

Nixon... 'I Began Inquiries'

Last of a Series

Meeting between President Nixon and Assistant Attorney General Henry Petersen, Oval Office, April 17, 1973, from 2:46 p.m. to 3:49 p.m.

Steward. Mr. Petersen.

P. Right.

P. All right—he can come in.

Steward. Have him come in now, sir?

P. Yeah.

P. Hi.

HP. Mr. President, how are you?

P. Sit down, sit down.

HP. Thank you, sir.

P. (Inaudible) meeting—in the middle of the night for a change. The, ah, anything new I need to know?

HP. No, sir, ah—

P. Don't. As a matter of fact, I don't want you really to tell me anything out of the grand jury unless you think I need to know it. If it corroborates something or anybody here I need to know it. Otherwise I don't want to know about it.

HP. No, sir.

P. That's good, because I find—incidentally, if I might—I don't think I like—for example, I haven't been in touch with John Mitchell but he might call me sometime and I don't want to be a position of ever saying anything, see?

HP. Well, I understand how you feel—it's a—

P. I guess it would be legal for me to know.

HP. Well yes, I think it is legal for you to know.

P. Is it? Well, but don't do it, right. The problem that concerns me some there (inaudible)—I did see Rodgers last night as you know—

HP. Yes, sir.

P. I wanted to get an independent judgment on this when I was talking (inaudible).

HP. He is an admirable man.

P. Able fellow—was a fine attorney general, and so forth. I gave it all to him with the bark off and (inaudible). And, his views are somewhat different from yours and I am sure you would respect them—perhaps mine as well—because it is a tough call.

HP. Indeed so.

P. I might say somewhat different—I don't mean in terms of where you come out eventually—

HP. I understand.

P. But in terms of timing, and so forth, and so forth. First there is a problem of—Oh—which I don't want you to get in the wringer on this but, the leaks from the grand jury—you remember I have already mentioned that to you before.

HP. Yes, sir.

P. I think you have to know that Dean has talked very freely to Mitch-

ell.

HP. I am sure that's so.

P. And Mitchell, of course, is—I can imagine, I don't know, but I think you should know that. Whether he has talked to others about that, I do not know.

HP. Well, he feels a very close personal relationship with Mitchell. I am almost positive of that—

P. The point is I think you will have to assume that Dean in this period, who was basically sort of in charge of it for

the White House (and the rest of us were out campaigning traveling, so forth, so on) will probably have told people that he has information from the grand jury. Now you just have to evaluate that yourself. I just don't want the Department of Justice, and you particularly, after your, ah—the way you have broken your—

HP. Mr. President—I am sure that is so.

P. I don't want to get embarrassed, see?

HP. I have no concern about that.

P. After the pumping of Rogers—I am not enough of a criminal lawyer to know enough about it—but Rogers was greatly concerned about the leaks from the grand jury. He asked me that—he said—

HP. Well, two things are occurring—one, Magruder is talking. Magruder is going around trying to make peace with each—in other words, he will come in to me and say, look, I am in this bind and I have to testify and there is nothing I can do but I got to tell the complete truth about the others but with respect to you I am doing the best I can.

P. Yeah.

HP. Which is the pitch he is making, now—

P. You've talked to?

HP. We have talked to his lawyers about that. With respect to Dean—it doesn't surprise me that he has gone to Mitchell. He's, he's—

P. Understand what I am driving at?

HP. He's probably getting information from the grand jury.

P. What I am concerned about is leaks and leaks from the grand jury, not now but leaks during the period—the summer.

HP. Oh, oh yes.

P. That's the point—during—June, July, August, September, and so forth that is the point that I mean, that a—

HP. I don't think that is a critical problem so far as I am concerned, Mr. President, for this reason—

P. See we don't want—after all this agony—I don't want the—well—the

man that I'm relying on to be in any kind of a (inaudible) position.

HP. Mr. President, I don't to be in that position.

P. Well no, you've got your life (inaudible) ahead.

HP. Let me tell you—when I spoke to Dean and I for example, am not going to, I'm not worried about this, I—

P. I just want to be sure that—

HP. Well, let me make three points—when I say this, and it's almost awkward to say this—

P. That is why Rogers for example is recommending a special counsel—

HP. Right—

P. He is very much afraid that anybody who has been handling the damn thing up to this point is going to have somebody—

HP. Well, there, ah—

P. (Inaudible) fell about that?

HP. Well with respect to John Dean—it is almost awkward to say it—my conversation with Dean touched upon three things: (1) leaks—which frankly I tell you I don't take very seriously see what I mean—that's part and parcel of the Washington business.

P. Yeah.

HP. (the second) was Dean's personal involvement—that is to say—

P. What did he do.

HP. Well we didn't suspect him, but what did he do with respect to the securing of the equipment and records in Hunt's office in connection with the motion to suppress where he was a potential witness for the defense on the motion to suppress. And the third was status reports—now from those status reports, I spoke to him in terms of ultimates. Magruder was a good witness in his own behalf. Magruder—the grand jury didn't believe what he said about the money—but not the testimony itself—the result of the testimony. So I don't have any problem—

P. That as no problem of (inaudible)?

HP. No sir, and I can disclosure to an attorney for the government in the course of my work. Dean was in addition to counsel for the president, obviously an attorney for the government—and there is not anything improper in that.

P. Right—well good, I am relieved to hear that.

HP. Now, politically if someone wants to say—as they said to Pat Gray—you shouldn't have been talking to John Dean. Well, there is no way out of that.

P. You see that is why I am raising the point.

HP. There is no way out of that.

P. That was perfectly proper for Pat Gray to talk to Dean you know—as a

matter of fact, it would be improper for him not to . . .

HP. Indeed.

P. . . . Dean was running the investigation of the damn thing and I certainly expected him to get all of the FBI information he could.

HP. Yes.

P. What the hell is the FBI for?

HP. That's right. You know—I don't—

P. Gray got a bad rap on that.

HP. I don't think that—that's demagoguery I think I don't take that seriously.

P. That's right—quite right. The second point is that with regard to our statement now — the one we talked about yesterday—I am working on it today—I don't know whether I can get it ready— for probably this afternoon—but I will give you a call if I do have one. I have decided—I want to tell you—roughly it is sort of like the one we worked on yesterday—but also covers the Ervin committee, too. We worked out a deal with them now where everything on executive session, no, everything on executive privilege we have in executive session.

HP. Right.

P. The right of executive privilege will be reserved and all witnesses will appear in public session—that's the way the deal was signed. So they will take all of our people in executive sessions, discuss matters—you know like they bring the judge brings the lawyers around the bench.

HP. I understand—yes, sir.

P. Does that sound like a good procedure to you?

HP. Yes, sir—I've only got one reser-

See TEXT, A20, Col. 1

TEXT, From A19

vation and we alluded to this earlier in connection with the Magruder plea, and that is whether or not Senator Ervin will be willing to hold off public sessions that might interfere with the right of fair trial for the others.

P. Well, you and I know it shouldn't but I mean my point is I've got to say our (inaudible) should work for the (inaudible) at the White House on it, but that is your job.

HP. Ok. Just so there is nothing (inaudible) with it.

P. I don't want the damn Ervin committee to go forward—

HP. All right. Okay.

P. I thing frankly if I were Mitchell I would be praying that the committee did.

HP. Yeah. It gives him delay if nothing else.

P. Correct. Delay! If the committee gets up there and they will splash a lot of this—I mean McCord and all the rest in there he's sure to get a change of venue for one thing. Secondly, the thing that he'd be (inaudible) of these days, seems to me, venue

is the television and the rest, it's, ah, I think the Erving committee would be highly irresponsible to move forward.

HP. That's right.

P. (inaudible)

HP. That's right.

P. So they should drop the committee investigation the day the grand jury took it up seriously.

HP. Well, your accommodation with the committee makes my job much easier now.

P. Good—how's that? Because—

HP. Well, I think he would have been very suspicious if I had gone up there and there was still the possibility of some confrontation between you and he.

P. (inaudible)

HP. No, because we still haven't gotten the assent from—

P. Sirica?

HP. Well, not only Sirica but Magruder's lawyers—we are still waiting for them to come back.

P. It takes a long time.

HP. Yes, sir.

P. Now with regard to my policy, I think you should know I thought it over a lot—where we come out in the end we shall see, but can be sure Haldeman, Ehrlichman . . . Dean naturally will have to go because he has admitted very deep complicity. Right? There will be no question about it.

HP. I don't think that . . .

P. Haldeman and Ehrlichman at this point had (inaudible) with Rogers—I not only let him read what you had given me but then I elaborated everything I knew about this thing. His judgment is this that on Ehrlichman it is a very thin (inaudible)

HP. Very thin, indeed.

P. Never going to (inaudible)—he said particularly he said if they have any witnesses for the fact that he handed a packet to the director of the FBI and Hunt didn't leave the country (inaudible) discussions, I don't know—I am not trying judge it—but—

HP. No, I understand—I agree that it is very thin—

P. They better have a damn lot more than that or they are not going to get Ehrlichman—

HP. That's right.

P. On that—they may get him on something else. And the other point was, that you made, was Dean said that he had talked—that Liddy had told him everything on June 19th. You remember?

HP. Yes, sir.

P. Do you know when he told Ehrlichman?

HP. No, sir.

P. In California after Ehrlichman had been there in March—February?—in March.

HP. Dean told Ehrlichman then?

P. That's right. So, it is a curious thing, as to Gray's concern to me. I said Dean hasn't told you he didn't tell him ahead of Ehrlichman but I mean that he didn't run right over

and tell him.

HP. No, no—

P. The point that Dean conducted his investigation and did not come to Ehrlichman and say "Look we have to go on Mitchell" because that's what that was really about.

HP. Yeah.

P. Liddy had involved himself and subsequently said Mitchell and Magruder. That's what I understand to be the truth of the case.

HP. Well what Libby in effect said was — what he admitted was that he was present at the Watergate — Dean already knew from prior dealings that Liddy was involved; you see?

P. Oh, I see — present at Watergate?

HP. That's right.

P. Oh, I thought he also — I thought you said — He told everything — that you had copies of everything —

HP. Well I think that is correct. He probably filled in the details but you recall at least from the meeting in February in Mitchell's office, Dean knew what Liddy was up to.

P. Yeah.

HP. Because he had come back to Haldeman and said we should —

P. Yeah —

HP. Not be involved with that —

P. That's right — with that — (expletive deleted)

HP. That's right. That's right.

P. (laughs)

P. Which makes it more credible when you use all salty words,

HP. Laughter.

P. Ok now — this brings us to a basic command decision with regard — with regard to what you do about White House people. The main things is (inaudible) and you can look at it in terms of the fact that anybody who this touches should go out — without — (inaudible). You can look at it in terms of the fact that that if it touches them (inaudible) that clearly apart from whether or not anything legal stands up. Let's suppose just take Ehrlichman is a case in point — that this thing brought in by (inaudible) that proves to be (inaudible) don't get anything else on Ehrlichman then the question is that nevertheless that in itself would raise a cloud over Ehrlichman. That would mean that he would be no longer be useful. Therefore, your advice — on Sunday or least it was now — sack Haldeman, Ehrlichman and Dean now — all three — because in the one case Dean should know he has admitted complicity — in the other case there is a possibility of charges which may not be true and which may not be indictable but which from the standpoint of the public will so involve them that it will cut off their legs. And let me say — I understand the point as well — the only thing is the question of how and when you do it and as that I (inaudible). And so I

President: The Watergate mess.

Rogers: When it's finished—

President: I'll be here, all along, Bill. The jury indicts, moves. We're going to get on with this country. A lot of people in the country, we may find, they feel the President is going the best he can in the damn thing. If I had wanted to cover-up — they probably think the President can coverup. If I wanted to, I sure haven't done it very well, have I?

have decided to handle each on an individual basis — and by that I mean that our policy generally will be that anyone who refused to cooperate will, of course, be sacked immediately. Anyone who is indicted at this time will be put on leave — indefinite leave — until he is tried. You don't — that is our system. Now, if you indict somebody, I will then put them on leave indefinitely which means he is out of a job — he'll have to go. What would happen in that instance I think, of course, is that most of the people that are involved here would resign immediately so that I am just saying —

HP: I understand

P. That the least of the (inaudible) is that you are going on leave — the guy says — oh hell no, I can never come back after four or five months of trial. That's what we would say at this point. It gives them a chance. Now comes the grey area — if any charge is made publicly — you see — I don't mean in the Washington Post or the Los Angeles Times but I mean publicly by Magruder in open court — any charges are made (not released by the Grand jury) publicity which corroborate in any way against anybody of the White House staff then he will be asked to take leave also.

HP: Umm — UH

P. Then, of course, what will happen probably — I would predict — I know — they will come in and resign. I mean they will come in and say, look I can't do my job so I am going to go. But what I mean, the point is — my position is — indictment means — well, ah — failure to cooperate — you're fired; indictment means you are asked to take leave until you are

cleared. Then, the individual will say "I can't do my job" if he is a top individual, or if it is a secretary, for example —

HP: Oh, yeah, I understand.

P. (Inaudible) — The big three — Dean, Haldeman and Ehrlichman — and third, in the area of charges — charges are made — what I am thinking of here is Magruder — Magruder goes into open court — as I understand what will happen is you make

a statement in open court which will name Mitchell for sure. —

HP: Well —

P. And might name Haldeman and might name Ehrlichman. Right?

HP: Well what we propose to do is file a one count conspiracy indictment that would name Magruder and unindicted co-conspirators.

P. And put their names in the indictment?

HP: Yes sir.

P. Unindicted.

HP: Co-conspirators. Then when the court questions the defendant with respect to the facts that reflect his guilt, Magruder then would be expounding on the indictment and in effect stating what the evidence was.

P. On the unindicted co-conspirators this is Magruder—but that would be on the Watergate side — that would be both before and after. Magruder is mainly before on this —

HP: Well he is also involved in the obstruction.

P. He is. Fine, then he is —

HP: Because he perjured himself before the grand jury —

P. Yep —

HP: ... at the suggestion of others.

P. So what you would have on Magruder you would say we hereby indict Magruder and the following unindicted co-conspirators which means that an unindicted (explain to me what unindicted co-conspirators means).

HP: That just means that for one reason or another we don't want to charge them at the time. For example, I am indicted — you're named as an unindicted co-conspirator. You are just as guilty as I am but you are a witness — we are not going to prosecute you.

