

Nixon, Harvard and Watergate:
An American Tragedy

[An address given at the Harvard Club of NYC on March 14, 2016]

Introduction

It's a pleasure to be here tonight to talk about President Nixon, Harvard and Watergate – which I characterize as an American tragedy. You got in the front door because you either have a Harvard degree or you know someone who does. For those of you in the latter category, you may have noticed something: many people from Harvard believe the whole world revolves around Harvard graduates. Now, here's the problem: unlike folks from Yale or Columbia – this "Harvard-centric" view just might be true!

What I've done for tonight, and I hope you'll enjoy it, is to re-characterize President Nixon's political experiences from a Harvard-centric point of view.

You see, few people know that Richard Nixon had won a scholarship to Harvard College in 1929, but his family couldn't spare him from working in their Whittier grocery. Instead, he went to Whittier, the local Quaker college. But his whole life, he knew that – but for his family's relative poverty – he could have gone to Harvard.

Imagine how history might have evolved differently, had this determined, resourceful and controversial individual been armed with a Harvard education.

Perhaps a nightmare scenario to many on the left, Nixon's life story of rising and falling, only to rise and fall again, can be viewed not only as an American tragedy, but one intertwined with surprising Harvard connections.

In classic Shakespearean drama, a prominent hero (but not necessarily a virtuous one) somehow offends the moral order, and is punished in a manner that is out of all proportion to that offense. The hero's fall is not due to personal vice or depravity, but to some error in judgement or frailty—a fatal flaw. The attraction to the audience is watching the hero's valiant but ultimately unsuccessful struggle to avoid his predestined demise. In the end, however, the audience is left with an overwhelming sense of waste.

So it could be said about Richard Nixon. A commoner, without movie-star good looks, without help from a wealthy family, and without the advantages of an Ivy League education, Nixon had risen to the pinnacle of political power through dedication and hard work – only to fall dramatically and in

public disgrace, "not due to personal vice or depravity, but to some error in judgement or frailty".

I'm well suited to tell this tale, since I graduated from Whittier College in 1966, with the aid of the Richard Nixon scholarship, and from Harvard Law School in 1969, also with substantial scholarship help. I joined the Nixon administration as a White House Fellow right after graduation, worked at the White House on his Domestic Council for five years, and was deputy to his lead Watergate defense lawyer.

As you well know, it all ended rather badly, with Nixon resigning in disgrace, his most senior aides imprisoned, and his 1972 re-election mandate completely undone.

The Nixon-Harvard Clashes

But let's go back to the beginning and review the Nixon-Harvard clashes that defined his life.

Round One: Nixon Bags Alger Hiss: Elected to Congress from Whittier in 1946, Nixon rose to national prominence as a direct result of his relentless and successful pursuit of Alger Hiss.

Hiss (JD '29) had excelled at Harvard Law School, where he was a protégé of then-professor Felix Frankfurter (JD '05). He went on to clerk for Supreme Court Justice Oliver Wendell Holmes (AB 1861), who also had attended the law school in 1864-65, but did not stay to graduate.

Hiss joined the incoming administration of President Franklin Roosevelt (AB '03, Honorary JD '29) as a government attorney in 1933, and held increasingly important positions at the State Department, culminating in becoming Secretary-General of the UN Charter Conference in 1945. He then became president of the Carnegie Endowment for International Peace, where he served until being forced to step down as a result of Nixon's investigations.

Nixon was a junior member of the House Un-American Activities Committee, but took the lead in that committee's investigations that exposed Hiss as a former member of the Communist Party. Hiss's denials led to his being thoroughly disgraced and convicted for perjury in 1948, the statute of limitations on espionage having long since tolled.

Perhaps the best description of Harvard's reaction to Nixon's takedown of Hiss comes from a 2013 book by James Goodale, later Vice Chairman of *The New York Times* (having been general counsel when the *Times* chose to publish the Pentagon Papers in 1972):

As a teenager I followed the Hiss case as carefully as an average kid might follow his favorite baseball team. I knew all the players and all the events. In the liberal circles of Cambridge, Massachusetts, where I grew up, Nixon and Chambers were viewed as villains. They were out to destroy the liberal establishment.

