the cost to complete these projects would exceed $3 BILLION.

Assuming an inflation rate of a very conservative eight percent, these projects could not have been funded for construction until after the turn of the century. At a projected inflation rate of 10 percent yearly, this portfolio of projects could never be funded with our current revenue levels.

As a part of this preconstruction activity, the department had purchased about $60 million worth of right of way consisting of more than 3,500 pieces of property. This collection of property, dating back to the 1950s, not only displaced hundreds of families from their homes and removed the value of this property from tax rolls but also was a substantial lockup of taxpayers' dollars during a period of double digit inflation.

One of the more disturbing examples of this practice occurred in the Pikeville and Elkhorn City. Starting in the early 1970s, the Transportation Department acquired more than 300 pieces of property that required relocating 153 families in an area where housing was already at a premium. These homes were destroyed and more than $7 million in taxpayers' money was spent for a road that lives only on a blueprint.

In order to curb this practice of design and planning for its own sake, it was necessary to immediately implement a sound fiscal management policy. People had to realize that the Transportation Department could not continue to operate as if there was unlimited funding available. The era of massive federal aid programs is drawing to a close.

Prudent management philosophy dictated a reduction of planning, design, and right of way resources within the department. The most important aspect of this philosophy is that a project can be initiated or advanced only when an adequate amount of construction dollars has been identified. If we do not foresee sufficient funding for a project, I will not offer an empty promise and waste public dollars on plans that will never come off the drawing board.

I realize the changes that have been implemented within the Department of Transportation have impacted a number of people. I have empathy for these people. But, as I have said before, I have greater empathy for the taxpayers of Kentucky.

Sincerely,
Frank B. Metts
Secretary

Op-Ed page

The Carlisle (Ky.) Mercury, Thursday, July 22, 1982 — 3

Are beeper-keepers . . . modernday Tom Thumbs on an ego binge?

I finally figured out what those people who wear beepers are up to. You know who I mean. Who has not been at a social gathering or at a bar when one of those infernal gadgets started its monotonous beep-beep-beep, causing, like E. F. Hutton, all conversation to stop?

We search out the wearer, usually someone in a three-piece suit, who more often than not casually shuts it off and continues to regale his audience with his exploits. You fully expect something dreadful to happen when he lingers, like your kid has been run over by a truck and the beep-toter is the only one who can save him, or the Russians have been sighted over Greenland and he has the only key to the front door of the missile site, or his wife has just beaned a burglar with a skillet and he is needed to confirm her story before the police arrive.

If the purpose of wearing a beeper is to be available at all times for emergency calls, then why don't the wearers hightail it to the nearest telephone when the thing goes off? I think I have the answer — the beeper-keeper's motive is the same as that of Turk, the Terrible.

When Turk was younger and friskier, he would take his beeper to the ball park on ladies' day. When he spotted a young, attractive, unattached female, he would spring into action. Seeking out the nearest usher, he would tell the fellow that somebody had left his lights on in the parking lot, and then he would describe the car.

Knowing that it would take at least 15 minutes for this information to be relayed to the public address system, Turk would take a seat near the potential conquest and start a conversation. Usually the reception was cool. Knowing Turk was easy to understand. But then, right on schedule, the announcement would come over the PA system.

"Would the owner of a new baby-blue Cadillac, license number TRK 123, please return to your car? You left your lights on."

Turk would leap up, exclaiming, "Oh, no, not again!" Asking the young lady to save his seat and mark his score card, he would take a leisurely 20-minute stroll around the park. Returning, he would ask her if he missed anything. Usually, the climate had soured considerably and the prospects for the future took a giant leap for Old Turk.

In the dire times of high interest rates, unemployment, the Middle East crisis and the question of who will win the American League West, I really don't know exactly what this story means.

I hear a beep-beep-beep-beep. I hear a beep-beep-beep I think of Turk, and how many people are wearing those things just as a summons to their egos.

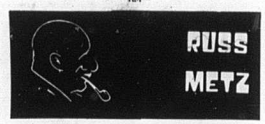
— RM —

A couple of sentences from a 5?R release about a tennis story that came out in a magazine caught my eye. Would you believe that while millions of week-end tennis players are putting out their own hard-earned dough for their equipment, stars like Bjorn Borg and John McEnroe are paid over $1 million annually for tennis endorsements?

The PR firms says Borg earns $1,320,000 and McEnroe $1,030,000. The breakdown in the magazine story shows Borg's cash coming from $600,000 for playing with a Donnay racket, $500,000 for wearing Fila clothes and $220,000 from Diadora shoes. McEnroe gets $600,000 for playing with a Dunlap racket, $330,000 from Sergio Tacchinin clothes and over $100,000 for wearing Nike shoes.

