

'A Heartbeat Away'

The Agnew Deal Is Complete: Vice President Pleads, Quits

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When Ted Agnew spoke, everybody—friend and foe—got the message. And so it had been with his Los Angeles tirade against the Justice Department and Assistant Attorney General Henry Petersen. Among those who got the message most clearly was the President of the United States. He was outraged.

The brutish rhetoric of Ted Agnew was fine when it was directed at an 'effete corps of impudent snobs' or at 'rotten apples' to be discarded lest they spoil the whole barrel—two of Agnew's more infamous characterizations of Nixon's critics in 1969. But when that rhetoric attacked the President's own official family, by inference it attacked him. Nixon already was under criticism for seeming to stand blithely by as his Attorney General pressed for an indictment against his Vice President while Agnew ran off to the Hill for relief. This was a strange sort of leadership. And now, remaining silent in the face of Agnew's public slap at his Justice Department and at

his favorite, Petersen, Nixon looked like a marshmallow, and he knew it. Going after Petersen as Agnew did was Agnew's fatal mistake, and he was about to find that out in unmistakable terms.

On Oct. 2, President Nixon delivered

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a message to Agnew—publicly. He called a rare informal press conference in his office, and, while saying he regarded Agnew's decision not to resign even if indicted "an altogether proper one," Nixon characterized the charges against Agnew as "serious and not frivolous."

Most significantly, he defended Hen-

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ry Petersen. Asked if he was still supporting Petersen's handling of the investigation, Nixon said if he were not, "he would have been removed at this time. But it would be a disservice to an individual who has served both administrations with distinction for many, many years to remove him from handling the investigation, unless there was clear evidence that he had been guilty of indiscretion." Richardson had assured him, Nixon reported, that there was no such evidence to support Agnew's charges, especially on the matter of leaks.

It was in an atmosphere of general pessimism and desperation that Agnew's plane arrived in Chicago for what has been billed in advance as another Agnew bombshell. The Agnew party arrived in early afternoon, and for an hour in suite at the Drake the Vice President conferred with W. Clement Stone, the man in charge of the Agnew legal defense fund. Stone, who had acknowledged contributions of \$2.1 million to the Nixon-Agnew ticket in 1972 and who was not a bashful man about hard-money figures, would only say afterward that he was getting "a response in volume" for the Agnew legal defense fund from all parts of the country. Actually, Justice

Department sources learned later that a phone bank to receive pledges had generated only \$310 in a week! (Later, individuals close to the defense fund said about \$40,000 eventually had been raised.)

Presumably this gloomy result was conveyed to Agnew, who by now doubtless was toting up the pluses and minuses of his fight to stay in office and finding himself in the red in nearly every column: The government had the goods on him; the impeachment route appeared to be shut off; the public plea bargaining in Los Angeles had created neither a groundswell of support nor a whipped Attorney General coming to him with a softer deal.

And money to fight in the courts—money was a factor always in Ted Agnew's mind—wasn't coming in, either. Internal revenue agents were all over the countryside, tracking down his spending habits practically down to the last nickel. His attempts in court to fight indictability were about to be undercut by strong justice briefs already in preparation. There was the national interest to be considered, and the peace of mind of his family. Agnew made these points himself in conversation with his lawyers. And finally, there was the threatening pressure from the President: Lay off scapegoating and demagoguing administration officials, or take the consequences.

Agnew spoke that night in the Imperial Ballroom of the Conrad Hilton to a full house of party faithful, who were expecting a ringing defense of himself and a renewed attack on his adversaries. The theory of "phased escalation" held in the Justice Department suggested that Beal, Skolnik and Company might be next, but instead, the Vice President suddenly went bland. Usually all business on the speaking platform, uttering some of the most incendiary rhetoric in the annals of political oratory in a flat, unemotional style, Agnew seemed this time to some of the reporters to be downright gloomy, worn-out and distracted. At the outset, the Vice President turned his gaze to the national reporters who are gathered for the anticipated fireworks. "Tonight is not going to be an X-rated political show," he told them. "It's just going to be PG. So if you have to go someplace, go. A candle is only so long before it burns out."

The opening scene for the final act in the plea bargaining that cost Spiro Agnew the vice presidency took place on Oct. 8, 1973, in Room 208 of the Olde Colony Motor Lodge in Alexandria, Virginia, just across the Potomac River from the capital. The lineup for Agnew was Jay Topkis, Martin London, and Judah Best; for the government, Harry Patarsen, George Beall and Barney Skolnik.

The Justice team met with Richardson before going over to Alexandria and received its instructions: To pre-

sent the agreed-on package to U.S. District Court Judge Walter E. Hoffman—the *habeas corpus* plea to one count of tax evasion, coupled with the government's full-disclosure statement plus Agnew's statement. They were to advise the judge that Justice had no recommendation on Agnew's request for a sentence of no jail.