No one in Cambridge could believe that Hiss had been a spy. Almost everyone seemed to believe that someone else, like Hiss' wife Priscilla, must have copied the government's papers, and that Hiss was protecting her.

Nixon seemed to be right in this particular case, but I developed an extraordinary loathing for him. He symbolized for me everything that was wrong with the Republican Party. He was extremely threatening to what I thought was the best part of America – the liberal Eastern establishment.¹

No one could have put it better. Goodale is writing about events of sixty years before, but you can still feel the extent of the smoldering animosity: Nixon's nailing of Hiss, a Harvard liberal icon, earned him the life-long enmity of the liberal Eastern establishment, with Harvard at its very center.

Nonetheless, Nixon rode his Hiss-slayer fame to election to the Senate, handily beating Hollywood's liberal icon Helen Gahagan Douglas by almost twenty percentage points, and then to victories as Dwight Eisenhower's running mate in 1952 and again in 1956.

One other thing, however, is important to remember: Nixon recalled his Hiss experience, not as a mano-a-mano fight, but as twin lessons: (i) The damage was not just to Hiss, but to the entire Truman administration, which refused to recognize that Hiss was a huge liability; and (ii) The greater damage was done because Hiss chose to perjure himself instead of admitting his earlier mistake. It was that perjury which only compounded his problems.

¹ Goodale, James C. *Fighting for the Press, the Inside Story of the Pentagon Papers and Other Battles*. New York: CUNY Journalism Press (2013), pp. 7-8.

Years later, especially as the Watergate scandal unfolded, Nixon's allusions to Hiss were misunderstood by his aides. His point was that you cannot lie about wrong-doing because the truth will eventually emerge and your lies only compound your problems. I sincerely believe that, if Nixon had actually been asked about the likelihood of a cover-up working, he would have flatly rejected the entire concept.

Round Two: Nixon Loses to Harvard's JFK: The 1960 presidential election remains among the closest in history, with the winner, John Fitzgerald Kennedy (AB '40), receiving only 17/100ths of a percent more popular votes than Nixon. Winning 26 states to Kennedy's 22 made Nixon the first in our nation's history to win a majority of individual states, but to lose the electoral vote.

Harvard law professor Archibald Cox (AB '34, JD '37) had assembled and headed Kennedy's academic brain trust for that campaign. It consisted of numerous prominent Ivy League professors, with the most from Harvard, including law professors Paul Freund (JD '31), Abe Chayes (AB '43, JD '49), David F Cavers (JD '26) and Mark DeWolfe Howe (AB '28, JD '33); historian Earnest May and economist John Kenneth Galbraith (each of whom taught at Harvard for over fifty years, but held no degree); and political science professor Arthur A Maass (AB '49); along with other professors Dean A. Clark, Seymour E Harris and Charles Harr.

Few people in our history know what it's like to have lost a presidential race, particularly a very close one. Nixon genuinely thought that he was the better qualified candidate, but he couldn't compete with Kennedy's handsome looks, his beautiful wife, his father's money, and his Harvard persona. No doubt Nixon was further embittered by the suspicious votes cast in Illinois and Texas – voter fraud which may well have cost him the election.

It must have gnawed at him to no end.

Nixon's loss, by the way, was nicely chronicled by Theodore White (AB '36), in his best-selling *The Making of the President, 1960*, which read as though Kennedy's victory was virtually pre-ordained as a result of his higher station in life.

As befitting a Harvard man, Kennedy's incoming cabinet of eleven department heads included four with Harvard degrees: C. Douglas Dillon (AB '31), Robert McNamara, (MBA '39), Robert Kennedy (AB '48) and James

Edward Day (JD '38); as well as a plethora of White House aides and sub-cabinet appointees far too numerous to mention.

Cox ended up at Solicitor General in the Kennedy administration, serving under President Kennedy's brother who was Attorney General – and later returned as the original Special Prosecutor during the Watergate scandal.

The Kennedy administration was a heyday of Harvard influence and panache not seen since Franklin Roosevelt. Without being too catty about it, however, these also are the folks highlighted so ably in *The Best and the Brightest* (1972) by David Halberstam (AB '55). It was they, and their overweening self-confidence that managed to get America so deeply engaged in what turned out to be the most unpopular and unwinnable war in our history: Vietnam.