I am not jealous of those who are millionaires from any source. If you want to know what the Good Lord thinks of money, you have only to look at those to whom he gives it.

— RM —



Nothing bores me more than having to listen to someone tell about his golf game. My game is boring enough; I don't need anyone adding to my misery.

Recently I came across a new golf code from The Royal and the Ancient magazine with rules designed to make the game easier to play. I have been playing by these rules for years because this is one sport invented for professionals, liars and cheats and since I feel qualifying on two out of three ain't bad, I believe this code could keep your score respectable, if not anything to brag about.

1. A ball sliced or hooked into the rough shall be lifted and placed in the fairway at a point equal to the distance it carried into the rough. It is hardly fair to penalize the player for the erratic flight of the ball.

2. A ball hitting a tree shall be deemed not to have hit a tree. Hitting a tree is incontrovertibly the player's fault and, besides, it obviously has no place in a scientific game. The player should estimate the distance the ball would have traveled under reasonable circumstances and play the ball from that point, preferably from a nice tuft of grass.

3. There shall be no such thing as a lost ball. The missing ball will eventually be found and pocketed by some other player, in which case it becomes a stolen ball. There is no penalty for a stolen ball.

4. There shall be no out-of-bounds. Such boundaries are set only because of space limitations. Any golf course could be enlarged if sufficient funds were available. This makes the limits of the course economic discrimination, which has no place in a great country like the United States. Any ball going beyond these artificial, discriminatory boundaries may be placed in the fairway at a point the player feels it would have come to rest.

5. Should the player be distracted in any way, resulting in a poorly-played shot, that player may take the stroke over again without penalty. Such disturbances as birds chirping, a sudden gust of wind or a competitor's breathing shall be deemed a major distraction. The player shall be the sole judge as to when such a distraction may occur.

6. Line of Flight Relief: Golfers should be given an unobstructed shot to the green. Any ball which has a tree, shrub or bunker between it and the green may be moved to a spot where the obstructions will not hinder the next shot.

7. Hazards: Bunkers and the like are diabolical as well as abnormal parts of the golf course. Every effort should be made to eliminate them from course construction. If God intended courses to have sand traps, He would have had the Arabs invent the game instead of the Scots. Should you play on a course where backward thinking allows hazards to still exist, just pretend they are not there, moving the ball that comes to rest in a hazard two club lengths from the hazard, in the fairway.

8. Handicaps: Golfers who play only occasionally have enough of a handicap just trying to hit the ball. Therefore, he can determine his own handicap. The handicap can vary from round to round, depending on such outside agencies as headaches, sore backs, etc. In no case, however, shall a handicap be increased after negotiations on the first tee.

9. Designated Hitters: In a forward move, baseball (American League) now allows a designated hitter who is not required to do anything else. A golfer may call upon his partner, caddie or golf professional to hit designated shots which may be troublesome.

10. Mulligans: There is no place in the game of golf for Mulligans. With these rules, Mulligans are not needed anyway.

11. If a putt passes over the hole without dropping in, it shall be deemed to have dropped. The law of gravity takes precedence over the law of golf.

12. A putt which stops close enough to the cup to inspire such comments as "You could blow it in" may be blown in. The rule does not apply if the ball is more than three inches from the hole. We have no wish to make a travesty of the game.

Onward, upward.

An editor's random thoughts...

by Warren R. Fisher Sr.
July 22, 1937

At the request of a reader in another state, I am republishing a panegyric I once wrote to blackberry cobbler. Evidently this wanderer is beset by memories of the hills of old Nicholas, white with blossoms of the blackberry, and hasn't forgotten the cobblers that meant so much to him, when he and his digestion were young.

A BLACKBERRY COBBLER

A paragrapher in the Louisville Times:

The only trouble with blackberry cobbler is that there isn't enough cobbler if you have any room left, and there isn't even enough if you have any cobbler left.

Here's a writer who sits up and takes notice. We had wondered frequently why and from whence came that feeling of sadness with which we have more than often confronted a cobbler weltering in its crimson gore. We should not have been sad, being all fortified with fried chicken and cream gravy and salt rising and corn pone and tomatoes and butter beans and cucumbers sliced to a gnat's heel, when the cobbler was brought on. One should feel glad at such times and in harmony with Nature and in tune with the Infinite. But now we know that the cobbler was an anti-climax. Being itself a midsummer's masterpiece of the art culinary, it is not fit for blackberry cobbler to play second fiddle, even to fried chicken and cream gravy.