P. I need to know that because ... (inaudible)

HP: But all those people that we name—we propose to name only to the extent that we feel we can corroborate. The one thing we can't afford to do is to name, for example, John Mitchell and then come up six months later without enough evidence to nail him.

P. Or for that matter — Ehrlichman.

HP: That's right.

P. Or Haldeman or anybody else —

HP: That's right —

P. In other words, you are going to

put in there people you know you can indict.

HP: That's right. Now —

P. Well then I'll (inaudible)—I can consider that a charge?

HP: That's right.

P. That's right — in other words, if they're in that I would then say — anybody that was an unindicted co-conspirator would then be immediately put on leave.

HP: It would ...

P. Get my point?

HP: That's right.

P. That's what I'll tell them I will do. Now the other thing I want to tell you thought that — and I say this strongly — I have thought about it a lot — I don't care what you do on immunity to Strachan or any other second people but you can't give immunity to any top people — not Dean — needless to say you don't want to to Haldeman or Ehrlichman. Dean is the counsel to the President — after the flap with Gray — I went over this with Rogers — he says — after your flap on the Gray thing and the rest — it would like that you're ...

HP: Right—you know why I asked—

P. I just want you to know that if you give immunity but I will have to talk (inaudible).

HP: OK, well, let me put it this way, I will not do that without your knowledge. If it is necessary for me to do that I will come to you first and then we can reach an agreement that yes you will have to disavow it and that was the decision of the prosecutor. I don't want to make that decision, Mr. President. I don't want to immunize John Dean; I think he is too high in the echelon but — it's a —

P. The prosecutor's got the right to make that decision?

HP: Yes, sir —

P. You better, I think ...

HP: ... The point of it is, if it comes to a question of —

P. I think it would — look — because your close relationship with Dean — which has been very close — it would look like a straight deal — now that's just the way you've got to figure it.

HP: That's right.

P. The prosecutor has to go to know—I can say as far as the President I'm concerned if John Dean gets (inaudible) then I don't care — but Ehrlichman, Haldeman and all the rest (inaudible) why the hell did we give him immunization and not the poor damn Cubans? It just doesn't sound right.

HP: Right.

P. It doesn't sound right — it isn't going to sound good for you — because of your relationship — it isn't going to sound good for the President.

HP: Ah, well I hope we don't have to do that — I would rather have a



plea to a lesser offense by Dean. I think too that it's going to look awful. We are in no disagreement on that at all.

P. It would look awful, it really would, particularly . . .

HP. The thing that scares the hell out of me is this suppose Dean is the only key to Haldeman and Ehrlichman and the refusal to immunize Dean means that Haldeman and Ehrlichman go free. That is the decision that we are going to ultimately come down to.

P. Well you will have to come into me with what you've got (inaudible) then there . . .

HP. I will.

P. And let me handle Haldeman and Ehrlichman.

HP. I will sir.

P. Do you get my point?

HP. Yes, sir.

P. If it comes down to that — I may have to move on Haldeman and Ehrlichman — then for example you come to me and say look here's what — look I am not going to do anything to Haldeman and Ehrlichman just because of what Dean says — I can't do that. It's got to be corroborated.

HP. I agree with that.

P. Do you agree with that?

HP. Yes sir — I am not going to do anything with those two unless it is corroborated either.

P. Dean is — I find, has told two or three different stories. I didn't realize it until lately. I guess when a guy is scared he doesn't —

HP. He is a man under great pressure.

P. Sure, I feel for the poor —

HP. So do, I. He took a lot — he knows —

P. He is a fine lawyer.

HP. A thirty-four year old man with a bright future —

P. Sure, he's worked his — and (inaudible) everything — I understand it, but I cannot, for example, in good conscience and, you can't in good conscience say that you are going to send Haldeman and Ehrlichman — or

anybody for that matter — or Colson — down the tube on the uncorroborated evidence of John Dean. You see — so basically what your problem is and the problem of the prosecutors is to find some corroboration for Dean.

HP. Precisely right.

P. If you come in to me with Dean plus corroboration and you tell me that — then we have a difficult decision on whether or not we want to immunize him —

HP. That the importance . . .

P. . . or whether we have these fellows just leave.

HP. That is the importance of Strachan.

P. It may be that in that instance — you see that is the other point — of course with Strachan you're (inaudible). Another way you can handle that — it occurs to me — is that Haldeman and Ehrlichman — well let's take one, let's take Haldeman, for example, no — Ehrlichman — Ehrlichman is the best case — or Colson even, because they seem to be more tangential than Haldeman, right?

HP. Both are more tangential than Haldeman — yes, sir.

P. Right, let's take Ehrlichman — let's say that the only testimony we have is something about (inaudible) — and so for and so on — something about that Dean is supposed to have told him about the Liddy operation or something in March. All right so is he a co-conspirator? Let's suppose you cannot get anybody to corroborate that — all right, then the question is, however, then that is one thing. If on the other hand — you wouldn't sack Ehrlichman for that?

HP. Mr. President, I wouldn't prosecute Ehrlichman for that.

P. But you might sack him?

HP. Yes sir.

P. Now the second point is, let us suppose . . .

HP. I mean if we were a junior partner in the Petersen-Nixon law firm out in Oskosh, I would not. But as senior advisor to the President of the United States I would. That is the difference.

P. Yeah. Now you come to the other point. Suppose you have Dean in a position of where he makes this charge against Ehrlichman — no, what I am getting at — no, no, no my point is where you come in and say look I've got this charge — wait a minute this is unsubstantiated — but let us suppose you have witnesses who give testimony — and credible witnesses who give testimony — and credible witnesses — the other way? Then what would you do with Ehrlichman on that? You have heard — Colson apparently for example is supposed to know about that — and who else was there when they talked about the, the, ah?

HP. Clemency?

P. What? Pat Gray oh talked —

HP. About — Pat Gray?

P. Leaving the country and all that

business — Colson?

HP. Liddy —

P. Was Liddy there?

HP. Liddy gets his instructions from Dean.

P. Yeah, all right, so Dean . . .

HP. Liddy passes the information on to Hunt.

P. Dean.

HP. Hunt tells us in the grand jury that Liddy said his principals said that I should do this.

P. Yeah.

HP. Hunt doesn't know who the principals are —

P. Right —

HP. . . . He says at this stage of the proceeding. Even if he does know —

P. Right —

HP. He knows only by hearsay —

P. Right —

HP. . . . and probably not going to be admissible.

P. This is where you're going to get the corroboration.

HP. I am not sure that we are. I am not sure that we are.

P. See that's where you give me the tough problem. But on the other hand it seems to me that on that basis the better way to handle it is for you to rather than immunizing Dean — you see if you immunize him for something that can't be corroborated, it's a straight deal between — you know what I mean. Well, I can see Mitchell saying — Well John Dean was talking too much to Henry Petersen, and Petersen did this and Dean pulled the plug on him and he had no time to lie. You know?

HP. It's possible.

P. And it's a bad rap, but ah, I'm (inaudible).

HP. But we are not going to do that, Mr. President — we are going to have . . . will have corroborative witnesses all along the line —

P. Yes, sure —

HP. But I see the problem and I feel — I think we are looking at it a little bit differently.

P. Sure.

HP. And I see the problem in two dimensions and, of course, I see it in this respect as a neophyte. Obviously you and Bill Rogers are much more experienced in these affairs than I, but maybe because I am a neophyte and one of the public. I see it perhaps more clearly — at least from a different point of view. It seems to me —

P. It's the taint —

HP. That it's just the things that they have done impairs you.

P. I understand. Understand and I agree with you on that. My point though now is a different one — it the question of the immunity. That worries hell out of me.

HP. Well that —

P. The immunity worries me for the reason that it just is . . . I don't think it's good to give it. I don't think in view

of the fact that we had this hell or a flap—you know that is the reason Gray wasn't confirmed — because of Dean.

HP. Well, Mr. President.

P. We go in and give it . . .

HP. If I could only put your mind at ease — I have been arguing with those prosecutors for three days on this issue —

P. I think you've got to understand, I am not saying this because of Haldeman — I am not suggesting this about Strachan or a secretary or anybody else — no immunity all the way down the line, but it occurred to me that particularly in talking to Rogers said how in the hell can they give John Dean immunity after he's the guy that sunk Pat Gray.

HP. Well if I sound like a devil's advocate — I am. I have been saying the same to the prosecutors — how in the hell can I immunize John Dean?

P. That's the point. Well, I feel it strongly — I mean — just understand I am not trying to protect anybody — I want the damn facts if you can get the facts from Dean and I don't care whether —

HP. Mr. President, if I thought you were trying to protect somebody, I would have walked out —

P. If he doesn't testify in open court — or anything of that sort it doesn't make any difference — I am going to match my decision on the basis of what you can tell me Dean has told you and — just a little feel of the whole thing. But I've got to do it my way.

HP. I know — No problem with that.

P. I've got to get (inaudible) handle on it so what I am going to do is this — when charges are made — if your charge is made that certain co-conspirators, and so forth and so on — out! — even when they are unindicted — out, out — so that takes care of that. But that is the time to do it, and I am



going to say that — oh, I am not going to use your technical terms—

HP. Well that is understandable.

P. But I am just going to indicate that there must be cooperation, that

if there is any evidence to indict anybody on . . .

HP. Let me ask you this, Mr. President, what would you do if we filed indictment against Magruder, hypothetically, and —

P. Yeah — Magruder or Dean?

HP. Magruder —

P. Magruder — oh you have indicted him.

HP. To which he is going to plead, and we named as unindicted co-conspirators everybody but Haldeman and Ehrlichman — never mind that the variation improves between them for the moment

P. That you would name Colson for example?

HP. Well I don't know about Colson — Colson is again peripheral, but Mitchell, Larue, Mardian — what-have-you . . .

P. Colson was a big fish in my opinion.

HP. Yeah, and a —

P. Would you name Dean for example?

HP. Oh yes.

P. Oh yes he was —

H. And we name all of those people. We leave out Haldeman and Ehrlichman. Now one of the things we had thought about —

P. I get your point —

HP. Leaving them out was to give you time and room to maneuver with respect to the two of them.

P. Let me ask you — can I ask you — talking in the President's office —

HP. Yes sir.

(Sets up appointment — had to take time out to sign some papers)

P. You see we've got to run the government too (inaudible).

P. You mean if Haldeman and Ehrlichman leave you will not indict them?

HP. No sir, I didn't say that.

P. That would be a strange (inaudible).

HP. No — it was not a question of that — it was a question of whether or not they were publicly identified in that pleading at that time.

P. Yeah.

HP. And, well, for example, as a scenario — that comes out and you say —

P. (inaudible)

HP. This is a shocking revelation —

P. Yeah.

HP. As a consequence of that I have consulted and I have just decided to clear out everybody here who might have had — and as a consequence Mr. Ehrlichman and Mr. Haldeman are going. Thereafter, we would proceed with the evidence wherever it took us. That is what we were thinking about to be perfectly honest with you.

P. Well you really ought to include them (inaudible) if you include the

others.

HP. Well —

P. Oh, you don't want names in the indictment of Magruder.

HP. That's right — unless we were able to go forward. Well, I don't want to belabor the point — I have made it clear that my view that I think they have made you very vulnerable. I think they have made you wittingly or unwittingly very very vulnerable to rather severe criticism because of their actions. At least in public forums they eroded confidence in the office of the presidency by their actions. Well you know it, I don't have to belabor it here —

P. Well, let's begin with this proposition. Let's not get in the wicket where we've got Dean in an immunity position. He'll talk. He'll talk.

HP. Well that's another thing. Have you decided to accept Dean's resignation?

P. No, I have decided I have to treat them all the same.

HP. I was going to say that would be terrible the effect is he would be out talking to the press immediately.

P. Oh no, no, no — I told Dean I was going to handle them all the same (inaudible) — no that would be unfair.

HP. I agree.

P. Absolutely.

HP. I agree.

P. No, no, I talked to Dean about it — he said well he would do it if they did it too. He would like to do it if they did too, and I said well are not going to do it on a conditional basis — I said stay on until we see what happens. No, I am not going to condemn Dean until he has a chance to present himself. No he is in exactly the same position they are in

HP. Alright, Ok.

P. You see that's the point: See I put all three in the same bag.

HP. Very good.

P. How does that sound to you? Do you see what I mean?

HP. Yes, indeed—

P. So they have the same rule and if Strachan comes in, I am not going to throw Strachan out simply because he's been down before the grand jury.

HP. No—I agree with that.

P. If you put his name in that indictment, I'm going to throw him out.

HP. Well you know Strachan right at this point is debating whether he wants to be a potential defendant or a witness.

P. You've got him down there now haven't you?

HP. Well, he's not down there now — his lawyer called around noon time and we told him go back and talk to your client and let us know one way or another.

P. Right, (pause) oh you mean you're not covering the immunity thing there?

HP. No—but we have to distinguish between variations of immunity.

P. What?

HP. In all probability there is not

enough evidence to implicate Strachan as a—

P. Principal—

HP. Principal. There may be some evidence to reflect some degree of culpability, but he is at least at this point in our judgment a fringe character. The type of person where we would not have to formally immunize him—we would say look—

P. Yeah.

HP. You are a witness rather than a defendant—tell us what you know.

P. What you mean—you are telling him you will not prosecute him?

HP. That's right but it is distinguished from formal immunity which requires—

P. Oh, I see.

HP. A filing in court.

P. What you say—look we are having you here as a witness and we want you to talk.

HP. That is described as immunity by estoppel.

P. I see, I see—that's fair enough.

HP. That is really the prosecutor's bargain.

P. That is much better basically than immunity—let me say I am not, I guess my point on Dean is a matter of principle it is a question of the fact that I am not trying to do Dean in—I would like to see him save himself but I think find a way to do it without—if you go the immunity route I think we are going to catch holy hell for it.

HP. Scares hell out of me.

P. Rogers says (expletive removed) he says "tell Petersen (expletive removed) if you give them immunity here—he sees (inaudible) the Gray thing and all the rest—Dean is." Whatever area we think Dean is in, in the public mind, he is a big shot. Ervin thinks he is a big shot, the whole Senate Judiciary Committee—Dean is the guy that the whole executive privilege thing is about. So we give him immunity? I hadn't thought about it when you first talked about it.

HP. Sounds . . .

See TEXT, A21, Col. 1

TEXT, From A20

P. But you must have thought about it.

HP. I have—indeed. It is the toughest decision I have facing me.

P. Well what the hell—he can talk without any immunity can't he? Oh I guess if he is a defendant he wouldn't talk to you.

HP. That's right.