Round Three: Nixon's Historic 1968 Comeback: Nixon licked his wounds and plotted his return to political power, but not before losing the disastrous 1962 gubernatorial race in California.

He bested New York Governor Nelson Rockefeller, an Eastern establishment Republican, for the GOP nomination and went on to defeat Vice President Hubert Humphrey in 1968 by only 7/10th of a percent of the popular vote, in yet another photo-finish Presidential race.

While Humphrey was hardly a Harvard man, Nixon clearly saw the race as another round in his on-going fight with the liberal Eastern establishment. As they say, "elections matter" and Nixon appeared eager to banish his life-long nemesis – the liberal Eastern establishment -- from prominence in public office.

Indeed, Nixon's original cabinet reflected his anti-Harvard view: the thirteen incoming department heads held not a single Harvard degree between them.

In an article published on January 14, 1969, the *Harvard Crimson* had the following warm words of praise for Nixon's cabinet nominations:

The whole administration reeks of the Nixon of the fifties. Old, self-made businessmen will run the domestic affairs, old hard-line diplomats will run the foreign policy, and a slicked-up press operation will carry the old Christian Herter ideology of secrecy one step further. Nixon promised in his campaign to remember the forgotten American. Few people suspected then that he meant the forgotten millionaire businessman Americans.

But appearances can be deceiving. In what is a great surprise and an unheralded fact even today, the leadership composition of the Nixon administration – those who were closest to the President and were largely responsible for running the Executive Branch -- was heavily weighted with Harvard graduates. Indeed, the Nixon White House (officially the Executive Office of the President) was positively overflowing with Harvard men (and women).

In the area of foreign affairs, Harvard professor Henry Kissinger (AB '50, MA '51, PhD '54) was named Assistant to the President for National Security and director of the National Security Staff (and later Nixon's Secretary of State).

On the domestic affairs side, Harvard professor Daniel Patrick Moynihan was named Assistant to the President for Urban Affairs and director of the Urban Affairs Council (and later Nixon's Ambassador to India). Half of Moynihan's immediate staff included three with Harvard degrees: John Roy Price (JD '65), Chester Finn (AB '65, MA '67, EdD '70), and Christopher DeMuth (AB '68).

With regard to actually overseeing ongoing governmental affairs, the Office of Management and Budget (OMB)², was rife with Harvard-influenced leadership, including Roy Ash (MBA '47), who headed the Ash Council which developed the reorganization proposals for Nixon's Executive Office and later became OMB Director; Dolph Bridgewater (MBA), an assistant OMB Director who had been a McKinsey consultant who went on to become CEO of Brown Shoe; James Lynn (JD '51), who was Secretary of the Department of Housing and Urban Development (HUD) before becoming OMB Director; Fred Malek (MBA '64), who was Deputy Secretary of the Department of Health, Education and Welfare (HEW) and had headed the White House Personnel Office before becoming Deputy OMB Director; James Schlesinger (AB '50, MA '52, PhD '56), an associate OMB Director who went on to head the Atomic Energy Council, the CIA and the Department of Defense; and Casper Weinberger (AB '38, JD '41), who headed the Federal Trade Commission (FTC) before becoming OMB Director (and then Secretary of Defense under President Reagan).

Others holding Harvard degrees and serving on Nixon's White House staff included Elizabeth Hanford Dole (MA '60, JD '65), counsel to the Office of Consumer Affairs (and later Reagan's Secretary of Transportation); Robert DuPont (MD, '63), who headed the Special Action Office for Drug Abuse Prevention -- along with his deputy, Paul Perito (JD, '64); Barbara Franklin

² Before Nixon's Reorganization Plan of 1970, this was the Bureau of the Budget.

(MBA '64), who worked in the White House Personnel Office (and was later Reagan's Secretary of Commerce); David Gergen (JD '67), who headed Nixon's speech writing staff (and later served on three succeeding White House staffs); William Kilberg (JD '69), a White House Fellow who became Solicitor at the Department of Labor; Walter Minnick (MBA '66, JD '69), who worked for both the Domestic Council and OMB; Henry Paulson (MBA '70), who worked on the Domestic Council (and went on to become CEO of Goldman Sachs and then Treasury Secretary under George W. Bush); Jonathan Rose (JD '67), a top aide to Presidential Counselor Peter Flanigan; and Antonin Scalia (JD '60), general counsel of the Office of Telecommunications Policy (OTC), who later headed the Administrative Office of U.S. Courts before becoming Assistant Attorney General in the Ford administration (and then Supreme Court Justice).

