

Excerpts From Ehrlichman's Testimony

Special to The New York Times

WASHINGTON, July 26—

Following are excerpts from the transcript of testimony by John D. Ehrlichman today on the 29th day of hearings on the Watergate case before the Senate Select Committee on Presidential Campaign Activities:

MORNING SESSION

MR. WILSON: Mr. Chairman, I have received information overnight that the committee, or its staff, possesses at least one document in relation to the sequence of documents of Aug. 3, 1971, [dealing with an F.B.I. investigation of Dr. Daniel J. Ellsberg] which was identified by Senator Weicker yesterday. Am I correctly informed, sir?

MR. DASH: There is a document, but you have seen that document.

MR. WILSON: Is that the one in which it is stated that Mr. Hoover said he would proceed with a full-scale investigation of the Pentagon papers?

MR. DASH: I think it is the one that says that they would give it an F.B.I. special, something of that nature. We have the document, you have seen it, it was submitted and it is a matter of record.

MR. WILSON: Is that the document that is referred to in The New York Times this morning?

MR. DASH: I did not see any document in The New York Times this morning.

MR. WILSON: Let me read you the sentence. "Reportedly when the hearing resumes tomorrow he, that is, Senator Weicker, plans to show Mr. Ehrlichman another letter, this one from Mr. Krogh to Mr. Ehrlichman, in which Mr. Krogh remarks that Mr. Hoover had promised a full investigation and knowing that the bureau had intervened, Mr. Marx's wife." Is that an accurate report of the document that you have just described to me?

MR. DASH: We will get the document and we will see.

Documents Required

SENATOR ERVIN: Mr. Wilson, I might state that it appears by implication or in-

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Before the Senate Committee

on Watergate

timation, as least from the President's letter, that this committee does not have all the documents it ought to have. It has not been able to get them, and we do not have any plumbers to go out and seek for them.

MR. WILSON: You have got a pretty good staff that seeks a lot of things.

SENATOR ERVIN: Yes, sir, but they do not believe in surreptitious activities.

MR. WILSON: May I have this clarified before Senator Weicker begins — that the document shows the reference to Mr. Marx's wife?

MR. DASH: Just a minute. Yes, it is the Aug. 11th memorandum, Mr. Wilson, which you saw and examined thoroughly when I presented it to Mr. Ehrlichman for examination. It is the Aug. 11 memorandum from Mr. Bud Krogh to Mr. David Young to Mr. Ehrlichman in which Mr. Ehrlichman was asked to approve a covert operation to be undertaken to examine all medical files. It included a list of names of persons that it says [the] Boston grand jury will meet next week, [that] Justice [Department] has not made a final decision but it is considering subpoenaing the nine following individuals and Mrs. Louis Marx is one, and then the memorandum says that "we have received a letter from Director Hoover confirming that the Ellsberg case and related matters will be handled on a bureau special basis."

And that is the only memorandum we have or document we have.

SENATOR ERVIN: I believe Mr. Wilson is asking for another letter that was offered in evidence here to the effect, from J. Edgar Hoover, stating that they had transmitted to someone all of the files they had and that on 17 people, and stating they would go ahead and investigate everybody except Ellsberg. Mr. Wilson, I want you to get any documents we have got and those documents your attention has been called to, do they comport to the document you mentioned as being

printed in The New York Times?

Bids Weicker Explain

MR. WILSON: I think so. Senator Weicker will explain it if he cares to. I do not care to pursue it.

SENATOR WEICKER: Mr. Chairman, I do not think I have any explaining to do. You have raised a point, Mr. Wilson, saying there is a document outstanding that you have not received when, in fact, you had received it two days ago.

MR. WILSON: Then, as far as you know, The New York Times is not talking about any other document?

SENATOR WEICKER: As far as I know, you have had the information that you requested today in your hands for two days. I have no other documents to go ahead and present to you.

You stated yesterday, Mr. Ehrlichman, that the F.B.I., through its leadership of Mr. Hoover, was not pushing the

Ellsberg investigation, allegedly because of a relationship Mr. Hoover had with Mr. Ellsberg's father-in-law, Mr. Louis Marx, and that it was not until after Sept. 20, 1971, that the F.B.I. "was clicking on all eight cylinders." Would that be correct?