P. (inaudible) of course he wouldn't (inaudible). Is that your problem?

HP. You know if I get — yes — of course even if I come up with a lesser charge that damn Sirica is just liable to blast hell out of all of us to prevent him to plead even to a lesser charge. The ideal position would be the same as Magruder you plead to one count felony indictment—take your chances.

P. That is what Magruder agreed to plead to?

HP. That's right.

P. To one count felony indictment.

HP. And that's what we are trying to work out with Dean and that's where the . . .

P. (inaudible)

HP. Five years—max.

P. Five years—out in two years?

HP. Probably

P. That's the way it works, isn't it?

HP. Yes sir.

P. Dean's lawyers say (inaudible)

HP. Dean's lawyers say we will try this whole damn administration.

P. Huh?

HP. They say we'll try this whole administration.

P. Yeah, I know. I heard that. So that puts you in a hard spot.

HP. That's right. I don't know, I am just aghast at the whole damn thing and you must be too. Because I see no rhyme, reason—

P. Slightly—

HP. Anything to . . .

P. Yeah—for all this treatment—for this?

HP. And you know, I look at John Mitchell and I have admired him—and—

P. Yeah—I know—good man.

H.P. And I'm just shocked.

P. But what happened we know is this: these jackasses got off... see this Liddy is crazy and Hunt and the whole bunch conducted this (inaudible) Mitchell wasn't minding the store and Magruder is a weak fellow—and the damn thing—and then afterwards they compounded it by what happened afterwards.

H.P. That's right.

P. They were caught in it and they said—Oh we can't—and basically they were trying to protect Mitchell—Let's face it. You know that.

H.P. Well, you know Larue broke down and cried like a baby yesterday.

P. He did? That's too bad.

H.P. He was not so bad on admitting the obstruction of justice and subordination. Resigned, said he'd probably plead—said he didn't even think it worthwhile to bring a lawyer with him—ah—

P. He had (inaudible)

H.P. Not fully—he broke down but when it came to testifying about John Mitchell he just broke down and started to cry. It is a terrible thing...

P. (inaudible) As we all do, but we are going to do the right thing. Don't you worry about that. I am just trying to do the right thing in the way that is...

H.P. Mr. President, if I didn't have confidence in you—I wouldn't be here.

P. Yeah—

H.P. You know—

P. Yeah.

P. Did we do any good on the Liddy call?

H.P. I don't know—Maroulis—

P. (audible)

HP. His lawyer, flew down—P. (in-

audible).

H.P. And we had Liddy brought over to a cell block of D.C. Court and made him available—and that was yesterday and of course I am sure Liddy is thinking it over—but—we'll see. That man is a mental case... (inaudible)

HP. I guess Bill Rogers was shocked too? (pause) God almighty.

P. Bill — I think everybody is shocked, but we are in it. So what do you do? In this thing—in these things—you've got them, you handle them and go on to something else—that's what we are going to do.

H.P. Damn, I admire your strength. I tell you.

P. Well, that's what we are here for.

HP. Well I know but I've been around government long enough . . .

P. Frankly the Dean thing troubles the hell out of me—I would like in one sense I would like to see the poor bastard you know, out of it and in another sense I think the immunity thing scares me to death.

H.P. Well it does me too. I agree.

P. How shall we leave that? You will go back and—you haven't made a decision then?

H.P. Well we're still negotiating.

P. You are going to try to see if you can get it another way—

H.P. That's right—that solves the problem for me—and if . . .

P. But you may not be able to and then we will have to get Dean. He is the only one, so—otherwise you go the other way.

H.P. Yeah. Incidentally, I talked with Pat Gray again—

P. Yeah—

H.P. I went back again today—

P. Do you think you can put that piece together?

H.P. Yes sir—I'll tell you what happened. He said he met with Ehrlichman—in Ehrlichman's office—Dean was there and they told him they had some stuff in Hunt's office that was utterly unrelated to the Watergate case. They gave him two manila envelopes that were sealed. He took them. He say, they said get rid of them. Dean doesn't say that. Dean says I didn't want to get rid of them so I gave them to Gray. But in any event, Gray took them back, and I said Pat where are they, and he said I burned them. And I said—

P. He burned them?

H.P. I said that's terrible.

P. Unrelated—only thing he can say was—he did it because it was political stuff I suppose?

H.P. Well, you know, the cynics are not going to believe it was unrelated.

P. Oh yes of course.

H.P. I said, did you read it?

P. Who handed it to him, Dean? Who knows the contents?

H.P. Dean and Ehrlichman. Dean—Gray says he never looked at it—never read it.

P. Did Dean?—Did we ask Dean what the contents were?

H.P. I didn't ask Dean because he said it was—

P. Did anybody?

HP. Not at this point. We'll have get to that obviously.

P. Sure. Dumb damn thing to do.

HP. I think it is incredible and I just —

P. Why didn't he just put it (inaudible).

HP. I said Pat why did you do it.

P. Pat's naive.

HP. He said — well, I suppose because I took them at their word.

(Apparently someone brought in a statement).

P. (inaudible) oh this is a (inaudible) Senate select committee. Let me read it to you if you can (inaudible) it for me a little. "For several weeks Senator Ervin and Senator Baker and their counsel have been in contact with White House representatives, Mr. Ehrlichman and Mr. Garment. They have been talking about ground rules to preserve the separation of powers without stressing facts. I believe that the committee ground rules that have been adopted totally preserve the doctrine. They provided the . . . appearance by a witness named — in the first instance to be in executive session if appropriate. Second, the executive privilege would be expressly preserved (inaudible) proceeding would be televised (inaudible) that has never been a central issue especially since the separation of powers problem is otherwise solved." (inaudible) does that sound right to you?

HP. Yes sir.

P. Forthcoming and so forth, and so forth? All White House staff will

President: (Expletive deleted) You've got to believe me. I am after the truth, even if it hurts me. But believe me, it won't.

Peterson: I understand that, you see. But you know

...

President: Just like to won't hurt you. We are doing our job.

appear and testify under oath and (inaudible) all proper questions fully as far as I am concerned.

Second announcement — "When the Watergate case (inaudible) several weeks ago, I began to look into this matter as a result of printed stories in the press and private information which had come to me — private information?"

HP. I don't think that ought to be there.

P. Basically it was the Larue thing — not the Larue — but the McCord thing that really set my invest . . . that is when I started to work with my . . .

HP. I don't see how you can say private information that came to you without —

P. Yeah —

HP. Almost becoming personally involved — at least as a result of a witness . . .

P. As a result of some very serious charges that were —

HP. Yes, I think that has to be modified. (noise of paper being moved around — obviously the President was working on the statement)

P. We could say that I — what was the term we used? This says real progress has been made — that isn't very good — what is the term that we wanted to say about significant development?

HP. Significant development is a term —

P. Any person in the Executive Branch who is indicted by the grand jury my policy would be to immediately suspend him. If he is convicted he would be automatically discharged. No person in past or present positions of importance can (inaudible) the prosecution.

HP. I don't think you ought to say that Mr. President. I mean, I think that is fine for you and I to share your concerns on that, but to staff that publicly seems to me will have tendency to prevent people from coming in. In effect, we will be right back to where we were without the immunity statute where the Fifth Amendment is a complete bar. Now even if we never utilize immunity the fact that it is there and can be used to strip them of the Fifth Amendment rights is a terrible important tactic to have available. That phrase in there takes that tactic away from us.

P. The Tactic of?

HP. Of immunity —

P. This doesn't refer to . . .

HP. For example, we might want to immunize Strachman —

P. Well no, no —

HP. Well then you get into a question of who is a person of importance — Washington Post may very well think that Strachan is a person of importance. Anybody who works at the White House is a person of im-

portance as distinguished from — minor underlings so far as you are concerned.

P. Should we say major government employees? Government employees holding major positions — how is that?

HP. I would prefer that we not say it.

P. Well I am just trying to cover my tracks on the Dean thing — that is all.

HP. Yes.

P. And if he is — then that is the U. S. Attorney's job —

HP. But that is a sophisticated point isn't it?

P. Yeah. Sure, we could say that Dean was let off? ooooh —

HP. Oh, it is a sophisticated point after the fact but at this point in time in conjunction with this statement it is going to take a rather astute reporter to raise it. Is immunity going to be utilized? — the questions is easily defended — you know — that is a prosecutorial tactic and that will be handled by the prosecutors if and when it is necessary.

P. Right.

HP. You could say I would hope —

P. Yeah —

HP. That no significant figures would be immunized —

P. I express my — I want to put something — many of you know — I would hope — what could I say? I would hope any major — any official holding a major position, ah —

HP. I have expressed my concern —

P. My — I express my view —

HP. To the Department of Justice —

P. To the Department of Justice that no person, that it is my expressed view to the department that no persons should be immunized.

HP. No — that is too strong.

P. Huh?

HP. That is too strong. That's a double entendre if you like —

P. Alright — what would you say then?

HP. In effect that says that you are taking away a prosecutorial tool from them.

P. I express my view to the appropriate authorities. — shall we say —

HP. That would weaken it.

P. To the appropriate authorities that I do not favor —

HP. I have expressed my hope to the appropriate authorities that it would not be necessary to immunize any major official in order to develop a prosecutable case.

P. Ok — I've got it Henry — otherwise it is nothing new — (inaudible) through the appropriate ways — that all White House especially are expected to cooperate fully — we said that — with the U.S. Department —

HP. With the prosecution team;

P. With the prosecution —

HP. With the prosecution team. It says I have (inaudible) an occasion

to attempt to pass the word to others who might be able to help to (inaudible) cooperation. I don't that means anything—

HP. I don't think that means anything and I think it says too much.

P. Yes.

P. Yeah — well what you are in effect saying to me — as I say — I want to be very clear on the Halde- man-Ehrlichman thing. That if they were left out of the non-indictable list it gives me a little running room. I want to be very clear — that understood?

HP. That's right, that's right.

P. It doesn't mean that they aren't eventually be indicted if you get the facts.

HP. That's right.

P. But it does mean that they have an oppor — they aren't canned as a result of the fact — that is what we are really getting down to isn't it — you would have to put Dean on that list wouldn't you?

HP. Yes sir.

P. I guess you would have to with everything with him because basically Magruder is going to name him —

HP. That's right.

P. Hmm.

HP. And, if we get down to . . .

P. Magruder is not naming Halde- man and Ehrlichman though. That is the problem is it?

HP. Yes but he does — but not in firsthand sense—

P. Only by hearsay—

HP. But you see — if he makes that statement in open court —

P. Yeah, I get it —

HP. It seems to me it makes your practical difficulties just as severe as if we had named him in the first place.

P. Well I am glad to get this kind of stuff so I get a clear view of every- thing — what the options are —

HP. And if we frankly — if we think that Sirica is going to elicit that kind of statement we will include him in the charge to the extent that we can.

P. Yeah — sure you don't want to . . .

HP. Subject only to the fact that we can corroborate it later on.

P. Timing now. What about Magru- der — you don't expect him tomor- row?

HP. Well I told them . . . probably not today, but I guarantee you at least twelve hours notice.

P. Can you give me that much?

HP. I will guarantee you that. I will hold it up to make certain you get it.

P. Yeah. The only — yeah. On the other hand I suppose you should say (inaudible) story — it got a hell of a big play.

H.P. I didn't see it.

P. And other stories that are not so likely (inaudible) could, could— everything is likely to blow around here. But at least you give me the— there is nothing in this that we irritate the fact that do we (inaudible) till

down there in that court we know this damn (inaudible).

H.P. That's right—

P. So basically we are in a pretty good position to say that except as I said I don't want The Washington Post to break this case.

H.P. That's right. We don't either.

P. I want the Department of Justice —and, frankly, the White House—be- cause as you can see we'll cooperate— (inaudible).

P. Ok—I can see what you mean. You would anticipate then that if you didn't include Haldeman and Ehr- lichman in your general thing that Sirica will question the defendant Magruder—and he then will bring in—

H.P. If he brings that out—if we thing that is a real possibility then we will have to decide whether or not as a matter of conscience and professional ethics we can put them in. If we can answer that yes—then we will put them in. If on the other hand, we think there is no basis for it even if Sirica does bring out the hearsay—we will just have to take the knuckle for it.

P. Sure—which is basically what Sirica wants. Colson I think we should know about him too.

H.P. Well—

P. Not yet, Huh?

H.P. Well, Bittman went to Colson to urge leniency—Colson then got in touch with Ehrlichman and Dean. Ehrlichman is alleged to have said—

. Make no commitments—

H.P. We'll do the best we can—make no commitments. Then thereafter you know apparently money flows—or so we are told—whether there is any relevancy or relationship remains to be determined.

P. What did Bittman want?

H.P. Well apparently the funds, but that remains to be developed—ah, Dorothy Hunt was, according to Mc- Cord, the intermediary the leniency thing (inaudible)

P. Right.

H.P. And another intermediary was Larue and Larue used the alias of Baker—two aliases—one was Baker and I have forgotten the other one, for the transmittal of money. One of the things that concerns me in this area and you know again an area in which I may have made a mistake earlier in the game was with respect to Kalmach. Now I understand he is your personal lawyer—is that a fact?

P. Yes, yes — very capable guy. (in- audible)—as I understand—they called and said raise some money for the (in- audible) and so forth. I am sure he was no damn co-conspirator. (inaudi- ble) after the campaign.

H.. Here's one thing—in the earlier stages of the proceedings when they had Segretti in the grand jury—

P. Yeah—

H.P. I told Silbert—now—damn it Silbert keep your eye on the mark—we are investigating Watergate—we are not investigating the whole damn realm of politics and I don't want you questioning him about the President's lawyer.

P. Right—

H.P. Well, he didn't. Well now Kalmach comes up you heard on the news I am sure today—he apparently is going to be called by the Senate committee—but he also comes up in this investigation with respect to actu- ally Kalmach raising money—or pas- sing on money at Mitchell's direction for the co-conspirators—so we are going—

P. Sure—

H.P. To have Kalmach back into the grand jury.

P. Well in that instance, I suppose there you've got to prove what he thought he was raising it for.

H.P. Well, even if he didn't know or he was misled—the fact that he—

P. (inaudible)

H.P. Did at the time we may very well end up with him being a witness.

P. Damn Right—oh I know that. I would seriously—I mean. And again on that particular count—I guess you were the one, I think who said the question is motive—what they raised the money for.

H.P. That's right—

P. If you are trying to help them out with their defense that is one thing—but if you are helping them out to keep them quiet that is a hell of (inaudible)—that is an obstruction job.

