

*“The evening of the ‘Saturday Night Massacre’  
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*While the White House Scoffed,  
Three Prosecutors Began Their*

*Then Denied,  
Probe*



wn critics with the magnitude of effort.

us, when acting FBI Director L. Pick Gray III appeared before the Ste Judiciary Committee which withholding hearings on his nomination to be permanent director, he cid the FBI's investigation a "major sial" and "a full court press." According to Gray, the FBI investigation ived 56 of the bureau's 59 field offi, four legal attaches' offices in rican embassies abroad, 2,698 ls were covered, 2,347 interviews e conducted, 22,403 agent man-rls and 5,492 clerical hours were ex-pled.

his defense of the Watergate investion, however, was about to be rend obsolete by events.

n March 23, 1973, almost two mths after the trial concluded, Siricourtroom was again packed with rters and spectators for the senting of the seven defendants. Entering a reporter in the hall rtly before he went into court, Sirsaid, "I think there will be someg you'll find interesting." He did elaborate.

irica entered the courtroom with customary dour expression, nodg to his clerk, James Capitano, as truded up the steps to his seat. Be pronouncing sentence, he told the rtroum, he had two letters to read y the record—both from McCord. The first letter was addressed to w York Times reporter Walter Rver, complaining about some minor ails in a story Rugaber had written.

HE SPECTATORS listened impa-tiently. The second letter was ad-ssed to Sirica, who had received it ee days earlier.

erjury had been committed by gov-ment witnesses during the trial, Cord wrote. "There was political ssure applied to the defendants to ad guilty and remain silent." Others olved in the Watergate operation d not been identified during the il, "when they could have been by se testifying."

By the time Sirica finished reading e letter, the courtroom was in an up-ar. Reporters jumped from their se-and ran to the doors, brushing de U.S. marshals who tried to stop em. Sirica declared a short recess, E to restore order but because he d a terrible stomach ache.

After half an hour, Sirica returned pronounce sentence, ordering Liddy erve at least six years and eight pths in prison and fining him \$40,000. Hunt and the four men from Mini were given provisional sentences 35 years. Sirica told the five men at he would weigh in his final deter-ination of sentences how fully they operated with the grand jury and e Senate Watergate committee.

The next day McCord began talking e the Senate committee. Committee

hief counsel Samuel Dash called an xtraordinary Sunday press confer-nee to tell reporters that McCord was nging names." That night, the Los Angeles Times reported two of the ames McCord had given the commit-tee—Dean and Magruder.

The next day, Silbert reconvened the grand jury and brought Liddy before the panel for questioning. As expected, Liddy refused to answer questions that day or in any of his subsequent visits.

The prosecutors, however, developed a strategy they hoped would flush out their quarry. Leaving the door to the corridor open, so that reporters could see the doors to the grand jury room and a small anteroom, the prosecutors periodically led Liddy from the grand jury room to the anteroom where they simply shot the breeze with Liddy and his lawyer before taking him back into the grand jury room.

Aug. 26 point, the prosecutors asked Liddy's lawyer, Peter Maroulis, to tell reporters that Liddy was cooperating. Maroulis, indignant at the suggestion, refused.

As the prosecutors hoped, Maroulis did just the opposite. He insisted to reporters that Liddy was not cooperating no matter what the reporters might suspect from the movement back and forth from grand jury room to ante-room.

WITHIN TWO WEEKS, Dean had approached the prosecutors through his lawyers. A tedious process of negotiations began, with Dean's lawyers seeking immunity from prosecution for their client in return for his testimony. The prosecutors insisted on hearing what Dean had to say before making a decision.

When Dean finally talked to the prosecutors himself, in early April, he indicated that he thought Liddy had already told them much of what he was relating. The prosecutors took some quiet satisfaction that their ruse had worked.

But Dean's narration, during which the prosecutors were not allowed by Dean's lawyers to ask questions, was a rambling, disjointed account. Glanzer finally told Dean that before he left the White House, he should get his hands on every document he could to support his story.

On Thursday, April 12, Magruder's lawyers began negotiations with the prosecutors. Magruder, feeling himself under unbearable pressure, drinking,

taking tranquilizers, told his lawyers he wanted to get the ordeal behind him.

On April 13, the prosecutors met with Magruder and his lawyers to hear Magruder's story. That night an agree-ment was struck—Magruder would plead guilty to one felony count.