MR. EHRLICHMAN. The reason that I picked that date is that on or about that date there was a meeting which the Attorney General [John N. Mitchell] had with the President where he gave the President a progress report on this matter.

Q. But in any event, one of the difficulties apparently on the F.B.I. investigation was the relationship [the friendship] between Mr. Hoover and Mr. Marx, is that correct? A. That is what the Attorney General reported to me.

Knowledge of Interview

O. Are you aware of the

fact that Mr. Louis Marx was interviewed by the F.B.I. in June, 1971, before Mr. Krogh's memorandum to you of August 11th, which memorandum has been referred to here this morning, and before the September 3, 1971, break-in by Hunt and Liddy, part of the covert operation you approved? Did you know that Mr. Marx had been interviewed in June? A. By the F.B.I., Senator? Q. That is correct. A. I do not recall that fact.

Q. Well, then, how could you ascribe the reason of Louis Marx for the failure of the F.B.I. to get information from Louis Marx as the reason for setting up this unit and for having the unit investigate Ellsberg as they did?

A. Well, what I attempted to testify to was the report that I had had from two people who were intimately familiar with the progress of this case. One was Mr. Krogh and the other was the Attorney General, Mr. Mitchell. They both reported to me what I have testified to here.

Now, it may be that the explanation is that that interview was either unsatisfactory or perfunctory or did not deduce the information that was desired.

MR. WILSON. Mr. Chairman, may we see that report, the F.B.I. report? F.B.I. report?

MR. EHRlichMAN. You mean the interview with Mr. Marx?

MR. WILSON. Yes.

SENATOR WEICKER. Go ahead, Mr. Chairman.

SENATOR ERVIN. We got F.B.I. reports by permission of Attorney General Kleindienst on condition that we would not release them to the public.

SENATOR WEICKER. Mr. Chairman, I think maybe I can be helpful here. My knowledge of the interview by the F.B.I. and Mr. Marx comes from Mr. Marx and he was interviewed in June of 1971.

MR. WILSON. Well, I have now established that the committee is in possession of an F.B.I. report.

SENATOR ERVIN. No, I am mistaken.

MR. WILSON. Is that so?

SENATOR ERVIN. We do not have the F.B.I. reports. They [the staff] were allowed to inspect them and to make notes from them, that is all.

MR. WILSON. No summary?

Staff Summaries

SENATOR ERVIN: They

have staff summaries but we got those under great difficulties and under an agreement that we would not release them to the public. If you can get all of those things with the Attorney General's consent, I would be delighted for everything to come out that can be shown.

SENATOR BAKER: Mr. Chairman, we have been deeply involved in trying to get documents and making documents public and I can understand Mr. Wilson's concern in this respect but you and I, Mr. Chairman, were parties to the conversation with former Attorney General Kleindienst where very strict requirements were imposed on our access to those. But I would hope that the committee formally request the Attorney General of the United States to relieve us of that obligation.

MR. WILSON: I would be grateful to you if you would do so. And I want to tell Senator Weicker I don't question for one moment, sir, the remark that you got some information from Mr. Marx, but it can't be as accurate as the raw [F.B.I.] report would be itself, and I appreciate the suggestion of the offer of the vice chairman on our behalf, perhaps on yours too, to seek to have that document released to us.

SENATOR WEICKER: I have already told you, I have talked to Mr. Marx and I tell you now I have also talked to Mr. Brennan, the assistant director of the F.B.I., head of division 5 who ordered that the investigations take place, so I can confirm to you from both the F.B.I. that did the investigating and from Marx who was investigated that an investigation took place in June of 1971.

SENATOR ERVIN: Yes, and to make the record even clearer, I called Attorney General Kleindienst and asked him to modify the agreement, and allow five

other members of the committee to see these F.B.I. files, and he declined my request, and then after he was succeeded by Attorney General Richardson, I wrote him a letter repeating the request, and he declined the request to extend that privilege to the other five Senators. He did modify to allow one member of the staff designated by both the vice chairman and myself to go to look at some of the original F.B.I. files but let me tell you, it

hasn't been any bed of roses trying to get any information out of the executive branch of the Government that is germane to this investigation.

Memo From Krogh

SENATOR WEICKER: Isn't it fair to say Mr. Krogh's Aug. 11 memorandum asks for Mrs. Marx's interview because both you and he already knew that he had been interviewed. A. Yes.

