

Watergate Indictments of 3/1/74

HW, begun 5:35 a.m. 3/2, prior to seeing Post

In reviewing my early WG notes I found cases of news that could be controlled breaking for the weekend, when possibilities of follow-ups were reduced if not eliminated.

The first indictments, after months of stalling, were returned on a Friday, 9/15/72.

These, clearly ready and being held until the Mitchell-Stans NY jury was sequestered, could have been held over the weekend but were not. The consequences in press treatment are recorded in my today's postscript to my last night's letter to John Lindsay, Newsweek.

Weekend staffs are skeleton staffs on the media and on TV oriented around the talk and interview shows. The regulars on the WG stories are off, the news shows considerably fewer and even with what is not apparent, the best of intentions and diligence in pursuit of the story, the possibilities of airing are enormously diminished. This is one of the means by which attention to the text of the indictments - what is included and what is excluded - is effectively reduced.

In this connection, particularly because of the story reported to be in today's Post, that he prevented the grand jury's inclusion of an indictment of Nixon for obstructing justice, my old Jaworski files and my recent notes are relevant. Here is one of those real delicate areas for which he had to save himself when he inherited a staff that could revolt and the work it had to the time of the Saturday Night Massacre completed or had well under way.

I think it can be argued that whether or not the Constitution permits criminal indictments of a sitting President is a matter for the courts to decide, not a Presidential appointee. I think there is no doubt that had an indictment of Nixon been presented, the pressures on the Congress would have been greater. And does it need them!

All the 6/20/72 tapes disappeared precisely because they would prove that Nixon did obstruct justice and did sit in on plans to do it. If nothing else explains his steadfast support of his Berlin Wall, this does for they were involved in it with him (CONFIDENTIAL) beginning with Gray's 6/19/72 conveying to Waldeman of a summary of what to that point the FBI had developed. It was all that was necessary, including on Hunt. (JDW-Included in the excerpts of Gray's Judiciary testimony I sent you.)

Once again the indictment are used as a means of suppression. From the reporting of them on radio and TV they seem to be limited to part of what could not be avoided in the Ervin hearings. How they could escape indicting Gray, for one of many examples, is not apparent. He did confess destruction of evidence and it is but one of the crimes he did commit.

These indictments protect Nixon. The March tape about the million simply could not be avoided or there would have been revolts, grand jury and staff. But they are part of that story only and a minor part. It begins with the disappearance of the 6/20 tapes, all of them, including of Nixon's dictated notes and his call to Mitchell, even if there was no tape because he used a phone he knew was not automatically taped. He left one that was, from his own account, to make that call.

All of this gets to what is in someone's mind, an area of uncertainty at best. It can be addressed by reading Jaworski's letter to Rankin after Jaworski consulted with Hobby over the Hudkins story of months earlier.

And in this connection the charges in the indictments relating to CIA have to be read with care. They seem to be limited to efforts to involve the CIA, inference unfairly or unjustly. Well, there is more than enough to indict Helms, Cushman and Walters, all at least for perjury and I believe for obstructing justice because they did offer to do precisely this.