Nixon's sub-Cabinet also included many with Harvard degrees: James E. Allen (MA '42, PhD '45), US Commissioner of Education; Frank Carlucci (MBA '55), undersecretary of HEW (and later Reagan's second Secretary of Defense); Richard Kleindienst (BA '47, JD '50, Deputy Attorney General; Robert Patricelli (JD '65), Deputy Undersecretary of HEW and later Director of the Urban Mass Transit Authority (UMTA); Elliott Richardson (AB '41, JD '47), Undersecretary of State, Secretary of HEW, Secretary of Defense and then Attorney General; Laurence Silberman (JD '61), Solicitor of the Department of Commerce and Deputy Attorney General (and later DC Circuit Judge); and Joseph T Sneed (DJS '58), Deputy Attorney General (and later 9th Circuit Judge and father of Carly Fiorina).

I confess this list was compiled largely from personal memory. I'm sure I've left out dozens of other Harvard graduates who served ably and well in the Nixon administration, but the point is that it was filled with talented people who also happened to have been educated at this great university.

I don't mean to suggest that Harvard University was running the show – or that its professors had great influence as a group. Only that many, many people with Harvard degrees held very senior positions in the Nixon Administration – almost in spite of Nixon's personal inclination.

Contrary to the warm expectations of the *Harvard Crimson* quoted earlier, President Nixon reorganized the Executive Office of the President for the modern era, thereby laying the foundation for White House governance which continues to the present day.

With the able assistance of Henry Kissinger, he revitalized the National Security Council and launched America's Golden Age of Diplomacy, which included such break-throughs as the Opening to China, Détente and Arms

Control with the Soviet Union, political realignment in the Middle East, and an end to the most unpopular war in American history, Vietnam.

His domestic initiatives easily rebutted the *Crimson's* suggestion that he would neglect the forgotten American. Indeed, Nixon's domestic policy has been characterized as "the pursuit of a just society", wherein he achieved peaceful integration of the Southern schools, extended the Philadelphia Plan that was de-segregating northern trade unions, restored treaty rights to Native Americans, instituted the lottery and then ended the draft entirely with the All-Volunteer Force, gave eighteen year-olds the vote, quadrupled the number of women appointed to high government positions, and created the National Oceanographic and Atmospheric Administration and Environmental Protection Agency (which led to enactment of the Clean Air and the Clean Water acts). While his Welfare and Healthcare proposals, while hugely innovative, were not approved by the Congress, they certainly contained core reforms that were later enacted into law.

In retrospect – and un-noticed even today by Nixon's many detractors – it is almost as though President Nixon looked out upon this great nation and asked, "Who has a legitimate bitch about how they're being treated by our system?" He and his staff then went about addressing a multitude of such concerns – achieving an unmatched degree of success, especially when compared to administrations coming before or after.

Round Four: Watergate, Nixon's Own Knock-Out Punch. But for the Watergate scandal, the Nixon presidency might well be ranked as among the greatest in our history. But, of course, Watergate did occur and, as Nixon so famously observed to David Frost during their 1977 interviews:

"I gave them a sword and they stuck it in and they twisted it with relish. I guess if I'd been in their position, I'd have done the same thing."

In responding to this greatest of all presidential scandals, Harvard graduates led the charge on all fronts and at all levels and did so in a coordinated fashion:

The U.S. Attorney's Office for the District of Columbia, which was responsible for the initial Watergate investigation, featured Earl Silbert (AB, '57, JD '60),

as principal assistant, who was lead prosecutor for the Watergate break-in defendants.³

It was the investigations of Senator Edward Kennedy (AB '56), his chief of staff, James Flug (AB '60, JD '63) and their Administrative Practices sub-committee, which had become too politicized and were merged into the Senate Watergate Committee. It was also these same people who demanded the appointment of a special counsel as condition of confirming Elliott Richardson as Attorney General.