Q. The memorandum to you says the F.B.I. have placed the Ellsberg case on special F.B.I. status.

I am going to very definitely pin down one fact here today and that is that you based the push on the F.B.I. on the fact that there was some relationship between the director and Louis Marx which made it necessary for you to go outside of normal law enforcement channels, and we have already established the fact that Mr. Marx was interviewed in June of 1971.

Did you ever ask any member of the F.B.I. if Mr. Marx had been interviewed in June of 1971?

A. Well, if I could explain: what I attempted to testify here to the committee was the total setting in which Mr. Krogh came to me and, in turn, the representation was made to the President that the special unit inaugurate investigation of Mr. Ellsberg and his associates. It was a general problem with regard to the F.B.I.'s approach to this whole [Ellsberg] case.

And so then the recommendation was made that these two men Krogh was working with [Liddy and Hunt] be designated as investigators to go and [investigate Dr. Ellsberg]. This was very reluctantly entered into. It was not something, Senator, that the White House wanted to do or at least that I personally wanted to see the White House do, unless we had to in order to move this thing along. The President frankly was really keeping the pressure on to get results and that was the setting.

Q. Did the Attorney General know you were going to get into the covert number business? A. The Attorney General knew. And the director of the F.B.I. knew that the White House was going to send investigators out, yes, sir.

Q. Were you aware on July 20, 1971, that the F.B.I. had attempted to interview Dr. Fielding [Dr. Ellsberg's psychiatrist]? A. I was aware of

it at some time but I don't remember when, Senator, but I do recall the fact that they unsuccessfully attempted to interview the doctor.

Q. And this was before you decided to get into his records by covert action, is that correct? A. I am not sure I knew that before.

Q. Now, in light of all these events, all of which transpired prior to the break-in into Dr. Fielding's office, do you maintain that this was for any other purpose, other than to smear Dr. Ellsberg?

A. I certainly do, Senator. The point is that all through this period of time on the one hand the President of the United States is pressing for results. On the other hand, Mr. Krogh is reporting to us from within the White House that he can't get the F.B.I. moving and the Attorney General is corroborating to us directly what Mr. Krogh is reporting. Now, interestingly enough, it took three months for the F.B.I. to get around to putting that special case on priority or Class A designation on this case, whatever it was, and I think the fact that some 60, 90 days passed before the bureau would put that designation on the biggest raid in top secret documents in the history of the country has to indicate a certain amount of lassitude on the part of the F.B.I. up to that point.

Q. You have seen the memorandum of Aug. 26 [1971] from Dave Young to you. (With Egil Krogh in charge of White House unit) do you have that memorandum with you? A. Yes, sir.

Attack by Press

Q. Let's go to page 5. "In connection with issue (9), it is important to point out that with the recent article on Ellsberg's lawyer, Boudin, we have already started on a negative press image for Ellsberg. If the present Hunt/Liddy project Number 1 is successful, it will be absolutely essential to have an over-all game plan developed for its use in conjunction with the Congressional investigation. In this connection, I believe that the point of Buchanan's memorandum on attacking Ellsberg through the press should be borne in mind; namely, that the situation being attacked is too big to be undermined by planted leaks among the friendly press."

So you knew there was a

Figures in Senate Inquiry

Special to The New York Times

WASHINGTON, July 26—Following are the names of individuals who figured today in hearings by the Senate select committee on the Watergate case:

COMMITTEE MEMBERS

Sam J. Ervin Jr., North Carolina Democrat, chairman.
Herman E. Talmadge, Democrat of Georgia.
Daniel K. Inouye, Democrat of Hawaii.
Joseph M. Montoya, Democrat of New Mexico.
Howard H. Baker Jr., Republican of Tennessee.
Edward J. Gurney, Republican of Florida.
Lowell P. Weicker Jr., Republican of Connecticut.

COMMITTEE COUNSEL

Samuel Dash, chief counsel and staff director.
Fred D. Thompson, chief minority counsel.
Rufus L. Edmisten, deputy counsel.
Terry F. Lenzner, assistant chief counsel.
James Hamilton, assistant chief counsel.
David M. Dorsen, assistant chief counsel.

WITNESSES

John D. Ehrlichman, former White House adviser.
John Wilson, Mr. Ehrlichman's attorney.