The next morning in Washington, Richardson discussed again with Petersen, Beall and Skolnick several points while they waited to hear whether there would be another meeting with the judge. Agnew's lawyers called Richardson to say that they wanted no mention in the summary statement of The Close Associate by name. Skolnick said that would be no problem. But more important, was it in the Justice Department's interests to join Agnew's lawyers in asking Hoffman to indicate in advance whether he would go for a no-jail recommendation? Richardson saw no reason why not, but Skolnick said it was important that Hoffman see the seven-page summary of evidence before he decided. There was always the danger that if Hoffman agreed to no-jail first and then saw how much evidence of offenses other than tax evasion there was, he would scrub the arrangement as being too soft. Richardson agreed, and it was decided too that Hoffman should be asked to read the summary if he pressed again for the department's recommendation on sentencing.

Soon Topkis, London and Best joined the group to discuss outstanding questions before meeting with Hoffman. The major item was again the no-jail recommendation. Before he would even consider it, Richardson said, he had to have the Agnew side's agreement again to a full disclosure of the facts as drawn up by the Justice Department. Topkis said that they wanted to see all 60 pages before they went into court; Richardson said they would, when a bargain was struck, but it was non-negotiable. The Justice Department was going to put whatever it wanted into that report, so the government's full case provable at that time would be on the public record.

As for a no-jail recommendation,

Richardson said he had informed the Agnew lawyers at the time the first round of plea bargaining broke off that if a government recommendation were crucial, he would make it, but he had to be satisfied that the judge really required it. Hoffman had been ambiguous, so this time he would attend the meeting with Hoffman himself. Although there were disagreement within the department about such a recommendation, Richardson said, he would make it if the judge demanded it, on grounds that the public interest was best served by avoiding a constitutional crisis through a drawn-out trial or impeachment proceeding.

It turned out that Agnew wanted to avoid not only jail itself, but also a suspended jail sentence of humiliating probation. Topkis asked Richardson also to recommend against these, but Richardson said that would be up to the court to decide. But, protested Topkis, these were so important to Agnew that failure to receive assurance on them could wreck the whole deal. Richardson would not budge, and the Agnew team finally let it go at that.

Topkis argued that it was not in the national interest to trot out accusations of improper behavior in the vice presidency, and besides, it might be ruled inadmissible since the rest of the case concerned payments based on contracts granted when Agnew was governor. Richardson refused to delete this reference.

Topkis also asked that specific amounts of income Agnew received in the various payoffs not be mentioned because there would be trouble with the Internal Revenue Service on collection of back taxes. Petersen said the Tax Division would insist on it. The figures stayed in. But Richardson did agree to cut out some less important charges in the seven-page summary.

That was the deal. Topkis asked for a complete scenario in advance of what would occur at the arraignment. He also wanted the requirement for a mug shot and fingerprints of the defendant be waived. Best asked whether the summary could be ready by midnight. Skolnick said he doubted it. The arraignment was set for 2 o'clock the next afternoon.

At 2 o'clock, the same group that had met with Hoffman in the motel the previous evening, plus Richardson, now gathered. (The judge had come in unnoticed through the basement.) All parties shook hands with the judge and with each other. Hoffman sat at the head of the conference table.

Again Agnew's lawyers and the Justice teams lined up facing each other. The Attorney General waited until everyone was settled and then he began.

He told Hoffman that he had met with Agnew's lawyers again and had reached more complete agreement on points previously unresolved. He asked Agnew's lawyers if they agreed that he give Judge Hoffman the seven-page summary of evidence, and they said yes. Hoffman said he knew nothing about the evidence except that he had read in the newspapers that it concerned kickbacks. He said he also didn't know whether the government would be making a specific recommendation on sentencing, but in any case it was his responsibility. He had written articles urging harsh treatment of public officials guilty of tax evasion as an example and a deterrent, and he knew they could be thrown back at him if he broke with past practice. But he also was aware that a more important question of the national interest was involved.

Richardson, as Topkis had suggested, then asked the judge whether he might infer that a recommendation from the government would be not only appropriate but would be given substantial weight. A true plea bargain, Hoffman replied, should include an agreement on sentencing. Richardson took up the invitation. The issue of disposition, he said, was peculiarly difficult for the government. There were co-defendants who had cooperated, and the government's evidence against Agnew was very compelling. Also, the government lawyers were split on whether Agnew should be sent to jail or not. In these circumstances, he said, the department felt that if not called upon to help the judge decide, it would not be so. But he inferred a recommendation would be helpful to the court and so he prepared to make one.

Hoffman said it would indeed be helpful if Agnew were just another lawyer, all things being equal, he would probably give him a split sentence—some time in jail and some time on probation, because he had a strong feeling that lawyers and other professional people convicted should serve some time as a deterrent to others. Income tax payment worked on an honor system, Hoffman observed, and he could not recall having let any experienced lawyers, accountants, or other qualified tax-preparers off with only probation and a fine.

This was his attitude, he said, without having looked at the summary of evidence, which he imagined would not be too complimentary to Agnew. It

might show some non-tax evidence, he guessed, but he could not take that into account because this was solely a tax case. By the same token, he had read Agnew's statement, and the defendant could say whatever he liked, but his denial of the other charges carried no more weight in the tax case than did the government's non-tax charges; it was all for public consumption.