The Senate Watergate Committee, whose televised hearings turned into a highly politicized legislative trial that dominated America's attention, was chaired by Sam Ervin (JD '22), with Samuel Dash (JD '50) as its chief counsel. Senior counsel included David Dorsen (AB '56, JD '59) and Terry Lenzner (AB '61, JD '64), with Marc Lackritz (JD '73), Ronald Rotunda (JD '70) and Alan Weitz (JD '70) as assistant counsel. It should also be noted that Scott Armstrong, who was responsible for leaking most of the committee's considerations to the media, left Harvard Law School mid-term in order to join the Ervin Committee staff.

The Watergate Special Prosecution Force was originally headed by Harvard law professor Archibald Cox (AB '34, JD '37), who brought two other law professors with him as his top assistants: Associate Special Counsel James Vorenberg (AB '49, JD '51) and Philip Heymann (JD '60).

They, in turn, hired their friends, which produced a multitude of counsel with Harvard degrees, who dominated every aspect of their many investigations: Those having both ABs and JDs from Harvard included Peter Kreindler ('67 and '71), Gerald Goldman ('65 and '68), Peter Rient ('60 and '63), Jay Stephens ('68 and '73) and Richard Weinberg ('58 and '61). Those having just ABs included John Barker ('63), Mary Graham ('71), Janet Johnson ('67) and David Kaye ('69). Those having just JDs included Nathaniel Akerman ('72), Philip Bakes ('71), Charles Breyer ('63), Stephen Breyer ('64), George Frampton ('69), Kenneth Geller ('71), Maureen Gelvin ('72), William Gilbreth ('66), Sidney Glanzer ('48), Stephen Haberfeld ('70), Henry Hecht ('73), Jay Horowitz ('67), John Koeltl ('71), Michael Lehr ('73), Ronald Malone ('75), James Quarles ('72), and Roger Witten ('72).

Their press officer, James Doyle, was a Neiman Fellow at Harvard in 1965.

³ Earl was an accomplished and objective prosecutor, who (with his team) is responsible for breaking the Watergate cover-up. Watergate has few authentic heroes, but Earl is certainly one of them.

They labeled their internal telephone directory *The Best and the Brightest*, because they were certain they were, apparently missing the irony of Halberstam's earlier use of that description.

The House Judiciary Committee's Impeachment Inquiry also was replete with people holding Harvard degrees. Committee members on the Democratic side included William Hungate (JD '69), Paul Sarbanes (JD '60), John Seiberling (MA '41) and Elizabeth Holtzman (AB '62, JD '65); and on the Republican side included David W Dennis (JD '36), Hamilton Fish, Jr (AB '49) and Wiley Mayne (BS '37). Committee staff included W. Paul Bishop (AB '66, JD '70), John Davidson (AB '66, MBA '69, JD '72), Evan A Davis (AB '66), Bernard Nussbaum (JD '61), James Reum (JD '72), Jared Stamell (JD '71), Gary Sutton (JD '69) and William Weld (AB '66, JD '70).

The two leading newspapers gleefully chronicling Nixon's demise were *The New York Times* and the *Washington Post*. The *Times'* lead columnist was Anthony Lewis (AB '48, Neiman Fellow '56-'57) and among the *Post's* was Philip Geyelin (MA '66). Of course, the *Post* was owned by Katherine Graham, who didn't go to Harvard, but her late husband Phillip had (JD '39), as had her son Donald (AB '66). The *Post's* executive editor was the formidable Ben Bradlee (AB '42), close friend and confidant of JFK.

I should add, however, that Nixon's own Watergate defense team included James D. St Clair (JD '47 and trial practice lecturer) as lead trial counsel. While not directly involved in the Watergate defense, it also should be noted that Nixon's son-in-law, Edward Cox (JD '73), is also a Harvard graduate.

This seemingly all-Harvard team certainly prevailed and the Nixon presidency ended abruptly and in terminal disgrace.

Requiem for a Heavyweight?

Nixon authored nine books in his post-presidency, striving mightily to recover and achieve recognition as an elder statesman. There are also ongoing efforts to document his many innovative public policy initiatives.⁴ Yet, he and his aides have been countered at every turn since his fall by his age-old nemesis, the liberal Eastern establishment.