PERSONS NAMED IN TESTIMONY

Bernard L. Barker, pleaded guilty in Watergate break-in.
Elliot L. Richardson, Attorney General of the United States.

Leonard B. Boudin, Dr. Ellsberg's attorney.
Charles D. Brennan, former assistant F.B.I. director.
Patrick J. Buchanan, special consultant to the President.
Richard Helms, former director of Central Intelligence.
Lieut. Gen. Vernon A. Walters, deputy director of the C.I.A.

John W. Dean 3d, former counsel to the President.
Dr. Daniel J. Ellsberg, a key defendant in Pentagon papers case.

Dr. Lewis Fielding, Dr. Ellsberg's psychiatrist.
L. Patrick Gray 3d, former acting director of the F.B.I.
H. R. Haldeman, former White House chief of staff.
J. Edgar Hoover, former director of Federal Bureau of Investigation.

E. Howard Hunt Jr., ex-C.I.A. agent and White House aide, pleaded guilty in Watergate break-in.

Henry A. Kissinger, Presidential adviser on national security.

Richard G. Kleindienst, former Attorney General of United States.

Egil Krogh Jr., former assistant to Mr. Ehrlichman.

G. Gordon Liddy, former White House aide convicted in Watergate break-in.

Mr. and Mrs. Louis Marx, parents of Mrs. Daniel J. Ellsberg.

Henry E. Petersen, assistant Attorney General who headed Watergate prosecution.

Maurice H. Stans, ex-Commerce Secretary who headed re-election finance committee.

David R. Young Jr., former White House aide.

press purpose to this break-in?

A. Well, I don't have a recollection of the memo itself. If you are asking me what I know about an express purpose of the investigation of Daniel Ellsberg, the object here was not to prosecute Mr. Ellsberg and, as far as I am concerned, not to persecute Mr. Ellsberg. The object here was to find out how it [the leak of the Pentagon papers] happened and to make sure within the Government that it did not hap-

pen again.

Now, with regard to the aspects and the public relations aspects of this Ellsberg case. I do know that there was in the White House a desire to air this whole thing once the facts were known and it was hoped that a committee of the Congress would pick it up and would call witnesses and would expose how such a thing could happen in our governmental system today where the treachery was within the Government, if it was, or the treachery was in the think-tank apparatus [Rand Corporation] if there was, and I am not suggesting there was, but whether there was, and who the individuals involved were, what their motivations were, and why this thing happened.

A Healthy Thing

So I don't question for a minute that there was under active consideration the possibility of fostering a Congressional inquiry into this, and I have to say it would have been a healthy thing if we could have had such a thing. But as far as the managements of that particular effort is concerned I am not your man.

Q. Do you acknowledge having received it [the Aug. 26 memo]? A. I see an "E" on it that is certainly very much my "E".

Q. And one of the questions raised in the memorandum says, "How quickly do we advance to bring about a change in Ellsberg's image?" A. That is footnoted to the material that you just read.

SENATOR MONTOYA: On July 21 you were quoted in an article in The New York Times as being in favor of releasing the tapes which are in controversy. Did you make that kind of a statement?

A. Well, I have had a lot of trouble with quotations in The New York Times, Senator, and that is one of them.

What happened there was that I gave a television interview to a fellow, you know they come out and sit on my lawn and as I come out in the morning it is pretty well unavoidable, and this fellow said something to the effect, "Do you have anything to worry about if these tapes get out?"

And I said, "No, I don't think I have anything to worry about. I didn't know I was being taped, but I don't think I said anything there that would, that I would be ashamed of."

And he said, "Well, then,

you think the President ought to release these?"

And I said, "Well, you know you have got to look at this from two standpoints, certainly from my standpoint I have no problem, but he has a much larger picture to look at."

Well, the word "certainly" is what carried on the wire, and the rest of the sentence didn't get carried, and so I saw the wire story and it

said, "Ehrlichman today in response to a question should the President release these tapes, said 'certainly'."

Well, what I said was in effect, "Certainly I don't have anything to worry about but the President has got a lot more worries than I have about the country and the separation of powers and his relationship with the Congress and so on."

Now, having just said that sentence, I will bet you The New York Times tomorrow says, "Ehrlichman says the President has a lot more to worry about than he does."