Clearly, Hoffman said, no long-term sentence would be appropriate. He wanted neither to punish nor to favor Agnew because he was Vice President. He was trying to look at the case as if the defendant were an ordinary citizen, but Agnew was also a governor at the time in question and a qualified lawyer. As a judge, he had written an important article for the instruction of new judges on the subject of equal treatment, and it was going to be very difficult for him to depart from his prior stated principles unless a great national interest required it. If the parties were going into a public courtroom, he said, he would certainly ask if the government had a position on sentencing.

Hoffman was being moved close to a decision on no jail, and Richardson deftly eased him closer. It had been suggested by Agnew's lawyers that the judge might be willing to indicate in advance, in camera, what his decision would be, and the government agreed this was important to do. The Vice President, Richardson said, should not have to be brought to a public court proceeding and obliged to enter a plea under circumstances that might later persuade him to withdraw it. In this situation, the Vice President did not stand in the shoes of a normal citizen. If the course negotiated by the parties were to be pursued into open court, he said, they should know in advance that the course would be run to completion.

Well, Hoffman replied, he had indicated what he would do without a recommendation. He was doing a little pushing himself, evidently, and Richardson was willing to waltz. Yes, he said, the government's evidence pointed to acts by the Vice President in previous capacities that constituted serious wrongdoings, and there even had been a carryover of the payoffs into his tenure as Vice President. He himself, said Richardson, as a former U.S. attorney and state attorney general, would normally recommend a jail sentence. But he felt it necessary to keep in view that the Vice President stood in immediate succession to the

President and had to be prepared to assume the Presidency at any moment.

Hoffman said the Attorney General's recommendation would be given great weight in his decision. All parties to the deal would be taken to task by the public, he warned them, but as long as the whole matter was on the record, that did not matter. Before he came to the meeting, the judge confessed, he had made up his mind to say that unless there was a strong recommendation from Beall or Richardson based on the national interest, he was going to treat Agnew as if he were a run-of-the-mill lawyer.

After the meeting, Richardson, Beall, and Skolnik adjourned to the attorney general's private office to prepare for the next day's arraignment. It was agreed that Beall and Skolnik would return to Baltimore, help Baker and Ronald Liebman finish taking statements, and write the summary of evidence. Richardson and Petersen said they would drive to Baltimore to read the final draft when it was ready, before dispatching it to Best's office. Skolnik dictated a draft of a letter for Topkis to sign, acknowledging the draft was being shown to him merely to verify it was only an amplification of the seven-page summary.

While the Justice team was making its final preparations, Topkis, London and Best returned to Agnew's office in the Old Executive Office Building to convey the news to the Vice President that the deal had been struck. From about 6 o'clock until about 7:30 that night, Agnew composed his resignation and a letter to the President. Only the lawyers, Art Sohmer, and Mike Dunn, were present with him. The Vice President's secretary, Mary Ellen Warren, typed both letters, and arrangements were made to deliver the resignation to Secretary of State Kissinger. Through all this, Agnew remained cool, dignified, restrained.

These last, tragic documents having been written, the Vice President of the United States left his office, walked out of the building and across the way to the White House. Spiro T. Agnew, proud, erect, trim, was admitted to the Oval Office, where he personally informed the already beleaguered President of the United States that he would have one less burden to bear.

At the White House, the customary exchange of letters between a resigning official and a grateful President was disclosed. Agnew had written:

Dear Mr. President:

As you are aware, the accusations against me cannot be resolved without a long, divisive and debilitating struggle in the Congress and in the Courts. I have me and to my family, it is in the best interests of the Nation that I relinquish the Vice Presidency.

Accordingly, I have today resigned the Office of Vice President of the United States. A copy of the instrument of resignation is enclosed.

It has been a privilege to serve with you. May I express to the American people, through you, my deep gratitude for their confidence in twice electing me to be Vice President.

Sincerely, Spiro T. Agnew.

Nixon, who had wanted Agnew out and the quicker the better, replied:

Dear Ted:

The most difficult of decisions are often those that are the most personal, and I know your decision to resign as Vice President has been as difficult as any facing a man in public life could be. Your departure from the administration leaves me with a great sense of personal loss. You have been a valued associate throughout these nearly five years that we have served together. However, I respect your decision, and I also feel a national interest that led you to conclude that a resolution of the matter in this way, rather than through an extended battle in the courts and the Congress, was advisable in order to prevent a protracted period of national division and uncertainty.

"As Vice President, you have addressed the great issues of our times with courage and candor. Your strong patriotism, and your profound dedication to the welfare of the Nation, have been an inspiration to all who have served with you as well as to millions of others throughout the country. "I have been deeply saddened by this whole course of events, and I hope that you and your family will be sustained if in the days ahead by a well-justified pride in all that you have contributed to the Nation by your years of service as Vice President.

Sincerely, Richard Nixon

It was all so courteous, so friendly, so tidy—and so final.