HP. That's right—you know if you are acting out of Christian charity—

P. Right—

HP. That is fine.

P. That would be Mitchell's defense on that.

HP. Of course all the inferences run the other way and that is a hell of a defense to have to put to the jury.

P. Well I guess you have given me enough to chew on here—whether I get something out today and we'll know how—about it tonight—I'll see—I may have a little bit of time. You don't think that you are going to in- dict sometime today.

HP. I will be glad to give you twelve hours notice. Nothing is going to hap- pen today I am certain—even if we get an agreement today—you know I can still hold it off a day.

P. Yeah—you might hold it off even tomorrow, huh?

HP. That's right. If we have to go see Ervin and Sirica—both of them—it may very well take a full day before we can get both things accom- plished.

P. I've got to accept a big huge schedule tomorrow—energy message, and so forth, and so forth, and I don't want to tell you to hold it off except apparently it is going to take you some time anyway—I mean there is always a chance of leak—leaks aren't



White House Press Secretary Ronald Ziegler

going to mean much—

HP. There are so many I's to dot and T's to cross on this thing—when you talk about holding off a day or two it doesn't make that much difference.

P. Except leaks—What do you think on (inaudible)?

HP. I think it is terribly important.

P. Get out front?

HP. For you to get out front on this thing—irrespective of—

P. Even with a statement like this that doesn't say much. Well cooperating with Ervin but that's—

HP. It says that—that is significant news. I think it is significant that it reflects that you are taking a personal interest in it—I think it is significant that you say there are significant developments which means you are personally informed and not only have endorsed what the prosecution is doing. It certainly is not significant in terms of evidentiary facts but we are never going to be in a position to do that anyway—unless the public exposure in the court. You know there is another dimension, Mr. President. These fellows Magruder, Dean have talked to us — they'd be less than

human if they didn't watch to see if the system was surviving the test so there is another reason for their delay. Conceivably they say well this may be too strong for the Department of Justice or the President—or the people at the White House—they're not going to have the courage to face up to this—let's wait and see what happens. and if we don't see some

Rogers: Sirica was, he was suspicious there was a cover-up.

President: *That's right.*

Rogers: *He was trying to, he was trying to put pressure on the ones who knew so he could—*

President: *Not only to confess about themselves, but about other ones . . .*

movement then our bargaining position will become increasingly tougher day by day by day.

P. Yeah. (inaudible)—keep in my mind—(inaudible) get the damn thing over with—and I know the trials of Mitchell and all these people will take a long time — (inaudible) — Mitchell will never plead guilty, never. Fight it all the way down the line. (Inaudible) What would you do if you were Mitchell?

HP. I think I would probably go to Saudi Arabia to tell you the truth.

P. Poison—

HP. When I think the former Attorney General of the United States being subject to criminal trial is just—

P. For obstruction of justice—not the bugging—the obstruction of justice.

HP. It is just terrible.

P. Ok — Alright — thanks for your help. I'll see if I can work something out today and if I don't, maybe tomorrow. We'll see about it.

HP. Thank you. Have a good day. Mr. President.

P. Yep—we'll try.

Meeting between President Nixon, H. R. Haldeman, Ronald Ziegler and John Ehrlichman, Oval Office, April 17, 1973, from 3:50 p.m. to 4:35 p.m.

E. This is John Ehrlichman for Bill Timmons.

E. Ah, I'm in the President's office Bill, can you call—get the first page, first two lines of the second page (unintelligible). Pardon me? No, just tell him that's the statement. Bill, just go ahead and do it. Thanks.

P. I completed the round with Petersen and he said he completely agreed with me, that he's been arguing that with the U.S. attorneys. He says the problem —

E. He's in total control —

P. He said the problem is (unintelligible). I said, "Well you're going to corroborate it, aren't you." "Yes, of course." But I put it bluntly. No individual —

E. Ya, I just want to check. Are we already to go?

P. I don't know if I can really make it. How late can I go? About 4:30. Ok. Don't tell anybody yet. Thank you. I'll let you know.

P. Quickly. The new evidence, new leaks. First, I said, I said Rogers and I talked about it and Rogers thought it was totally wrong to immunize the President's counsel. Rogers did say that. However, I talked about the leaks in the grand jury (unintelligible) Mitchell Dean. I said I just want you to know that you are vulnerable. He said, "Well I never gave them substance, I just gave them (unintelligible) on how they did and so forth and so forth." He says, "After all, it's my responsibility. But anyway, I don't know. I didn't get far with that (unintelligible). He talked to Pat Gray and Pat Gray has now told him that he destroyed the packet. He just shakes his head.

H. Why would Gray do that?

P. Gray was told it was political, was told to destroy. I don't know Gray was told it was material, actually nothing to do with Watergate. He was told to destroy it, but Petersen says that's that. Here's the situation, basically, (unintelligible). They're going to haul

him to court, have him plead guilty, put a statement out because Sirica always questions the witnesses who plead guilty. They are going to make it as broad as they can and as narrow as they can at the same time. By being as broad as they can, they are going to say that he has named certain people and they are going to name a group of people that is non-indictable co-conspirators. They're going to include everybody on that list. I said, "Is Dean going to be on that list?" He said, "Yes." He said, "Frankly (unintelligible) not include Haldeman and Ehrlichman, which gives you an option." I said, are you telling me that if Haldeman and Ehrlichman and Ehrlichman decide to take leave, that you will not then proceed with the prosecution. "No," he said, "I don't mean that." He said, "What I mean is that they are not going to appear on that list and that (unintelligible) grand jury and make case there (unintelligible). So there's the —

E. Well, whether we take leave or not doesn't effect the list that they read off.

P. Yes. Yes.

E. Oh, it does? Yes. It does. They will put us on the list if we don't take leave?

P. Yes, because otherwise, he says, he says Sirica is going to question Magruder and he's going to question (unintelligible) and it appears (unintelligible). If he does that, then it will appear that the Justice Department again is covering up. Two questions: one, should we go forward with an announcement today or not, or should —

See TEXT, A22, Col. 1

TEXT, From A21

E. Well, from your standpoint, you must. Even so. This thing will get away from you otherwise.

P. Well, the real question, I suppose, John is (unintelligible). I don't think we can — here's the whole point, in effect — if the — your names will probably be on the list. That's what he's saying unless you decide not to, decide that your not (unintelligible).

H. It isn't that (unintelligible), we have to resign. The (unintelligible) doesn't accomplish anything.

P. (Unintelligible)

H. What does he mean from that? I don't understand?

E. The guy to gain from that is Dean.

H. Ya, They're putting us in the same bag with him.

E. Ya.

P. (unintelligible) he said Dean's lawyers say Dean is going to make a case against this administration. They are going to try this administration. That's what he said. So, I guess that's where we stand with Dean.

E. Well, it's as broad as it is long as far as I'm concerned. If I'm to take leave — you think I should — that is or has the same effect as being —

P. As resigning? (unintelligible) taking leave you couldn't come back.

E. Ya, I'll never come back.

P. Of course not. I understand that.

E. On the other hand, if I'm indicted and take leave, and then I'm acquitted, I could come back. But to take leave and then not appear on the Magruder list, it's a confession.

P. That's right. So I think their (unintelligible) approach just doesn't work.

H. Well, then you look worse by that than you do the other way. You look better to have us on the list, than to have us take leave and then not be on the list.

E. Cause that looks like you're covering up, that it hasn't come out.

P. I think so, too.

H. If we're going to be on the list, so be it!

P. That's right. I think you're right.

H. I think we're in a terrible — these guys are working in a most bloodthirsty way. They've lied to Strachan. They've told him they had all this stuff. They've not told him what his rights are properly. I'm sure his lawyer has gotten it straightened out, but it's really something.

E. They're trying to get him.

H. Trying to get him to take a cop-out and they won't make a deal. They told Strachan if he covered everything that he had, everybody he knows, they assured him they already had it anyway —

P. That's a tactic.

H. They said you, Strachan, have a chance of getting out because you'll become a witness and not a defendant,

but they will not give him immunity.

P. That is immunity, however.

H. Well, unless — it keeps their options open and his closed.

P. Strachan is (unintelligible).

H. (expletive removed), I hope so. And the (expletive removed) you know Strachan made that mistake on the 350, called Silbert the next day and said, "I would like to correct that. I made a mistake." They said, "Fine, come up in the morning and we'll straighten it out." He went up Monday morning, and they laughed at him and said we're not going to put you before the grand jury. See that's when they kicked him around, yesterday morning. Then today when he went in they said, "We will not let you correct your statement on the 350, we've got you on a perjury count."

P. That's not true.

H. That's what they told him.

E. It certainly is not fair.

H. Well, apparently by the law.

P. I think under the law if you go forth and volunteer something —

H. But they wouldn't let him go in, so he didn't volunteer, but he sure did it constructively as far as —

P. Well, shall we get to work? Shall I just go out and read it.

E. I think so. I'm having Timmons just read this first part to Ervin.

P. All members of the White House staff will appear (unintelligible) when requested by the committee and will testify under oath and answer all proper — are you getting all this or should I get a girl in?

E. Voluntarily, when requested by the committee — Ok.

P. The next part is what I'm concerned about. "I began new inquiries," shall we say?

E. Well, I don't know.

P. "I began new inquiries into this matter as a result of serious charges which were reported publicly and privately." Should we say that?

E. Publicly, "which in some cases were reported publicly."

P. "Four weeks ago we," why don't we say, shall we set a date? That sounds a hell of a lot stronger if we set a date.

E. All right.

P. "On March 21, I began new inquiries," strike that. "I ordered an investigation, new inquiries throughout the government —"

E. How about saying, "On March 21 as a result of serious charges which were reported publicly and —"

P. "Some of which were reported publicly and some of which were reported privately to me —"

E. "Some of which I subsequently —"

P. "As a result of serious charges reported publicly and privately"

E. "Some of which were reported publicly" — and then not say about the result of them. I —

P. In other words, "On March 21 we started an investigation because of the public hearings."

E. That's right.

P. "As a result of serious charges reported publicly — publicly reported —" I began intensive new inquiries into this whole matter." I think we better get Petersen back in here.

E. Name him.

P. Ya. After all, this Kleindienst thing is very general (unintelligible)

E. "And Assistant Attorney General Petersen."

P. "Assistant Attorney General Petersen have met to review the facts at length in my investigation and the progress of the Department of Justice investigation." How's that? "I can report today that there have been major new developments in the case." Right? That sound right?

E. How about just saying, "Have been major developments in the case concerning which I should not be more specific now, except to say that real progress has been made."

P. "Major development in the case, concerning which — specific — which would be improper for me to be more specific now except to say that real progress has been made in getting to the bottom." What do you say, "in getting to the bottom of this matter?"

E. "Has been made in exposing the truth."

P. "In finding the truth."

E. All right.

P. "In this whole matter."

E. Well, we've already said matter.

P. Well.

E. "I can report today that major developments in the case, concerning which it would be improper to be more specific now, except to say that real progress has been made in finding the truth."

P. "Real progress has been made in finding the truth." And then you go on to the (unintelligible).

E. If you don't mind.

P. I don't want to put the immunity thing in. I don't think there's a hell of a lot gained by saying it publicly.

E. Except —

P. All right. "If any person in the Executive Branch is indicted by the grand jury, my policy will be to immediately suspend" — shall we (unintelligible) of what we know is going to happen? Should we say "indicted?"

Why don't we just leave it "indicted" and not indicate what charges are made? Don't you agree?

E. I think so. I think "indicted" ought to be the test.

P. "Indicted by the grand jury." My policy would be, "if he is convicted," and then I would say, "if he is convicted, he would be automatically discharged." And then, the way I could put it, "I expressed to the appropriate authorities my view that no individual holding a position of major importance should be given immunity from prosecution. That means that no person can expect"

E. Yep, this is fine.

P. I don't think I want to say "lead to believe." Do we have to say that?

E. No, I was just trying to get you off the hook, and say, you know, well, this — how about going on with the next sentence?

P. "The judicial process is moving to get all the facts." Or, "moving —"

E. "Moving ahead as it should."

P. "Moving ahead as it should. As I have said before, all government employees, especially members of the White House staff, are to fully cooperate with the grand jury." Or do we want to say "grand jury?"

E. How about "fully cooperate" — period.

P. "Fully cooperate in this investigation." "To fully cooperate with law enforcement authorities." How's that?

E. Ervin and Baker are out of pocket.

P. I don't want to use the next sentence, John.

E. All right.

P. Then I think the last sentence should be — I think if he puts that in there we're going to have a hell of a tough time. (unintelligible)

H. I think if he'll cover the truth —

P. Yep.

H. That's what he's got to do. Answer their questions truthfully.

P. Why didn't he say, "Sure I'll be a witness." Why didn't he just say that, take their offer? Maybe that's what he said. "I'll take your offer."

H. I think that's what we want him to do.

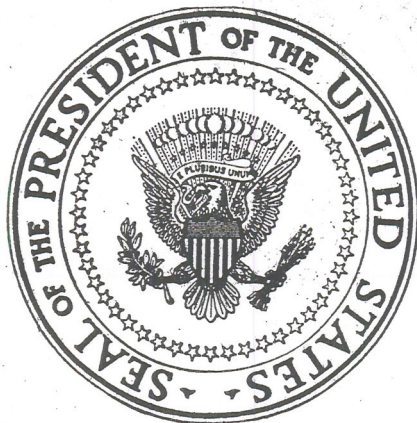
P. I think what you should do is say, "I don't have anything to hide. I'll take your offer," and just make the point.

H. Given that offer, he doesn't have to volunteer anything. All he has to do is answer their questions.

P. That's right Bob, he should just take their offer. Believe me, we don't have to have (unintelligible). He isn't trying to hide anything.

H. I'd feel fine with his doing that, cause — so he says some things that are damaging. They are only slightly damaging, and we've had plenty of damaging things already.

P. That's right. Bob, just tell him to take it. All right? Tell him to take it but tell them the mere truth. You see,



they think it is worse than it is. They think he is covering up and they are wrong. That's what it really gets down to.

H. They are trying to confuse him. That's what has him bothered. The poor guy. What's really worried him is that he's covered everything with Dean, every step of the way. Everything he has done, he's talked with Dean about it over the last year and he's scared to death Dean will make up something or take something that is partly right and twist it, which is what Dean is doing, and hang him on it. And I think what he's got to do is just go with what he believes is correct and hang with it.