Q. Well, now, for two days we have been talking about a burglary here, the burglary that you justify as legal under implied Presidential constitutional power. You say that it was committed as a part of an effort to protect the security of our country. Many of us say this was clearly illegal.

Now, I pose this question to you. And I want to develop in my own mind a profile of the President and probe into his inner thinking. If the President or someone at the White House was willing to order this questionable covert action, why does not the President now take cognizance of a real threat to the presidency of our country, the erosion of confidence of our people, the internal institutional chaos that has set in, and now perform a really patriotic act, to bring stability to our country, perform a legal act by shedding the mantle of executive privilege and release these tapes and records to this committee so that the American people can have some light on the truth and put an end to the Watergate tale of suspense and tragedy?

Question for Nixon

A. Well, obviously, that is a question, Senator, that ought to be directed to the President rather than to me.

Q. Well, if you were chief

counsel at the White House or if you were acting in the role of assistant to the President for domestic affairs, and you were aware of the chaos that is setting in in this country with respect to the Presidency, and you were aware of other things, what would you advise him?

MR. WILSON: Mr. Chairman, may I—

SENATOR ERVIN: I believe that a proper question because—

MR. WILSON: May I suggest that I never like to answer iffy questions.

SENATOR ERVIN: Well, I never did like to answer iffy questions myself, but I think, counsel, Senators have a right to ask them, since the witness has gone afield and expressed opinions about the power of the President under the Constitution and I think since he was a lawyer for the White House at one time, and since he was chief domestic adviser of the President, I think it's all right to ask him what he would advise the President.

Mr. Ehrlichman: Senator, if I were asked by the President sitting there to approve this problem and give him a recommendation, I would have to know a great deal more about the elements of the constitutional law question that are involved, and then I know sitting here today. So one of the first things I would do, as had been my practice there is to draw on the very best minds that we could assemble from around the country, in and out of

Government, to advise on this subject.

Now I have no doubt that in this dispute that is precisely what he has done, although I don't know that of my own knowledge, I know how this man works. So that I would expect that he has drawn upon legal scholars, the best people in the Solicitor General's office and the Department of Justice and everywhere that he can find respectable views as to the relationship of the Presidency to the Congress under the Constitution.

SENATOR MONTROYA: I asking what you would say and not what the President would say.

A. Well, it would only be after a process of review like that I would be equipped to say. I feel very inadequate myself without the background in constitutional law. I could shoot from the hip and say were I sitting in the

White House my instinctive reaction would be to feel my obligation to preserve the institution of the Presidency intact. You see, we passed this torch of the Presidency from one man to one man and it is his job for an entire period of four years to maintain the integrity of and the viability and the constitutionality and the function of that office, and there is nobody else who is going to help him. The Congress is in the business of strengthening the Congress's prerogatives, and we have this constant adversary relationship that goes on between our branches of Government.

SENATOR ERVIN: Are you not telling us, in short, that you do not know what you would do if you had the responsibility and the power which you do not now possess?

A. I obviously, without a great deal of study and a great deal more expertise than I have, I would not feel competent to advise either the President or this committee.

SENATOR ERVIN: The only thing that I recognize [is] that art is long and time is fleeting, in our hearts though stout and brave, still like muffled drums are beating funeral marches to the grave. We have taken 10 or 15 minutes of this proposition.

AFTERNOON SESSION

SENATOR ERVIN: You spoke of the Kerner Commission and the Warren Commission. Both of these commissions were appointed by the president in office at the time of their appointment and both of them worked in public, did they not?

MR. EHRLICHMAN: Yes, sir.

Q. And in that respect they were unlike the plumbers who were appointed in secret and whose identity was kept secret from the American people.

A. Well, Mr. Chairman, first of all, their identity was not kept secret. It was the subject of newspaper stories.

Secondly, the reason that I cited you to the reports of those commissions was because they both discussed, or so my information is, they both discussed the use of psychiatric profiles with relation to United States citizens and, of course, one of them brought me to the realization that the Secret Service does conduct such an activity with

relation to United States citizens in aid of its protection of the President and the Vice President and others in trying to determine in advance who might be threats to assassination attempts.

So it goes to the point that you raised yesterday that such a technique would be illegal with regard to United States citizens.

Q. Well, was not the existence of the plumbers kept secret from the F.B.I., C.I.A. and other investigative agencies of the Government? A. No.