Now our upstage neighbors to the west and south, having clothed the hillsides of old Nicholas with blackberries of the nonesuch and nonpareil varieties, through the medium of song and story and pert paragraph, and this newspaper being duly appointed arbiter of forms and fashions and things as fait in the matter of blackberries and the by-products thereof by said paragraphers pert and pertinacious, we do hereby lay down the following arbitrament, repealing all judgments, recipes and dictums of such authorities as Will Ardery, Mrs. Johnson and Emily Post's etiquette book.

And we do allow that cobbler should be eaten or et or otherwise taken internally first and foremost, before a man has his interior anatomy all gaumed up with chicken and old ham and hoe cake, beans, corn, cucumbers and tomatoes, buttermilk, iced tea and what have you. All these have a tendency to maintain squatters' rights and lying down and being alone to commune with your thoughts. But it won't be the cobbler that did it. You can blame it on the honey. And think, you will have settled the question of how much cobbler a man can eat, given the necessary amount of anatomy to wrap around it!

***

Po Chu-i, a Chinese poet who enjoyed wide popularity some eleven hundred years ago, wrote most soothingly for those who approach the dreaded half-century mark.

Between thirty and forty, one is distracted by the Five Lusts;
Between seventy and eighty, one is a prey to a hundred diseases.
But from fifty to sixty, one is free from all ills.
Calm and still... the heart enjoys rest.
I have put behind me Love and Greed; I have done with Profit and Fame.
I am still short of illness and decay and far from delinquit age.
Strength of limb I still possess to seek the rivers and hills.
Still my heart has spirit enough to listen to flutes and strings.
At leisure I open new wine and taste several cups.
Drunken I recall old poems and sing a whole column.
Mellig'e has asked for a poem and herewith I exhort him
Not to complain of three-score, "the time of obedient ears."

In this corner.... by Jim Butler Wanke

Widows, snakes and fresh graves

I ran across the word motivation in a textbook I am studying and it reminded me of some stories about motivation.

In my own case, when I was four years old I liked to hang out by the barn. And in a pen next to the barn was a billy goat. The warnings had been many about not going into the pen with the billy goat. The reason was, I was not regarded as old enough to climb back through the fence should I get into trouble.

You can guess the rest of the story. I went into the pen, dressed only in a white diaper. Standing over to pick up a corncob, I presented a target too inviting.

Wham...bang, and I flew through the air to land at the fence. And with no hesitation, I climbed quickly through it. I had been motivated.

The moral to this story and many others is you don't really know your own capabilities until you're faced with a potentially dangerous situation.

A widow and the snake

In the mountains of eastern Kentucky the story is told of a farmer passing by the widow woman's house. He looked over to see her hoeing weeds in the garden and was attracted by a curious site. Something long, thin and odd looking was attached to the hem on the back of her dress and was following her up the row. Upon closer examination, it turned out to be a rattlesnake.

"Hey, Widder Jones," the passerby hollered with agitation. The widow Jones whirled around and snapped, "What do you want!"

"There's a snake on the back of your dress."

"Yes...and there's one in your head too," the widow Jones replied and went back to her hoeing.

The neighbor man knew when he wasn't wanted, so he just trudged on down the road, leaving the widow Jones to her garden.

As the story came out, apparently the snake had struck, and caught himself in the hem of her dress. When she finally did notice it, she calmly killed it with one swipe of the hoe and went back to her work. The widow Jones was motivated.

A fresh grave

One dark night in a Kentucky county, a lad of 13 was returning home through the local cemetery. He had, he had done it so often that the beginnings of a path could be seen. Little did he know that a fresh grave had been dug that day, right across his path.

Tripping along and singing a little tune to keep from being too scared, the boy stumbled right into the fresh grave. It scared the devil out of him at first.

"Heeellllppp," he hollered several times, but to no avail. The edge was just a bit too high for him to reach, so he finally settled in for the night.

Little did he know that a friend of his had been coming down the path after him and saw the whole thing. The friend waited a while, crept slowly up to the edge of the grave and uttered very slowly in a loud voice..."You can't get out of there."

But he did!

Two share chairmanship

State Sen. Ed Ford, D-Cynthiana, has been named co-chairman of the General Assembly's Interim Joint Committee on Counties and Special Districts for 1982-83.

Ford, who chaired the Senate Committee on Counties and Special Districts during the recent legislative session, will share the joint chairmanship with Rep. Adrian Arnold, D-Mt. Sterling.

Ford is also a member of the Interim Committees on Agriculture and Natural Resources and Education and the Legislature's Special Jail Study Committee. The jail study panel is looking into the plight of Kentucky's county jails.

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