P. Don't you think we are right (unintelligible) tell the the U.S. attorney, "Fine, you want to name Haldeman and Ehrlichman. You just (unintelligible) they put you on as undictable co-conspirators. Then they've got a case to prove. Now they aren't going to do that unless they figure they can prove the case, so that would give them the problem. I think his argument is, and I must say, I don't know what to hell Petersen is up to (unintelligible).

I think, on the other hand, it looks like. Let's look at that.

H. That makes his case for him. That makes his case for him —

P. Maybe you're right. I was going to suggest that we could get back, call you, and we get Rogers over here. And I think in this instance, you and Ehrlichman with Rogers can sit down and talk about this?

H. I think so. Yes.

P. You don't have any other lawyer? Would you kind getting him over at 5:00 P.M.

H. We're meeting with our lawyer at 4:30 to 5:30, which is the only time we could get him. Would you want me to get him in at 5:30?

P. Sure, Bob, my time is your time.

H. Well, I don't want to screw up your time.

P. You're not.

H. That was the only time he could take us. He's taking time out of a deposition.

P. I understand, but hope he can learn from it in that time.

H. Well, we'll give him a quick fill and get him started on it. That's all we can do now, but we need to get started on it.

P. I guess (unintelligible) may resign.

H. That would be a very foolish thing for him to do.

P. Hmm?

H. That would be a very foolish thing for him to do.

P. He didn't say that. But, I meant, you know how strongly he feels. He's wrong. He's wrong, Bob. Look the point is, (unintelligible) throwing you to the wolves with Dean. What does that accomplish? I don't know what it accomplishes. Except the President

learns the facts and as a result of learning the facts (unintelligible). I say, "Fellas, you've been charged and I know that Dean has made some charges." Right?

H. There's another way you could do it. John won't buy this if I don't. I won't do it if John won't. We've got to do it together. Either one of us has to hang together playing this game. But, maybe we request of you a leave of absence on the basis of the information you have, which we have, because we've been involved in the investigation too. Now if we're going to be on that list, we're going to have to ask for a leave of absence anyway, it he puts the list out, and has us on it.

P. It's going to be out. And, I don't know that you'll be on it. That's the point. We've got to see. Nevertheless, you will be called. But we've always talked about being called to the grand jury.

P. That's right.

H. And said that we would appear. You made a statement weeks ago saying that anybody in the White House would welcome the opportunity to testify before the grand jury. Ah. Do you automatically suspend any witness whose called before a grand jury? Of course not.

P. Well, now, if you come on that list, the only problem here is that (unintelligible).

E. Oops.

P. The problem we have here, John, as I was just saying (unintelligible) Dean's lawyers, are they going to try this administration?

E. Believe me, everybody is going to try this administration regardless of what (unintelligible). Ervin's going to try this administration.

H. We went through your statement. Why don't we go to see the lawyers? Why don't we re-group at 5:30 and decide then —

E. You have the first page intact?

P. Did she use the speech typewriter? I don't want to go through this —

E. Take this back and put it on the speech typewriter. She's running it off on the typewriter now.

P. Well, maybe it's too soon for Rogers. Well, I guess we just let Dean go ahead and try the administration.

E. He's going to his work anyway, with or without immunity. Ervin is going to get him up there if he has immunity or not and will take him over the jumps. What you've done here is to lay a ground rule for Ervin on immunity which is going to be very tough for him to live with if there are Ervin hearings. But eventually there will be Ervin hearings. I don't think there much (unintelligible) The more — more —

P. There will be Ervin hearings, Bob.

E. The more battles the President wins, like the economical stabilization performance, the more urgent the Ervin hearings become. It's the only

thing they have left, now. You're winning all the big ones.

H. We better leave now. It's 4:30.

E. Yep, ya.

H. If you want to see Bill at 5:00 p.m. ahead of us, we can join you at 5:30.

P. You may not be ready by then.

E. He can stay only an hour.

P. Fine. I'll see him at 5:00. And the situation that you have here is a (unintelligible). Dean (unintelligible) administration if I'm wrong? Damn, no, it can't.

E. I'll tell you as we lay this out, and I'll be anxious to see what this lawyer has to say, Dean's testimony may not be admissible.

P. On what grounds?

E. That his communication to us was a communication to you, and vice versa. As an alter ego to the President.

P. I don't have any separate existence.

E. But you have to assert privilege, in a sense, but I don't know what kind of political problems that make (unintelligible) solicitor general, as a disability, strictly from that standpoint (unintelligible)

P. Would you discuss with your lawyer the legal (unintelligible) and let's think about this business, about whether — Ron?

Z. Ya.

P. Come on in.

Z. Len needs the ground rules before he calls, and he's in my office. Could you fill him in?

E. All he has to do is read that to them. Period. He doesn't have any comment, he doesn't have any reflection. Ok.

P. Who is this?

E. Len Garment. He's going to call back. He's just reading the first page since we can't get Ervin. Look, I don't want him to get into an argument with him.

Z. Ok. All right, fine. Then John, afterwards when they ask me what the ground rules are, I'll just say —

E. Up to the committee (unintelligible)

Z. We have plenty of video tape recorders, so there's no film problem.

P. They got it yet? Bring it in

Z. Ya. Did John raise with you the couple of questions in terms of the next day or so? And afterwards just say, "Is Dean still in charge of the investigation?" We ought to just say, "No."

P. Just say that the President — that we discussed and that, "No." that the President is dealing with that the Assistant Attorney General, Mr. Petersen, is in charge of the investigation.

Z. Then, secondly, they will say does the President stand by the August 29 statement that no one presently employed in the White House had knowledge and so forth? There, I think, I suggested to John, that this

is an operative statement — position as it stands.

P. You could say that the August 29 statement — that was the report that was made to the President by White House counsel at that time — and the facts will determine whether that statement is correct, and now it would be interfering with the judicial process to comment further.

Z. I will just say that this is the operative statement.

P. You're not going to answer questions today are you?

Z. No, no. But I mean if I walk into the press room they'll be pounding on my door.

P. Of course, Ron. Go ahead. Don't (expletive removed) on Dean.

Z. No, I'm not going to.

P. He is, just say he —

Z. I'll try to avoid it altogether, but I just want to get guidance. Then I could give the wires some backgrounds on how aggressively and how much time you've spent on this the past three weeks and so forth. Should I do a little of that?

C-3

Statement by President Nixon, April 17, 1973, from 4:42 p.m. to 4:45 p.m.

The President: Be seated, please:

Ladies and gentlemen:

I have two announcements to make. Because of their technical nature, I shall read both of the announcements to the members of the press corps.

The first announcement relates to the appearance of White House people before the Senate select committee, better known as the Ervin committee.

For several weeks, Senator Ervin and Senator Baker and their counsel have been in contact with White House representatives John Ehrlichman and Leonard Garment. They have been talking about ground rules which would preserve the separation of powers without suppressing the facts.

I believe now an agreement has been reached which is satisfactory to both sides. The committee ground rules as adopted, totally preserve the doctrine of separation of powers. They provide that the appearance by a witness may, in the first instance, be in executive session, if appropriate.

Second, executive privileges is expressly reserved and may be asserted during the course of the questioning as to any question.

Now, much has been made of the issue as to whether proceedings could be televised. To me, this has never been a central issue, especially if the separation of powers problem is otherwise solved, as I now think it is.

All members of the White House staff will appear voluntarily when requested by the committee. They will testify under oath and they will answer fully all proper questions.

I should point out that this arrangement is one that covers this hearing only in which wrongdoing has been charged. This kind of arrangement, of course,

would not apply to other hearings. Each of them will be considered on its merits.

My second announcement concerns the Watergate case directly.

On March 21st, as a result of serious charges which came to my attention, some of which were publicly reported, I began intensive new inquiries into this whole matter.

Last Sunday afternoon, the Attorney General, Assistant Attorney General Petersen and I met at length in the EOB to review the facts which had come to me in my investigation and also to review the progress of the Department of Justice investigation.

I can report today that there have been major developments in the case concerning which it would be improper to be



more specific now, except to say that real progress has been made in finding the truth.

If any person in the executive Branch or in the government is indicted by the grand jury, my policy will be to immediately suspend him. If he is convicted, he will, of course, be automatically discharged.

I have expressed to the appropriate authorities my view that no individual holding, in the past or at present, a position of major importance in the administration should be given immunity from prosecution.

The judicial process is moving ahead as it should; and I shall aid it in all appropriate ways and have so informed the appropriate authorities.

As I have said before and I have said throughout this entire matter, all government employees and especially White



House staff employees are expected fully to cooperate in this matter. I condemn any attempts to cover up in this case, no matter who is involved.

Thank you.

C-3

Meeting between President Nixon, William P. Rogers, H. R. Haldeman and John Ehrlichman, Executive Office Building office, April 17, 1973, from 5:20 p.m. to 7:14 p.m.

P. Come in.

R. Mr. President.

P. Well.

R. Well, did you make the announcement?

P. Yeah.

R. Sounds good, I hope.

P. See if I —

R. See I heard it when you did it.

P. Won't hurt anything. I think it was the right move.

R. Yeah—right.

P. After our talk yesterday, I referred to — I was aiming at the Ervin committee — managed to get that one over (unintelligible) terms we discussed. Figures through — I mean — Len Garment is pretty good. Talked to Petersen again today — he was down here at the White House. And (unintelligible) charged with "got to resign." Just figures you can't keep them. Walked out in the sun and frankly put them ahead of Mitchell. But I just don't think — you have any different views today?

R. No, I don't.

P. You think this is the right step to go?

R. I do.

R. It can occur — it's going to be — it's going to be bloody.

R. I think that.

P. Believe me.

R. That the top people in govern-

ment deserve the same consideration as anybody else.

P. Damn right.

R. The idea that a top person in government is, you know — it isn't the question beyond reproach, you know. A person could be beyond reproach. Take me — I should have been fired many times because I've been so heavily criticized in the press, many of those were things I didn't do. You remember.

R. Well, as a matter of fact, it's a little bit the same attitude that Lucius Clay had about you and the fund.

P. Right.

R. That there's Mr. Eisenhower and you should get off. Well, that wasn't really what he said.

P. I think the people will probably — they will have a view that — The New York Times will have a view in an editorial tomorrow that the President should fire the whole White House staff.

R. Oh well, that isn't —

P. Anybody who did it. But I think the people — I don't know, correct me if I am wrong. I think they like a man who stands up to them — not to condemn people before they're proven. I don't know.

R. Well, I think that — what did Petersen say on Ehrlichman? Does he have any other evidence except what's in that piece of paper because if he doesn't there wasn't anything in there.

P. Nope — nope. Well, it's hardly anything. Except that Pat Gray now recollects he did get the damn piece of paper and he destroyed it, because he was told in was political material, had nothing to do with Watergate. We'll take him on this — this has destroyed him. There's no place in the FBI to (unintelligible) it — it's an unbelievable story.

R. Well, now Ehrlichman didn't tell him to destroy it?

P. Hell no. Gray went back — Dean did give it to him. It was in Ehrlichman's office. And, incidentally, I put it hard to Petersen. I'll tell you about that point. I even used your name. I said, "I talked to Bill Rogers about it yesterday and I had a very (unintelligible)." I said, "He looked over this and he said, 'You don't have much of a case on Ehrlichman.' That problem — and he said —

R. That piece of paper didn't have anything on Ehrlichman.

P. They'll pound on that. They're trying like hell to just frighten people to death. They're going to send 'em to jail and so forth. Strachan — they're trying to break him. I don't understand, hell, he can either be a witness or a defendant. So — well, the other thing and I told Haldeman, I said, "Tell him to be a witness."

R. What's happen to Dean?

P. They made a deal with him. And that's why I put in that statement, I

hope — that's the point.

P. I said, "Look, I talked to Rogers." I said, "We think we have a grave problem in giving immunity to the President's counsel." He said, "But, suppose that it's Dean's testimony that we need to get Haldeman and Ehrlichman. Then should we give him immunity — shouldn't we give him immunity?" I said, "No — not unless you have corroboration."

R. Well, well, what you do, Mr. President, on things like that is you say to a fellow, "Well, you've got to — you violated the law. You've got to be indicated. We'll consider the help you've given us when it comes to the question

of sentence." In other words, you —

P. Yeah.

R. Hold out the prospect to him.

P. But, how could you give John Dean, the President's counsel, total immunity when he's involved? He admits involvement throughout.

R. Of course, if you gave him immunity —

P. But, I —

R. You — You get.

P. I said No. I said, by no means, I'd get the rack.

R. They'd say that you worked it out so Dean —

P. Well, they're going to. Then the other way — the way Dean's appeal is the U.S. attorney's people. Well, Petersen said he agreed with that. He was trying to convince the U.S. attorneys of that, but they are hot on trying to give him immunity and they're going to. And they want to (unintelligible) Haldeman and Ehrlichman. Frankly, that's it. And then they said — and then it's a cop out (unintelligible). Why do you think they should go? On what basis? Here's what we have in mind. I'll tell you what this statement was on. They're going to have Magruder in open court eventually. Haven't made the deal with him yet either, but they will. (unintelligible) Questions (unintelligible) they're going to put out this statement in which they will name other what they call non-indicted co-conspirators. I keep hearing about the names of people that he must charge. That's all (unintelligible). He said Sirica, otherwise, will ask him questions and he's going to testify publicly in open court about other people. I think that is a hell of a prejudicial thing to do — the rights of an individual — but I don't know how — have you ever heard of that? And I said — and then they said, "Are you telling me if I fire them, you won't prosecute them?" "Oh no, no, but I mean won't be on that list." But you — Have you said if they're on that list they'll have to take 'em?" And then they said I said, "Well, what are you saying?" He said, "Well, we just felt we were giving you an option, that you could move ahead of the herd basically by just

letting them go." But on the other hand, Bill, I think — I think that whether they're on the list — if I let 'em go they're on the list anyway. It appears that I just — I heard they were going to be on the list and I fired them and they were on it. Then it looks as if we're not prosecuting. That's my problem. We're not prosecuting my two top people and I let them go. I don't think that makes sense at all or do you agree? Am I missing something here?

R. You don't seem to.

P. Well, tell me that. Well, wouldn't it look bad? Bad?

R. Oh, sure. From your standpoint. Yeah.

P. If I let Haldeman and Ehrlichman go and they didn't have them on the list, they will call them before the grand jury and then indict them if they get information.