Q. Did you tell Mr. Hoover about them? A. Yes, sir, and we also told the Attorney General.

Q. But anyway, you spoke in derogatory terms of Mr. Hoover. A. No, I do not intend any deordination of Mr. Hoover.

Q. Well, you said he should have quit the office, that he did not know enough about surveillance, although he had spent his lifetime in it. A. I did not say that and I would not intend to say that, Mr. Chairman.

Different Ideas

Q. Well, you said he had different ideas about surveillance from what the White House had. No. Q. Well, you said he would not cooperate with the White House. A. What I said was that in a specific instance he had very fixed ideas about the degree to which the bureau should cooperate in this [Ellsberg] investigation.

Q. Yes. He had very fixed ideas when the President appointed Tom Charles Huston to devise him a method of having American citizens spied on, Mr. Hoover had the fixed idea that they ought not to resort to burglary, that they ought not to resort to the use of undercover military agents, that they ought not to resort to virtually unlimited surveillance, and they ought not to resort to mail cover, and that was stated by Tom Charles Huston in documents put in

evidence here about 15 times before the President approved those documents. So he did not cooperate.

I am going to say, to speak for his defense beyond the grave since he is not here. I call attention to the fact that Tom Charles Huston told the White House 12 or 15 times in documents recommending burglary, recommending the use of undercover military agents, recommending mail

coverage, recommending virtually unlimited surveillance. Twelve or 15 times he [Mr. Hoover] protested against the use of those things and yet the President approved them. And here in the very letter that he wrote to the man who had charge of the surveillance or the effort to get the record of the psychiatrist, here on Aug. 3, a month before the break-in, he said that "If he, Egil Krogh, if you concur we will proceed with interviews of all of the remaining individuals except Daniel Ellsberg."

And knowing Mr. Hoover's ideas, I think he made the exception because he did not make it a practice to interview people who were under indictment.

So there he was willing to cooperate and another thing, along about this time, as a member of the United States Senate, I was fighting the efforts of the Administration to get no-knock laws enacted, to get the detention laws enacted, to expand by executive fiat the powers of the Subversive Activity Control Board, and I was fighting against the proposition of being defender of the Department of Justice that it was all right to use undercover military agents to spy on civilians exercising their First Amendment rights.

Hoover Eendorsement

And about at that time I got a letter from J. Edgar Hoover, "You have indeed been one of the guardians of our liberties and protectors of our freedoms. All Americans owe you a debt of gratitude."

I don't offer that as any praise of myself but I offer that as evidence of Mr. Hoover's devotion to the basic rights of American citizens, the rights not to be burglarized, and I think that since he can't speak for himself that his documents ought to be able to convey his attitude. I can understand, having heard this testimony, about the Ellsberg matter, why you say that Mr. Hoover would not cooperate with the White House, and he was on the side of liberty.

Now, you testified that the plumbers attempted to get the records of the psychiatrist in order that someone of the C.I.A. or somebody else, might develop a psychiatric profile to enable President Nixon to determine for himself whether Ellsberg was some kind of a kook or was some kind of a foreign intelligence agent. Is that what

you told us?

A. Well I don't think it's a question of the President determining for himself, Mr. Chairman. I think this was an effort on the part of the special unit to do as they had done in other cases subsequently to determine where there were holes in either in the Federal Government itself or in the Rand Corporation or these outside units that would permit a person like Ellsberg and his co-conspirators if there were any, to steal massive quantities of top secret documents and turn them over to the Russians.

Q. Well, I can't harmonize with your statement to Senator Weicker that they were not attempting to get the psychiatrist's record for the purpose of assisting in the prosecution of Mr. Ellsberg, and that they were getting them in order that the President might satisfy himself on certain points.

Presidential Power

A. Well, the President, of course, is charged with the proper administration of the departments of the executive branch, the Defense Department, the State Department, the C.I.A. and the outfits like the Rand Corporation and others that contract with those departments, and they have possession of secret documents.

Now, when you have a situation like this one, and you have information coming in from the Justice Department that this individual is involved in a conspiracy, and you have the surrounding circumstances of the delivery of these documents to the foreign embassy, it is incumbent upon the President, as the executive of this executive branch, to satisfy himself that he has done everything possible to be sure that such a thing does not occur in the future, and in order to do that he has to be in a position to know what happened here. Now that was the process that was under way, and I think you will agree with me that that is a proper executive role.