Now comes this author, JD '69, with brand-new revelations, including documented instances of judicial and prosecutorial wrong-doing that

⁴ Some thirty-six documentaries, called Nixon Legacy Forums, have been produced since 2010. They are co-sponsored by the National Archives and many are broadcast on C-Span's American History channel. Links to each can be found at <http://geoffshepard.com/the-nixon-legacy-forums/>

constitute flagrant violations of the due process of law guaranteed to all Americans by the Fifth and Sixth Amendments in our Bill of Rights. My central thesis is that Watergate's crimes – the break-in and the subsequent cover-up – were committed by mid-level staffers, who essentially got "Get Out of Jail Free" passes in exchange for altered testimony against their superiors, who were the only real targets of highly-partisan prosecutors.

The bottom line is that these Harvard people were recruited to "Get Nixon" and their goal was to reach him "at all cost". They were so competitive and so filled with their own sense of self-righteousness that they cut too many corners to be sure they prevailed.

My book⁵ describes over a dozen instances of secret meetings between federal judges and Watergate prosecutors or other interested parties. It raises serious questions as to the accuracy of representations made in secret to grand jurors, who promptly named Nixon a co-conspirator in the Watergate cover-up, and to House Judiciary staff, who promptly recommended Nixon's impeachment. It details the suppression of exculpatory evidence by Watergate's special prosecutors and the false sentencing of John Dean, the government's lead witness, for the purpose of increasing his witness credibility⁶.

This is not the place to re-hash these allegations, especially when more can be learned from my website (www.geoffshepard.com). But what may be of interest is the degree of involvement in this wrong-doing by Harvard graduates.

The author, with one foot happily planted in both the Nixon and Harvard camps, is pleased to report that none of the three federal judges involved in the highly improper *ex parte* meetings with prosecutors held Harvard degrees (which is all the more surprising because we were told at law school that some twenty-five percent of all federal judges held Harvard degrees). Several of the other participants in these *ex parte* meetings, however, were Harvard law graduates.

Perhaps worse, a goodly number of Harvard-educated prosecutors knew of these *ex parte* meetings, since they were discussed in the senior staff meetings, as well as in the suppression of exculpatory evidence and/or Dean's false sentencing – and yet did nothing about it.

⁵ Shepard, Geoff. *The Real Watergate Scandal: Collusion, Conspiracy and the Plot that Brought Nixon Down* (Washington, DC: Regnery History, 2015)

⁶ While sentenced to a prison term of one to four years in advance of trial, the harshest sentence handed down to that date, Dean was secretly placed in a witness protection program and never spent a single night in a real jail cell.

Special Prosecutor Cox himself mused about his likely response to uncovering wrong-doing. He shared the following observation with William Merrill, head of the Plumbers Task Force:

I know I would not have done anything which I knew or felt was questionable, but I wonder how I would have reacted if I had known others were involved in such conduct.⁷

We now know there was substantial and continuing misconduct going on, well known to many on the prosecution staff, and they chose to stand silent and to do nothing.

As a result, we are left with the haunting possibility that Nixon was driven from office, his most senior aides imprisoned, and an election mandate undone due to flagrant misconduct by judges and prosecutors – while folks in leadership positions and holding Harvard degrees stood mute.

Conclusion

There are conservatives who have graduated from Harvard, just as there are liberals who have not – much (one must assume) to their disappointment. But quintessential members of the liberal Eastern establishment, as generally understood, seem invariably to have Harvard degrees.

But Harvard is such an outstanding institution and attracts such talented students, particularly due to the merit selection programs at its graduate schools, that many end up leading less-than-liberal organizations.

This is as it should be. But we must all remember one thing: a weakness of being so talented and well-educated is the temptation to believe that the normal rules don't apply – that, in essence, Harvard graduates are above the law. President Nixon was not – and neither are we.

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Geoff Shepard joined the Nixon staff as a White House Fellow upon graduation from Harvard Law School in 1969, and stayed through the bitter end. His recent book details the judicial and prosecutorial collusion that culminated in Nixon's downfall and the imprisonment of his senior aides. More can be learned from his website at www.geoffshepard.com.

⁷ Merrill, William H. *Watergate Prosecutor* (East Lansing: Michigan State University Press, 2008), p. 7.