R. Well you see, Mr. President, the only reason a judge questions a defendant when there's a plea of guilty

P. Yeah.

R. Is to make sure that he's pleading voluntarily and that he knows the nature of his pleading.

P. Yeah. But right. Right. But Sirica has exceeded that hasn't he, Bill? That's the point.

R. Well.

P. He's asking now who else was involved. See that's what he's going to ask. "Was he involved?"

R. It seems to me that if he's doing that —

P. I think he'll act like he did over McCord.

R. Well, if he does that, that's a perversion of the grand jury process. The whole idea of the grand jury process is to protect people —

P. Yeah.

R. Until they are indicted. And once they are indicted, then they are presumed innocent until we go to trial. One of the reasons you have a grand jury proceeding is so you don't have innocent names and then (unintelligible) to the public.

P. Well, I'll tell you. Let me put it this way. (unintelligible) Haldeman, and Ehrlichman, on a thing like this — Ehrlichman — Frankly, I think he's going to beat it. I don't think it's going to help him, if by letting him go, I know that he's gone to the prosecution. I told him —

R. You shouldn't — you shouldn't be faced with those problems.

P. I know I don't have any (unintelligible). Don't you agree with me that that was — you know I am concerned about my people. I know that Haldeman and Ehrlichman are not guilty of a damn thing. You know what I mean. It's only tangential on that, Bill — tangential. Sure they knew we were raising money for these damn defendants, but they were (unintelligible) in the campaign. I mean, I mean (unintelligible) Dean at the meeting, wasn't he?

R. Yeah.

P. Ehrlichman was handling the whole domestic thing and Haldeman

was working with me at the time. They didn't work in the campaign. It was all over with Mitchell. Mitchell was — in this whole thing — and frankly, Dean was handling it for the White House. (unintelligible). Our people were aware that he was. We were aware about that.

R. How did you leave it with Petersen? I don't know whether — I think from now on you better let him go into the brawl. I don't know.

P. I have. I left it with Petersen. He's going to report to me and I said, "If you get any corroborating testimony, I'd like to know. I think that's better."

R. Sure.

P. And if I get some corroborative testimony, I said, "I'd like to be warned and I can call in my people and say, 'Look, I found this out and I've got information and you — therefore, you ought to consider whether you shouldn't resign.'" That's all I told him. Well, I'm not going to talk to him any more about that. After all, I'm the President of the country — and I'm going to get on with it and meet Italians and Germans and all the others. You know, really —

R. Oh, you do that. I think you, I think that —

P. I've been living with this for (unintelligible) that's all I've been doing for half the time now. And having all

See TEXT, A23, Col. 1

TEXT, From A22

these (unintelligible) that I had trust in. What trust. I trust Ehrlichman. I had him working. I must say he completed the job. He got to the bottom of the thing. Had a meeting with Mitchell and questioned (unintelligible). This was before Magruder went to the (unintelligible). And he said, "There is a possible, possible situation of the act of — what you call it?"

R. (Unintelligible).

P. If the individuals knew that the purpose was too keep people from talking in court. In court, not openly. Apparently, it's — you might keep 'em from — but he said, "Anyway, that's the problem." So, I don't know. I still don't know if it is a problem. I don't see, I'm thinking of Haldeman and his kids, Ehrlichman and Dean and his. You know what I mean. I'm thinking of the possibility of their mocking a great career. Their service has been efficient — marvelously (unintelligible). It's been all over (unintelligible). I'll tell you, if they aren't convicted, Bill, they'll come out. You know what I mean. (Unintelligible). Charge, and everybody's going to

understand. This'll be in better perspective, in a year, I think.

R. I think so. I think once that the — well, the first blush will be —

P. Terrible —

R. It'll be terrible.

P. Yes, sir.

R. No doubt about that.

P. Oh, yes!

R. And it will — it has so many little ramifications that you —

P. Yeah.

R. To this story.

P. Right — right.

R. But when it's all over — finished

— P. The Watergate mess.

R. When it's finished —

P. I'll be here, all along, Bill. The jury indicts, moves. We're going to get on with this country. A lot of people in the country, we may find, they feel the President is doing the best he can in the damn thing. If I had wanted to cover-up — they probably think the President can cover-up. If I wanted to, I sure haven't done it very well, have I?

R. See, you only got what your — what the press will do to your own people. Press will persecute people.

P. They prosecuted Mitchell.

R. Did Dean at any time give you any indication of what he's going to do?

P. Make a deal. Both — make a deal with Dean. Make a deal. I would think that Dean would just say, "Look, son, if you're indicted, I'm coming (unintelligible). Gee, fellows, what the hell is (unintelligible)." And any of the others. But he's going to try this whole administration I would expect. And my view on that is let him try the whole administration. Ron Zeigler has an interesting point. He said, "Dean had in February, had said, 'I, for nine months conducted this investigation.' Now he comes in and charges inaction." Dammit, why didn't he come in earlier, and tell me these things, Bill? Why didn't he do it? If he knew, I would think that —

R. It's one of those things that I just — (unintelligible) Mitchell

P. Oh.

R. Well, these things happened.

P. And once it did happen, not cutting it off right then — stepping forward and saying, "I (unintelligible) this. These kids shouldn't have done this and that's my (unintelligible) best judgment." Well, I think I know —

P. They just thought that might hurt the election.

R. Same thing is true in Vesco. That case he's involved in.

P. Belongs to the courts. I'd rather have it there than in the committee.

R. Oh, sure.

P. Wouldn't you? At least the court doesn't try —

R. Well, that's the way it's supposed to be. That's the system. The system is —

P. It sure shows the system works,

though, doesn't it? And I get amused. I had (unintelligible) in all Sunday, had 'em in Monday, I had him in here today. I fired out my statement, and I said —

R. What'd he say about your statement?

P. Petersen? Oh, he thought it was fine. I got to thank him for it.

R. Is he going to (unintelligible) accuse other people in open court?

P. That's just like Sirica (unintelligible).

R. Well, I can see, I can see — Sirica was, he was suspicious there was a cover-up.

P. That's right.

R. He was trying to, he was trying to put pressure on the ones who knew so he could —

P. Not only to confess about themselves, but about other ones. That point, of course, they'd say that Magruder has acknowledged, Magruder has confessed — but what about others? What about (unintelligible)?

R. What I mean is here you've got a willing witness. Before he was doing it to reluctant defendants. Here you got a willing, as I understand it, a willing one.

P. Who will testify.

R. Who will testify, has been working with the prosecutor and who's going to, will be called before the grand jury. Why the hell he's — that (unintelligible) open court. That's the — that's what the grand jury's for. Makes a nice little backdrop for your Italian dinner.

P. Oh, it'll be alright. They'll have a fine dinner and wine.

P. They just heard the story. "Thank God, the President's finally said something about Watergate." That, I think, is going to be partial reaction.

R. I do too.

P. I don't know. I'm not taking any —

R. No. I don't either.

P. Comfort out of it, because for a period of time it's going to be painful. When Mitchell gets indicted, and when possibly Haldeman and Ehrlichman get —

R. (unintelligible).

P. They're talking to them now. I've

asked them both to come over here for a minute when they get (unintelligible). I feel frankly that we should. And a question that he makes now which is still open, you see, he still left it open. They, they'll leave if evidence (unintelligible) brought to my attention.

R. Yeah.

P. (unintelligible) approach that I have my sources. Now, if he doesn't have enough to sink 'em, but he makes these, he's doing enough to sink them — where are you getting (unintelligible) on the other story? Whether or not Haldeman and Ehrlichman ought to wait until their names are publicly brought into this, Magruder shouldn't. He said he'd give me twelve hours' notice on that, but I — I think that probably it's

going to (unintelligible).

R. I think John and Bob ought to resign, but talk to their lawyer first (unintelligible) but I don't think —

P. Your immediate reaction though is —

R. My reaction is I don't understand.

P. What should I do?

R. What the hell they're going to. What Magruder's going to do. I don't know. It seems to me if Dean has mentioned them that way that they ought to then take a leave of absence.

P. Yeah.

R. I don't see how —

P. But you would wait until their names were mentioned? That's the whole point.

R. Yeah. I don't see on what basis you need to do it. Now in the case of —

P. Well, on this basis now, let's say that the President had knowledge from the U.S. attorney that charges had been made against them. Let me emphasize, I nailed him hard. I said, "Now let's" — I said, "Rogers and I read this whole thing over. But it's uncorroborated." He says, "I agree."

P. But he wants me to sack 'em.

R. He can't corroborate it?

P. And I have a feeling for a guy that's supposed to uphold the rights of innocent before (unintelligible) are guilty or not. Well, let me say this. I've got to live with myself I don't want to do it in that (unintelligible). That isn't fair. On the other hand, I'm trying to think of their standpoint. If they're going to get — if they could get some advantage, either — any advantage by not thereby being named in this statement and then, of course, not even being indicted maybe that's something. But they're going —

R. (unintelligible) specifically almost have to point out —

P. They, they, on the other hand, they're going to be called. They'll be indicted and (unintelligible) although, I guess appearing as non-indicted co-conspirators—what the hell do you say to that? I mean (unintelligible).

R. When you have a case that's serious and when you have people who are on the periphery and you want to name them in order to have them available as witness, you name them as a co-conspirator without indicting them. Well, the problem first —

P. These guys are available.

R. The problem first — that's just as bad as being indicted, especially when you know somebody was (unintelligible) lying. So you're named, but you can't clear your name.

P. That's right.

R. But in case you're indicted, then you have the opportunity to clear the record. Little trail, then acquittal then you — this is as if it didn't happen. If you're named as a co-conspirator and forced to resign, then you're convicted without a trail.

R. In that case I'm not really — you got to protect them because I don't — I think probably in the final analysis they—I'm afraid Bob is probably in—

P. Going to be indicted —

R. Trouble. But —

P. I'm not sure he'll be indicted.

R. I'm not sure he'll be indicted but —

P. Well, staying too close to the money. He never can explain that. In terms of legal involvement though but he could never explain to the people and you (unintelligible) some of that damn money back there for 'em. Testified by Mitchell, by, by Dean. Was it a (unintelligible) of the defense?

R. Why don't we do this? (unintelligible) — or, they're just talking to lawyers. You don't have a chance to assimilate it. But don't let them (unintelligible).

P. Well —

R. And you're going to have twelve hours.

P. Yeah — twelve. I would like for you to put your mind to the problem, if you would, because I really think we've got to start helping 'em. Help advise them. They're in the eye of the hurricane.

R. All right. It gives us a little time to see how your, how your statement plays.

P. Always had a (unintelligible) had (unintelligible) I really did think —

R. Oh —

P. But that he probably didn't know about — know what it means. My feeling was that Mitchell — basically always thought Magruder knew the damn thing. Mitchell just wasn't tending the shop. That's what I understand.

R. I'm surprised about Dean. I thought — I thought. Well from the beginning, I thought Magruder lied and I thought Mitchell probably — he may well have given the go ahead and said, "Oh yeah, to hell with this," and the damn thing was then approved.

P. Yeah. "Don't tell me about it."

R. "Go ahead. Don't tell me. Go ahead and do it." Well I'm surprised about Dean because I didn't think —

P. Now Dean claims that he didn't have anything to do with having them go ahead. Understand that. After that Dean came in in terms of the obstruction of justice. There's where he's vulnerable. That's all. He's not vulnerable on the first part in my opinion. I think he —

R. From the same position if he's gotten two people he's trying to bargain with — Dean and Magruder — and he — did he say he got written statement from both of them?

P. I don't know — I think what they've done is just sat down and debriefed. That's what they call it. It's all (unintelligible) with an agreement certainly, though. Where Dean is concerned, nothing they can do to shake him. On that one he stands firm.

R. I would think that the one fellow that had to know about this and should just take a leave of absence is Dean.

P. (unintelligible) It looks like this might (unintelligible) of course, set him off.

R. We don't.

P. Worse than he is.

R. Well I think your point is true enough. He appears beyond the thing, although he —

P. He was the one.

R. Pretty hard. Pretty hard to say, "The lawyers —"

P. Well he was — he was not. Not in this matter, I can assure you. He handled the whole thing. He was depending upon — regarding the fact — when I started my investigation on the 21st of March. I saw Dean at least (unintelligible) times. At Camp David, he was to write the (expletive deleted) up so we could put out a statement. He said, "I really can't write a statement that you can put out." So I must say, "I've done everything I can to get to the bottom, Bill, as you can see. I

said, "John, you got to let it all hang out — now find out — you got to tell me what the hell the score is so we'll know how to deal with this. We're not going to be nibbled to death by a thousand hurts." That's exactly what we've done. So we've got just (unintelligible) the time when McCord, which I — I don't know what he's talking about. There are — at least, he's made a lot of allegations that he can't prove. But there's enough there that would put anybody on notice that without a doubt there's something wrong.

R. Yeah.

P. That's why I had to move and I have — at least I produced — good — I thought the statement would reveal that I have been working on the (expletive deleted) since the twenty-first of March.

R. (unintelligible) why don't we — why don't we try it again tomorrow night and then —

P. Right.

R. Why don't you get — still in the — in the — in a real sense, it's up to the — it's up to John and Bob.

P. Yeah.

R. It's damn difficult for anybody else who doesn't know what the hell he's talking about. For example, I don't really know—you know—what the facts are.

P. Yeah.

R. I.

P. I'm not sure that I know.

R. You don't either. So it's very difficult for others. Your judgment tends to be superficial. Although a sophisticated fellow John, after all, is a lawyer so he claims that he's (unintelligible), thoughtful kind of a fellow, and if he isn't shaken now, this is a fellow that's not just a rambling idiot.

P. Yeah — he's taking (unintelligible). Had everybody over this morn—

ing. "Going to fight, discredit Dean—discredit the prosecutor" You know—"going to fight." That'll be one hell of a big fight but (unintelligible) the administration (unintelligible).

R. (unintelligible)

P. Dean's (unintelligible).

R. You don't expect the head of the FBI to pick up and burn the damn stuff. You can always put it in your safe and say it is unrelated to the investigation. But, burn it? Makes you look like a common crook.

P. We're working as hard as we can. The guy we're thinking of Bill (unintelligible) frankly (unintelligible) a Democrat, Irish, Catholic, bachelor, forty-two years of age. He's finishing the Ellsberg case and received plaudits for being just as fair as he can. Thank God there's a jurist of that kind. And based on (unintelligible) sense of (unintelligible). And I feel I think he'd get a 100 per cent because he has the best investigative experience. A great man for the job.