The next day, meeting again in the offices of his lawyers, Magruder gave

the prosecutors a full account of what he had done. Realizing that more than any other man he had blocked the prosecutors from uncovering the truth the summer before, Magruder apolo-gized to Silbert. Silbert, taking no chances with Magruder this second time around, scheduled two days of lie detector tests to determine if Magru-der was telling the truth. Magruder passed.

By the afternoon of April 14, the prosecutors felt that they had cracked the case. Magruder's testimony meshed with Dean's. The time had come, they believed, to let President Nixon know that three of his top aides were impli-cated in an obstruction of justice.

WHAT THE prosecutors knew about the case at that point did not im-plicate President Nixon. Dean had told them that he met with Mr. Nixon on March 21, had tried to make him under-stand what was happening but could not.

At 9 p.m. on April 14, the three pros-ecutors and U.S. Attorney Titus met with Petersen at his Justice Depart-ment office and outlined to him what they had learned. The four men dis-cussed how to approach the President, debating whether Attorney General Kleindienst could be trusted. Finally they decided that with the evidence they had they were in control and had to proceed.

In the early morning hours of April 15, Petersen, Silbert and Titus briefed Kleindienst. Later that day, Klein-dienst went to President Nixon, who already knew much of what he was told that day about the cover-up.

At the same time, the prosecutors continued their discussions with Dean, who informed Silbert about Hunt and Liddy's activities in connection with the Ellsberg break-in. Silbert wrote Petersen a memo about what Dean had told him. Petersen, in turn, informed President Nixon who directed Petersen to "stay out" of the Ellsberg matter on the grounds that it involved national security.

Petersen relayed the message to Sil-ber and the Ellsberg matter was drop-ped—for the moment at least. Dean's conversations with the prosecutors, however, revealed that Petersen had been giving him information during the previous summer and fall.

The Ellsberg break-in continued to bother Petersen. Finally, he said, he went to see Kleindienst and told him, "Look, you are out of the Watergate but you are not out of Ellsberg. I need



some help." Petersen said he and Kleindienst discussed the matter and decided that the judge presiding over Ellsberg's trial had to be informed about the 1971 break-in of Ellsberg's psychiatrist's office. If President Nixon disagreed, Petersen said, he and Kleindienst agreed that they would resign.

Kleindienst took the matter up again with President Nixon on April 25. After "a moment's hesitation," Kleindienst testified before the Senate committee, Mr. Nixon agreed.

On April 27, U.S. District Court Judge W. Matt Byrne Jr., the presiding judge in the Ellsberg-Pentagon Papers trial, added a new dimension to the Watergate affair by disclosing the Ellsberg break-in.

An additional motive for the cover-up had emerged.

**T**HE PROSECUTORS had determined that Dean was a principal actor in the cover-up and could not be given the immunity he was seeking. As a result, if Dean were indicted, Petersen would be a likely witness. Therefore, the prosecutors told Petersen, he would have to get out of the case. Petersen refused, arguing that if he took himself out of the case, he would have to resign as assistant attorney general and then he would be attacked by the press.

In the first meeting, Petersen prevailed. But two nights later, in a nasty argument, the prosecutors told Petersen that they would have nothing more to do with him as far as the case was concerned. "I think if Henry could have gotten his hand on a gun that night," one of the prosecutors recalled later, "he would have killed all three of us."

Dean's lawyers began to raise the stakes, telling the prosecutors that Dean had more information to give if the prosecutors had the stomach to hear it. The lawyers played a cat-and-mouse game with the prosecutors, tantalizing them without actually producing hard information.

Finally, the prosecutors agreed to hear what Dean had to say. Dean told them that President Nixon had discussed raising \$1 million to pay the Watergate defendants to remain silent and that he approved the payment of "hush money." The meeting lasted from 11 p.m. until 3 a.m. the next morning.

The three prosecutors left the meeting lonely and adrift with a terrible

burden to carry. Their contacts with Petersen were severed. Kleindienst had removed himself from the case. "We were three assistant U.S. D.A.s who were very low on the totem pole," one of them recalled. "We just didn't know who the hell to turn to. That was a very tough time for all three of us."

They discussed their alternatives,

considered going to various senators to tell them what they had been told. The problem was, in the Byzantine maze of congressional politics, whom could they trust?

On April 30, the inevitable flow of events solved their problem. Kleindienst resigned, along with Haldeman and Ehrlichman. Dean was fired. Secretary of Defense Elliot L. Richardson was nominated by President Nixon to be Attorney General.

**W**ITHIN A MATTER of days, the prosecutors knew their time was running out. Pressure was increasing on Richardson to name a special prosecutor. "We knew exactly where we stood at that time," Campbell said later. "We knew the special prosecutor was going to come in."