Q. Well, I believe Congress set up the F.B.I. to determine what was going on in this country, didn't it? A. Among other things, Mr. Chairman.

Q. Yes. It set up the C.I.A. to determine what was going on in respect to foreign intelligence, didn't it. A. Yes, sir. Among other agencies.

Q. It set up the National Security Agency, didn't it?
A. And the Defense Intelligence Agency.

Q. And the Defense Intelligence Agency. A. And a number of others.

Q. But it didn't set up the plumbers, did it? A. Of course the Congress doesn't do every thing, Mr. Chairman.

Q. No, But Congress is the only one [that] has got legislative power and I don't know any law that gives the President [power] to set up what some people have called the secret police, namely, the plumbers.

Administrative Prerogative

A. The fact is that the President is granted constitutional powers to make sure these departments of the executive branch work properly and when you have a mistake or when you have a shortfall or when you have a grievous raid on secret papers like this one, the President would be very remiss in his obligation if he didn't move forward on it.

Q. In other words, the way to cope with this thing is to set up a burglar to catch a burglar.

Now, let me ask you one other question. Didn't you know very early after the June 17 break-in that \$114,000 of the President's money had been deposited, at least temporarily, in a bank account [of one] among the burglars, Bernard L. Barker?

A. I don't know that the President's money ever showed up in this.

Q. It was the proceeds of campaign funds that had been given to help elect the President, re-elect the President, don't you know that?
A. You mean campaign contributions?

Q. Yes. A. I see. Your term was not clear.

Q. Well, I will call it Nixon's campaign funds and maybe we can agree on that. Didn't you find out very soon after the break-in that \$114,000 of the President's campaign funds had found their way into the deposit account of Bernard L. Barker, one of the burglars caught in the Watergate?

A. Yes, sir. Without agreeing with the amount because I don't know the amount.

Q. Well, as a matter of fact, didn't you testify in a deposition in a civil case that on the 23d day of June, pursuant to the President's direction, that you discussed this matter of these funds being routed coming out of Mexico with General Wal-

ters? A. Yes, sir.

Q. Yes, and the President had talked to you about it. He asked you to do that, didn't he? A. No, he sent word to me through Mr. Haldeman.

President's Concern

Q. Did Mr. Haldeman bring you word and tell you it came from the President that the President wanted you to find out something about this, these Mexican checks?

A. No, sir, the thing that

Mr. Haldeman said to me was that the President had asked that he and I meet with Mr. Helms and General Walters to discuss the question of whether a full all-out vigorous F.B.I. investigation might somehow turn up and compromise some on-going C.I.A. activity.

Q. Wasn't it the activity directed to the Mexican checks. A. Not specifically. I also answered in that deposition that that subject arose at the meeting and was not a part of the instructions that came to me through Mr. Haldeman.

Q. Well, anyway, you had a meeting with General Walters on the 23d day of June. Just six days after the break-in. A. Yes.

Q. In which it became known that \$114,000 of the Nixon campaign funds had been routed, rather had to come into Mr. Stans's office in the form of three Mexican checks, or four Mexican checks, and that the proceeds of those checks had been deposited in the bank accounts of a burglar in Miami.

A. I am sure that those kind of elaborate details were not discussed.

Q. Well do you know of any other campaign funds of the President, or campaign contributions that were routed into Mexico? A. Not of my own knowledge, no sir.

Q. The President was afraid that if the F. B. I. vigorously investigated these checks, it might interfere with the C. I. A.? A. The President was concerned, he told me later, that the all-out F. B. I. investigation might compromise some C. I. A. activity in Mexico. And the way the F. B. I. was leaking that would be the surest way for that C. I. A. activity then to appear in the nation's press.

Possible Explanation

Q. And it might also explain how come \$114,000 of the proceeds of a campaign contribution to him was found in the bank account of a burglar if they pursued that in investigation?

A. Well, Mr. Chairman, your inference is very unfair. Because in point of fact the President's instructions to the F.B.I. were to conduct a totally unlimited all-out full-scale investigation of that and every other aspect of this Watergate matter and that Mr. Gray and Mr. Gray alone was to determine the scope. That the President would not limit that scope at all.