R. (Unintelligible)

P. He will get a hundred votes in the Senate. I think (unintelligible) why did you burn it? Wouldn't you say, "There's no place in the FBI. We have nothing to do with politics. This is political material. Turned it over to us, showed it to us because they wanted to be sure they weren't suppressing anything and it did not involve the Watergate. (unintelligible) thought the best thing to do was the FBI."

H. Do you want us or not?

P. Oh sure, come on in.

R. I was just saying to the President maybe we ought to wait until over-

night. The two of you buzzed or just not feeling well.

E. We talked to your Mr. Wilson.

P. Was he lying down? Wilson? An old-timer?

H. Nothing like—contrary to your feeling that we wouldn't want to work with him, I think we'll find him very good and tough.

E. He's very knowledgeable.

H. Sharp as hell. Technically, he's too old, but mentally he's very bright.

P. Just let me say, I'm so glad you have him, somebody to talk to. I definitely—

R. My only reservation would be—(unintelligible).

H. Well, that's a problem. If we go to trial, he's got a heart problem and all that so you can't—

P. You don't need a trial lawyer

H. We need brains right now.

P. What you need is brains, judgment.

H. He's got that.

E. Well, he knows the cast of characters. He knows Petersen. He knows Glanzer. He knows all those people and he despises them.

R. All the people we don't like.

H. Maybe he started out that way before we said anything.

R. Well, I'm glad because I was worried about his condition.

P. Bill brought—incidentally, I asked him about it again, how he liked the Garment approach. And he said, "no problem." We should go with him. I told him this is the only question you see, I don't have anybody to talk to. I never talk to Petersen any more. That's done, except—except for all the information I want. You know what I mean.

E. Wilson said to us, "Beware of Petersen. He talks," he said. He cited a case that he had that Petersen was involved in—

H. And he said that one problem in dealing with him was that every point he makes is accompanied by a story, and that latter is so.

P. He probably foxed him. Well, then, maybe all I'll do with Petersen—he said that he'd give me 12 hours notice with regard to the Magruder thing and I think I want that.

H. Yeah.

P. Bill doesn't know how the hell that procedure works—

E. Let me tell you what that procedure is. Wilson explained that to us too. He said that where a man goes in on an information and pleads guilty in this District, it is customary for the judge to interrogate if he wishes to. And also for there to be filed a statement of the case—ah—in the nature of information. Now the information which they will file instead of indictment names the co-conspirators in the conspiracy charge who are not indicted.

E. That does not mean that you won't be indicted later. It means for the purpose of that information which is then filed, you are not indicted. And so this is a list of people who in a description if a conspiracy pattern are co-conspirators. His analysis of the pros and cons of this are that for the prosecutor to come forward and say, "If you will suspend these birds, I will name them in the list of co-conspirators," gets the prosecutor off a difficult political hook because when the judge asks, "Were there any other co-conspirators and so on?" He says, "Well, they have already been suspended—ah, and may be indicted." We reserve the right to indict them, but we are going to have them before the grand jury.

R. So, are they going to help a bit?

E. Well, it doesn't help us. It helps the prosecutor with his problem. On the other hand, he says, there is a certain negative in it. From a political standpoint for the administration in that the question will arise, "Well, why weren't their names on there if they're co-conspirators?"

P. Right.

E. Somebody's covered up.

R. Yes.

H. That's worse than putting them on the list.

E. Yeah, and so, he said—

R. I don't know, John. And let me go back for just a moment on this procedure. The information is filed by the prosecutor himself, without a grand jury action?

H. Yeah.

R. If the prosecutor names, for all practical purposes, the fact—

P. In the public mind—

R. Particularly that you are going to leave public service—

E. That's what Wilson said.

H. That's what Wilson said.

P. If they are indicted.

R. Well, You've been indicted.

P. That's right. Let's face it.

R. The indictment, Bob? Is a charge—

R. The indictment, Bob? Is a charge—

P. It doesn't convict anybody.

R. What the Constitution provides is that before charged, a group of citizens to view the evidence—

E. In secret—

R. In secret, to see if there is sufficient evidence to make a public charge against them. That's the protection that everybody has. If there is an exception and I guess there is in this case, the lesser crime would result. But in this case the gravity is such that it is all baloney. That's all right if somebody is accused of stealing an automobile from the sidewalk or something. You know, people in government positions are entitled to the protection of the grand jury because if they want to make a public charge against an individual then present it to the grand jury. That's what you have. But here you have a perversion of the system.

E. Sure.

R. Being compelled to leave the government. Hell, as far as the public is concerned, you are already indicted.

E. Really, the job—they have this capacity by using that process. They could ruin you and never give you a day in court.

R. Of course.

E. They could list you as a co-conspirator, don't call you to the grand jury, don't take an indictment against you—

H. Force the President to suspend you and—

E. You are cooked forever. You are a conspirator in the Watergate case.

R. As far as the public is concerned, you are indicted even if they don't call it that.

E. That's right.

R. That's what it is nowadays. The President has been forced to have you leave.

E. It's non-actionable. It's privileged. You can't sue for slander.

H. We do have a public record in that regard in that we have a public position that commands substantial attention.

R. See, Bob, the protection of the grand jury gives a citizen is that the charge is heard in public.

H. That's right. To turn this around.

R. Then the charge—then everybody

shuts up. The evidence is not disclosed. Nobody says a word and the judge cautions everybody to take the oath not to repeat the evidence and then you go to trial. And everything is then controlled by the rules of evidence. Then the jury makes a decision based on that evidence. That's the system. Now if you do it the other way, you don't get the trial. You both would be indicted and convicted by the public beforehand.

E. That's a tough political call — that we were framed up there. In this conversation, we don't need to decide here beyond mentioning it, but it's something that will have to be decided. Our relationship to Dean — probably was client to attorney. Because we were already noted and present in all these transactions. What I said to Dean and what Dean said to me is private conversation with no third party present. It could be a question of privilege. The question is, if requested by the prosecutor, to waive the privilege. It is that Dean conversation where he says he came and told me that Liddy had confessed.

P. But he did it in California, didn't he?

E. Well, the only reason to tell me was not for me as me but because I was one of two conduits that he had to the boss. He didn't have, I mean, the organizational set-up was that way.

H. The President's log is every interesting. I don't know if you've gotten through all of this, but from the time of the Watergate break-in until the end of August when he signed your votes in the office, you never saw John Dean.

P. That's of course —

H. During July and August the President had no communication with Dean, at all.

E. Now, he gave a lot of legal advice about this case. A lot of traffic and all that, but there's also developed a poor relationship and sooner or later the President is going to have to decide whether he wants to consider privilege — if Dean becomes —

P. My privilege? Lawyer-client privilege?

E. Yes. Dean's communications to me and my communications to him. And the same with Bob. I think. That's a tough problem. You probably won't want to reserve it.

this politically. What do you think about that?

R. It is really ticklish.

E. Probably the first time it's come up in this generation.

R. Wilson would like to do a lot of erudite thinking about that for a while.

P. Great old man.

E. He was at the White House once before.

P. I remember. It's almost a year now.

E. Dixon-Yates things.

H. He was offered the budget thing. He refused.

E. Canal is open.

H. He stayed at the White House for several months.

R. My only thought on (unintelligible) maybe he is looking out to not hurt himself at all.

P. Like what?

R. Well, what it really means is — it is hard to understand he was counsel to you as well as to the President.

E. I appreciate what you are saying and that is important, and I understand.

R. How did he contact the President?

H. Dean? He dealt with one of us.

E. In our capacity to make decisions. He was really an adviser in that situation. Not a (unintelligible) and sometimes he followed and sometimes he didn't.

P. That's common. Everyone wants to carve his place.

H. Yeah.

R. Problem is, what do other people say about him?

E. He's a jerk. Sure, that's right.

P. And I deferred to him in this damned investigation. Remember you said, "I think you ought to talk to John Dean." Remember. And I called him in there. And — I listened ad infinitum and carted him off to camp David.

H. (Unintelligible) I deferred to him on most occasions.

R. Well, why don't we think it over?

P. Well, let's start with one thing. I don't see anything to be gained by the procedure of Haldeman and Ehrlichman. You see, here's the problem. Kleindienst, Bill, on Sunday — they both came in and said, "Because of Haldeman and Ehrlichman — just the fact that both of these clowns had implicated them and they ought to resign. They haven't served you well, Mr. President," and all that sort of thing.

R. I think that's —

P. They said, "Make them resign, resign." I said, "Well, damn it, I can't do it on uncorroborated testimony." The point is — I think — a moment of truth for them when they come in — and say they've got corroborated testimony. Do I have to examine the damned testimony? I say, "Look, fellows, I think under these circumstances, you had better voluntarily —" say — see what I mean? That's what, my concern — Bill has made the point that a person in public office should have no more and no less rights than a person out of public office. That's my theory. Right, Bill?

H. Well, there is a good counter argument which is that a person in public office has a higher obligation than a person not in public office. This is one of their points.

R. I think though, that is for the individual to decide. That in effect has to be done. It hasn't been done.

E. I think if we turned up in this crazy information — junk — even though we are not charged with a crime, in the ultimate sense — I could write you a

letter and say that due to these charges, that obviously I don't want to impair your situation and I am going to take a leave.

P. You could say I have asked you to put me on leave until the charges are cleared up.

E. Sure, and I think that is the direction from which it ought to come.

P. I personally think that is really the course of action we should take and let them put it out if they want to that way. And if they do and if you are named you can immediately say, "I am confident that these charges will not stand up and that I, that I, and so forth" — and, "my usefulness, of course, will be seriously impaired and I therefore request a leave until the matter is cleared up." I think that's, I think we can all agree on that without an indictment. I might put a P.S. on there and say, "I am shocked with the procedure followed and when I am reinstated I am going to see to it that the Justice Department changes its procedure."

R. If the prosecutor came to the President and advanced sufficient evidence for you to ask them to resign, and he looks at that evidence and says, "I agree." That's your decision. But in this kind of a case, normally, that kind of a judgment wouldn't mean indictment — that's all we have (unintelligible) but under these circumstances (unintelligible) in effect, Dean would be doing a greater disservice to you than a bonafide grand jury indictment.

P. That's right, he would.

R. He's working for and already decided before the Attorney General could come on the case.

P. I think that, I think that before you have your day in court. That really means something to me.

R. Well, if you were to consult aside from the Attorney General, that's a different matter. I don't — the thing I think — based on what Petersen gave to the President, which I looked at, I don't think there's sufficient there. There may be something I don't know about.

E. Well, I put those to Wilson and he said, "Well, I'll have to take it with my bed of crumbs tonight." You know, his reaction was ...

P. What are we going to do to — go ahead ...

R. The Star newspaper said that you had meetings in June or something.

P. Say it again, that's what Dean's saying.

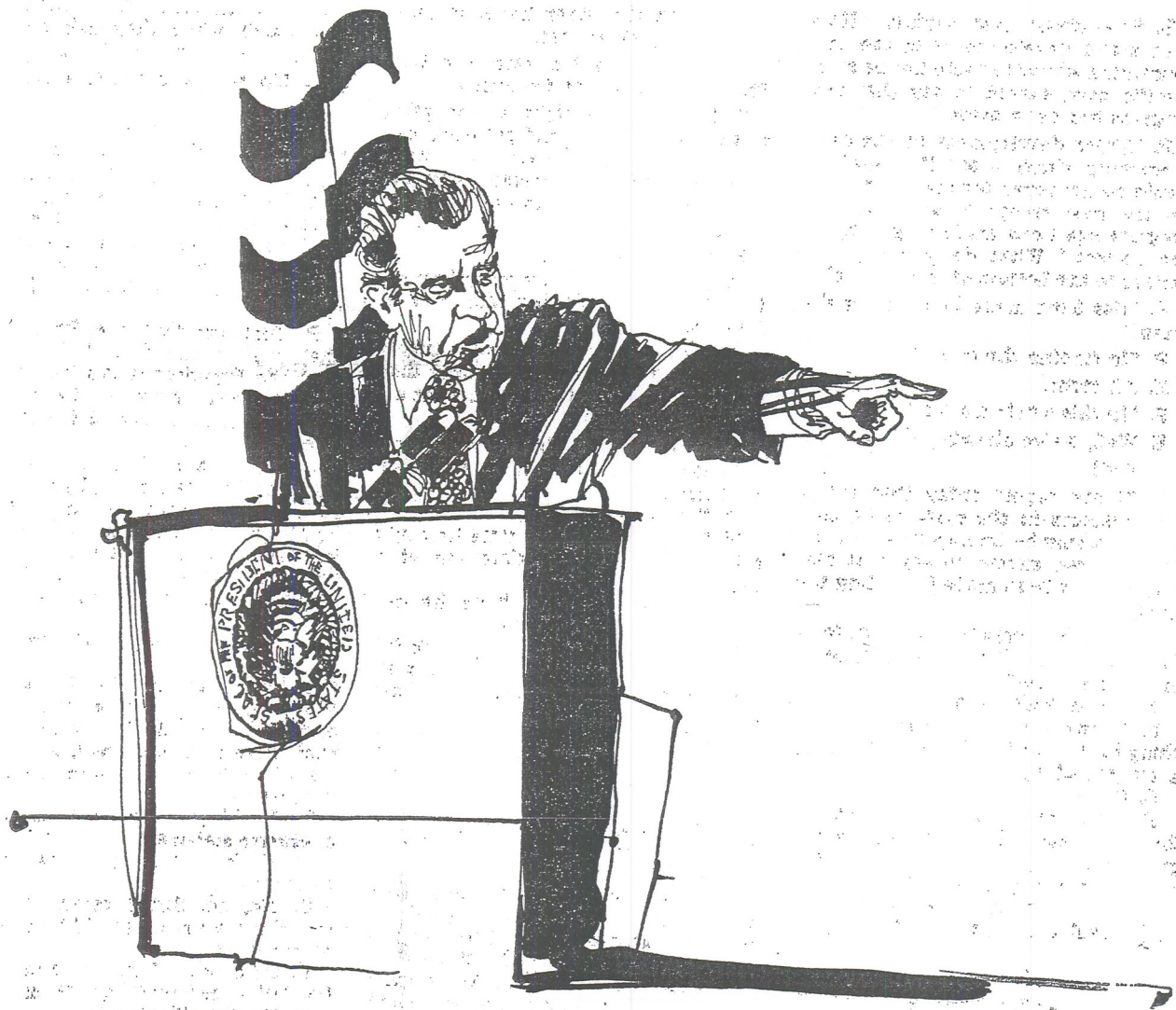
E. And even then, after that.