The prosecutors could not savor their triumph in having opened the

case. Under attack by the public and the press, the prosecutors also were under suspicion by the Senate Watergate committee which was considering investigating the investigators.

On May 18, the second day of the Senate Watergate hearings, Attorney General-designate Richardson picked former Solicitor General Archibald Cox to be Watergate special prosecutor. Cox was picked by Richardson after he dickered for almost two weeks with the Senate Judiciary Committee, which was holding up Richardson's confirmation until agreement was reached over the degree of independence the special prosecutor would have.

Richardson's final offer gave the special prosecutor wide latitude to investigate criminal activity and to make public statements. Richardson sealed the agreement with a promise that was to take on critical importance five months later. He promised not to countermand or interfere with the special prosecutor's decisions and not to fire the special prosecutor "except for extraordinary improprieties on his part." Richardson was confirmed May 23.

Two weeks earlier, speaking to a Republican fund-raising dinner in Washington, President Nixon had pledged that Richardson "and the special prosecutor that he will appoint in this case will have the total cooperation of the executive branch of this government."

The changing of the guard—from the three prosecutors to Cox—was a painful ordeal for Silbert, Glazer and Campbell. They found Cox stiff, aloof and insensitive to what they had been through. Cox, still unfamiliar with the case and wary lest his maneuvering room should be limited by commitments to the three, kept them first at arm's length and then insisted that they work under his supervision.

For the three prosecutors it was a

bitter pill to swallow. They believed that they had broken the case, only to find the public, the press and Congress dubious not only of their ability but of their integrity as well.

**P**ETERSEN, testifying in August, 1973, before the Senate Watergate committee, summed up the bitterness the prosecutors felt in an emotional outburst.

"I resent the appointment of a special prosecutor," he told the committee. "Damn it, I think it is a reflection on me and the Department of Justice. We would have broken that case wide open, and we would have done it in the most difficult circumstances."

"And do you know what happened? That case was snatched out from under us when we had it 90 per cent complete with a recognition of the Senate of the United States that we can't trust those guys down there, and we would have made that case and maybe you would have made it different, but I would have made it my way and Silbert would have made it his way and we would have convicted those people and immunized them and we would have gotten a breakthrough."

"I am not minimizing what you have done or the press or anyone else, but the Department of Justice had that case going and it was snatched away from us, and I don't think it fair to criticize us because at that point we didn't have the evidence to go forward."

For the three prosecutors, the experience was especially difficult. On the one hand, Cox criticized the way they had handled the case in the early stages. On the other hand, Cox was also critical of the tactics that they had employed in dealing with the White House when the cover-up began to unravel.

Ironically, one of the criticisms Cox voiced of the three prosecutors arose when they told him that they had subpoenaed tape recordings from the White House that Dean, Haldeman and Ehrlichman had made. That was not the way to deal with the White House, Cox told them, stating his intention to negotiate with the White House to obtain the tapes.

Five months later, Cox would learn

all too well that he could not deal with the White House on gentlemanly terms.

On June 29, a month after an abortive attempt to resign, the three prosecutors left Cox's staff to resume their normal duties.

In accepting the resignations of the three prosecutors, Cox wrote Silbert that "I am aware of various criticisms of your earlier conduct of the investigation and prosecution of seven defendants. Lawyers often differ on questions of judgment, and there are points on which my judgment might have varied from yours. Thus far in the investigation, however, none of us has seen anything to show that you did not pursue your professional duties ac-





...cording to your honest judgment and in complete good faith."

**W**HATEVER HOPES Cox may have been harboring for White House cooperation in the Watergate investigation began to fade on July 16 when former White House aide Alexander P. Butterfield testified before the Senate committee that since 1971 President Nixon had been automatically and routinely tape recording conversations in the White House Oval Office, his Executive Office Building suite and over several telephones.

President Nixon refused a request by both Cox and the committee to turn over certain tapes. On July 23, for the first time in 166 years, the President of the United States was subpoenaed. Two of the subpoenas came from the committee and one from Cox. On July 26, in separate letters to Sirica and the committee, President Nixon refused to comply with the subpoenas. In his letter to Sirica, Mr. Nixon said he was adhering to the precedent established by his predecessors "that the President is not subject to compulsory process from the courts."

The issue was joined.

On Aug. 29, Sirica ordered President Nixon to turn the tapes over to him so that Sirica could determine how much the grand jury should hear. The White House immediately responded that President Nixon "will not comply with the order" and that his lawyers were considering an appeal or an alternative way "to sustain" his legal position.

On Sept. 6, the White House appealed Sirica's decision to the U.S. Circuit Court of Appeals. A memorandum issued by the appellate court a week later urged an out-of-court settlement of the matter. On Sept. 20, the

court was told that no agreement could be reached after three days of discussions between Cox and White House lawyers.

On Oct. 12, the Court of Appeals upheld Sirica's decision and ordered President Nixon to surrender the tapes to Sirica for use by the grand jury. On Oct. 19, the deadline imposed by the appellate court for the White House to appeal the ruling to the Supreme Court, President Nixon announced that he would turn over a written summary of the tapes to Cox and to the Senate Watergate committee.

The week beginning Monday, Oct. 15, was critical for both Cox and the presidency of Richard Nixon. By the end of the week, Cox was out of a job—along with Attorney General Richardson and Deputy Attorney General William D. Ruckelshaus—and impeachment proceedings against President Nixon began to be pushed in earnest.

Throughout the week, President Nixon's lawyers and his chief of staff, Alexander M. Haig Jr., negotiated with Richardson about a way to satisfy Cox without fully complying with the court





Above the gavel (counterclockwise): Archibald Cox, Leon Jaworski, Elliot Richardson, Henry Petersen. Below the gavel (center): Judge John Sirica. Below him (counterclockwise): Seymour Glanzer, Earl Silbert, Richard Kleindienst, Donald Campbell.

order to produce the tapes.

Periodically, the White House suggested to Richardson that he should fire Cox, but Richardson resisted. Cox and Charles Alan Wright, a University of Texas law professor retained by President Nixon, exchanged correspondence about the tapes. Ultimately, Cox and Wright were unable to come to terms among indications that the White House wanted to force the issue in order to fire Cox.

ON OCT. 19, President Nixon announced his decision to release written summaries of the tapes, to be verified by Sen. John C. Stennis (D. Miss.). Mr. Nixon noted that Cox had not accepted the proposal, but Mr. Nixon said he was ordering Cox, "as an employee of the executive branch," to cease his attempts to obtain the tapes through the judicial process.

The next morning, Cox called a press conference to announce that he would not obey President Nixon's order and that he would instead continue his fight in court to obtain the tapes.

The night of Oct. 20 was one of the

moments when one could feel the palpable presence of history. One observer, confined throughout the evening to a downtown office building, remarked later, "I kept thinking I should go to a window to see if tanks were in the streets."

Persons out for the evening might have received the first news of day's extraordinary events when they turned on their televisions to watch what was to have been an NBC special on Cox's morning news conference. Instead, they saw John Chancellor announce, simply but dramatically:

"Good evening. The country tonight is in the midst of what may be the most serious constitutional crisis in its

history. The President has fired . . . the special Watergate prosecutor, Archibald Cox, and he has sent FBI agents to the office of the special prosecution staff and to the Attorney General and the deputy attorney general and the President ordered the FBI to seal off those offices. Because of the President's action, the Attorney General has resigned.

"Elliot Richardson, who was appointed Attorney General only last May in the midst of the Watergate scandal, has quit saying he cannot carry out Mr. Nixon's instructions. Richardson's deputy, William Ruckelshaus, has been fired. Ruckelshaus refused in a moment of constitutional drama to obey a presidential order to fire the special Watergate prosecutor. The President has abolished special Watergate prosecutor Cox's office and duties and turned the prosecution of Watergate crimes over to the Justice Department."

It was a "stunning development," Chancellor said, "and nothing even remotely like it has happened in all of our history."

Chancellor, who had been a newsman more than 25 years, concluded the program by saying, "In my career as a correspondent, I never thought I'd be announcing these things."

Whatever reaction the White House had expected, it apparently did not bank on the shock, confusion and outrage that immediately swept the country. Two days after the "Saturday Night Massacre," as it was immediately called, Haig referred to the reaction as a "firestorm."

Was it all a horrible miscalculation—the removal of Cox—or a desperate attempt to stop the investigation before it encircled President Nixon? The cost to President Nixon was immediate—the House Judiciary Committee, which had been discussing the matter in the most tentative of terms, began serious preparations for impeachment proceedings against the President for only the second time in U.S. history.

And on Nov. 1, yielding to public and congressional pressure, President Nixon approved the appointment of a successor to Cox, Watergate Special Prosecutor Leon Jaworski. And the Watergate investigation continued.

*Meyer, a metropolitan reporter for The Washington Post, covered the Watergate trial and Senate Watergate hearings.*