P. That cannot be proper, Bill.

R. But even supposing you had said that. Suppose you said that. Then there was, then it isn't what you say, it's what you did.

P. Yeah.

See TEXT, A24, Col. 1



President Nixon: 'The judicial process is moving ahead . . .'

TEXT, From A23

R. So, what did they do? They turned all. Everything in the safe over to the FBI. They turned over the materials dealing with the Watergate to the agents that were investigating it, they turned over other material not related to Watergate and was not under investigation to the head of the FBI. Now how in hell can you say, "That is obstruction of justice to turn over all the evidence to the FBI?"

P. Except that, when Pat Gray burned it, it makes it look like it—

E. His wild geese—"deep six."

R. Pat Gray says, Pat Gray was told to do that. He said—

P. He was not told to do that.

E. On the other business, which is very suspicious, and that is the business of "should he leave the country," I've checked with everybody in that meeting and they don't remember anything like that. It turns out Dean called Liddy and told him to have Hunt leave the country. Colson recalls

Dean mentioning this to him, not in my office, and Colson saying to Dean, "You stupid bastard. What a terrible mistake." Then it was countermanded so—

H. And he didn't leave the country.

E. And he didn't leave the country, so I suspect that Dean many —

E. Have acted unilaterally on that.

P. Here again—

H. Colson brought him up short.

P. Here he is trying to pass this up to Ehrlichman, too.

E. Well, he has to have an explanation for why he did it.

P. And how is that going to come out from the others if they said, "He was told to leave the country"? Or has Hunt already said it?

E. Well, yeah. There is no question that he got orders from Liddy who said that, "my principals say —" and he said, "Who are your principals?" and he said, "John Dean."

P. John Dean said, "Oh no, it's Ehrlichman?"

E. Yeah. Get into one of these "he said", "I said" sort of thing, it's going

to be miserable. But the probabilities against the surrounding circumstances

E. Now I have no illusions about this at least as of now look good.

credibility. Everybody gets used up. process, when you give it the test of There is nothing left so you just have to expect that that's the end of the ball game.

P. Well, it is for this time, but now and then you have one fight and win the battle. The three, the three-fifty thing is the toughest thing, Bob, about this whole thing. Mainly, to me there's no question about it, just basically that they had knowledge that it was going to those defendants and so forth. They wanted it for that purpose. And the question is what you thought it was. And then again they'll say that they don't believe you. It'll get down to that.

R. Dash, etc.

P. There again, though, course they have a route to this. Larue. He broke down and cried, I guess.

E. That's alright. Are you going to

have spaghetti tonight?

R. Spaghetti and singing Toscanini.

P. Well, Bill, you go ahead. I'll — let them go home. It's possible we may ask your advice tomorrow with all—

R. I have reason to feel good that you got John Wilson.

H. We sure appreciate your help.

R. Yeah.

E. He was enormously gratified to hear that you had recommended him.

H. We told him you had suggested him and it was the only name you could suggest and he said that, "Bill, and I have been on the same side and on opposite sides. He wouldn't speak to me on one matter."

E. It was on the Swiss deal —

H. Something he wouldn't speak to me — Never (unintelligible) worked over here three days a week and never say President Eisenhower. Never got an autographed picture and so we said, "Maybe in this case that could be arranged."

P. Provided he had nothing to do

E. He's very clean by the looks of it. with Watergate!

P. Well, so are you. Damn it!

R. Ok. Good bye, Mr. President.

P. I'm glad he feels good about having him come over here.

H. Yeah. Well, I don't now about that. I don't know anything about lawyers. I never had one before so. For exactly reasons Bill thought we wouldn't like it — he's an old man and we won't like working — I do like him.

P. How old is he? Seventy?

H. Seventy-two. Well, he's well-preserved. He has some difficulties. But I'll tell you the guy has got—his mind isn't slow at all. He is right with us and then some. He's got an abundance of stories.

P. Sure.

H. Well, I feel pretty good about him.

P. Well, it's good to have him. Very good. It's a fight.

H. I need—a—he is so devoted to other things. He's just devoted to the cause.

H. He said, "It's a great honor to meet you men."

P. What is his reaction to the whole damned thing? Comic tragedy? Tragedy of errors?

H. He didn't characterize it. He didn't, ah—

P. Hello. Have you been busy? Yes. How did it go? I've heard that. Yeah. Yeah. Yeah. For later. That's right. Either way. That's right. Sure. Well, get a question about whether I talked to Mitchell, huh? Yeah, Mitchell. But there was a time set. From this period on. From the 21st on, did you talk to Mitchell? Very good. (unintelligible) very good. How are you? Good luck. (Unintelligible) well. I just feel that, I just went through that, now they may have told you that the basic heart of the matter—

E. Well, I tell you. I think you've

put him in a box on that. They are going to have to have some damn good reason for that Sirica thing.

P. Dean's credibility is totally destroyed you know.

H. Dean (inaudible).

P. Sure, Dean was in charge of the investigation. Did they ask him that? Yes. I put it up to Ron and I made this point to Ron. "You know Dean somehow has sold out the White House,

the administration, etc."

H. That's a good statement. It is a good idea. It puts you exactly in the position that you should be in now.

P. We'll get kicked by the press on it.

H. For giving in on Ervin, etc.

P. Giving in on Ervin. Oh Ervin's great—hell, that doesn't bother me a bit. I was always ready to give in on Ervin and I said, "This is very satisfactory now. We have now accomplished our purpose. This a good deal." I said, "It not only applies to this case but it can apply to other things." I ad libbed that when I said it. I worked it in.

H. It was a very good answer.

P. No, I shouldn't pick on the press but, "Why did the President act so late on this case? Why didn't he act earlier on this matter? He had the charges floating around." The answer is that they are charges that were just floating. I mean, I think really, that's true, newspaper charges and so forth.

E. They were all relying on Dean, frankly.

H. Well speed was not of the essence in this case. It wasn't a matter of whereby moving quickly would stop something. It was done. It was a matter now of doing it properly. Not quickly.

P. That's right, Bob. That's the point of the whole Garment thing. There is this tendency John, to talk, and basically I thought he was a (unintelligible) but he was totally non-plussed by that.

H. He said, "Where's the Attorney General?" He's taken himself out of it. Wilson said, "Where's the deputy attorney general? He's not involved in it. Where's the chief district attorney? Where's Titus? Who should be on top of this? Why did Silbert call me instead of Titus? Silbert—he's an old boy from the Justice Department and they band together." He said, "Did John Dean ever work for the Justice Department?" He also said, "I bet you those lawyers that Dean has—and Magruder has—both were old Justice De-



partment types." He says that Glanzer is a very bad operator. He knows him well. He doesn't know Silbert but he knows Glanzer very well. Says he's a bad buy. (Unintelligible).

P. Well, don't you both agree though, John and Bob?

H. He did it. But I've heard he was the L.A. Times leak this morning.

P. I knew about the leak. It was going to come yesterday.

H. No, I don't think it was intended as that. And I don't — not because it triggered us, but because it set the stage.

H. It let out ahead of time that the White House was going to move on something. And then you did.

P. Well, did that story say the White House was going to move? Oh, oh, oh. Heads are going to roll. That probably came directly from Dean. I think Dean did that.

H. "White House likely to admit some Watergate responsibility — will have a dramatic admission of whether one or more high level officials bear responsibility." It doesn't say White House officials. Your action now saying something substantial will develop that's all going to fit together rather, rather—

P. Yeah, Yeah (unintelligible) about that—tell us about that ransacking and (unintelligible). It's been about two years' ago. It's about not letting (unintelligible).

H. He said it was 22,000. Was the difference to money material? Can a case be made out of that? Did he keep the money or was there something about that?

P. He called the same day, too, didn't he?

H. No, he called the next day. He called within twenty-four hours. That was the next day. Testified on Thursday and called on Friday.

E. They are using every lever they can lay their hands on—these guys that say that.

H. I saw on ABC News tonight,

which also fits into all this. It says in the last three weeks in the White House, Haldeman has been coming down very hard on everybody: "If you have anything to say to say it now. This was the message that was given to Mitchell Saturday at the White House. Haldeman evinced no protection and no apologies. Anyone and everything will be disclosed." It should have been Ehrlichman instead of Haldeman, or get out White House for cracking down hard on the Watergate. It's not bad. It's a damned good position to be in. And when Ziegler talked to him he said, "I can't give you anything official on that but off the record you are not going off base."

P. Was Bill Gill on that one?

H. Not tonight. Gill called and asked for confirmation and said he was going with the story and he wanted Ziegler's comment. Ziegler said, "I can't give you any comment."

P. The story probably isn't even out.

H. Well, that's what I said to Ron, "Hold the statement until tomorrow," and looked up my story (unintelligible) was on. No, It will be on. It's on. There's another item.

P. The right day too. We had to get it out. (Unintelligible).

H. That's right. That's right. The Post won't put it in tomorrow. If The Post had something to go with tomorrow, I would say they wouldn't go. They'll hold up now and watch for something. They are playing the long game.

P. I. get your point, John. On the (unintelligible) I think we, I think we have sped the process up. This kind

of stuff, this kind of stuff here would have had stories for three of four months.

H. That's right.

P. That Ervin. Right. We get into the grand jury and then they get an indictment.

H. Well, there's no question that it's the best way compared to the Ervin process. It is essential to go this way.

P. That's right. If it weren't for the fact (unintelligible) possibility of (unintelligible). I (unintelligible) my theory to take this thing to the grand jury.

E. Yep.

H. We have to face the possibility of indictments and those would have to come anyway. They wouldn't have let you get away with it.

P. Well, I think what would happen for instance with Ervin's problem. They would be saying, "We refer this to the grand jury."

H. They would have murdered us. Something would be out every minute. Demanding that you fire everybody. Demanding that you do this and that.

E. Well, as a mater of fact, you might have turned the set up some day and watched your White House counsel crap—for the glorious television.

It would be at least surprising.

H. That's right.

P. Oh, It's done up there?

H. Sure, he pulls it up there.

P. Let's face it, up to this thing. Dean handled a lot of stuff well.

H. That's right, Yes.

E. I would hate to have you appear in the position of not, (unintelligible) sort of conditionally holding the job open much beyond the time that Dean is—

P. I'll say this. I think that one thing for sure John is — I think that I've got to play, I want to play, I know the Dean thing very well. We have played it fairly well. I think what we ought to do — make our deal or not with Dean within a week. I don't see how Dean can possibly miss being involved in whatever they put out on Magruder. He can't miss being — and the way this guy talks, I think all of you, all of you, everybody may get it.

E. He may get it. He's had (unintelligible) go around and talk with the U.S. Attorney types. I think we may have Wilson go over on the hill (unintelligible) and say, "Ok, you are about to ruin these guys. I just want you to know that they are going to have to go out and protect themselves." You are going to be in a knotty problem. (unintelligible) I mean. He has quite a close relationship with Titus. He's not going to get much of a total on this. This statement, and he's going to make it, anything he can to press for, not immunity, but functional immunity, so-called where he doesn't need to make a side deal with the boys and they can grant immunity. And that would be my hunch.

P. Alright, we shall go over — come in.

H. Hell, Mr. President.

P. Same old thing, Huh?

E. I would force him to go to Sirica.

P. Put that in the library.

E. Showing the judge what kind of a witness this is. Come on, get the Hill off the hook of the executive branch by having the judge grant the immunity.

P. The judge can attack that statement.

E. You are putting yourself with the angels on that.

P. I am just saying that immunity is not granted to any major —

E. I think that will be read as relating to Mitchell and three or four of that ilk as well.

P. Oh, sure.

H. They may decide not to do this.

P. That's the point.

H. Dean will be (unintelligible) or it could be done quickly.

P. But I have told the big five, I told the assistant attorney general, specifically, that nobody should be granted immunity in any case. Rogers agrees with this and (unintelligible).

H: The other point that our attorney makes, which is significant: "That's

Petersen: When I think the former Attorney General of the United States being subject to criminal trial is just—

President: For obstruction of justice—not the bugging—the obstruction of justice.

Petersen: It is terrible.

right, the judge can grant immunity, but that in the executive, only the attorney general can grant it." That holds somewhere else too.

P. Dean is the only one who can sink Haldeman or Ehrlichman.

H. How am I going to explain that, after putting out a statement?

E. What do you say, "Dean is some little clerk?" He's my counsel.

P. That's right; he's involved in the Gray thing. They are not going to throw the whole thing in there. I am thinking whether to see Dean again unless its useful — I don't think you can control him, he's fanatic. If you feel it would be useful, let me know.

E. I will tell you what is lurking in the back of my mind is that, based on the chain of circumstances, Dean may be provoked to make a public statement which is slanderous and hostile.

P. Another thing. I would like the libel suits. I think both of you, and Bob particularly, you ought to get yourself a libel lawyer, Bob, and check the or have Wilson check and use the most vicious libel lawyer there is. I'd sue every (expletive deleted) (unintelligible). There have been stories over this period of time. That will make — that also helps with public opinion. Sue right down the line. It doesn't make any difference now about the taking depositions and the rest, does it? The important thing is the story's big and I think you ought to go out and sue people for libel.

H. Do you mean Senator Weicker?

P. He's covered.

E. Oh, he's not, not when he was on "Issues and Answers."

H. (Unintelligible) or using newspaper interviews.

E. That's right.

H. It was not on the floor, he's too buzzy, stupid.

P. The point is the thing with Weicker (unintelligible) is whether he said — how did he say that? Was it libelous?

H. I think so. I better ask a lawyer.

P. Was he that specific?

H. He was damned specific.

P. That Haldeman knew?

H. Yes. "That Haldeman directed

and Haldeman was in personal command of all personnel." I repeat, "All personnel at the Re-election Committee."

P. Good, sue him.

E. I think you should.

H. He said that I was in personal command of Liddy and Hunt.

P. I would sue.

H. And McCord (unintelligible) I have never met or heard of him.

P. John, this libel thing. You may as well get at the libel thing and have yourself a little fun.

E. Might make expenses.

H. Operating procedure-wise we've got to, or my recommendation would be that we should maintain a facade of normal operations as long as you have taken this position. I don't think we want to look like something is radically changed.

P. Nope.

H. Then I think we should come into the office at the normal time in the morning—and a—

P. Right. And have your staff meeting, plus you will be at the meeting tomorrow with the energy conference and you should be at the quadriad meeting. You are right.

H. Go and go as we go along.

P. Unless and until something happens. Now the only exception here is Dean.

H. Dean should not, but nobody would know whether he does his normal job or not. But see that nobody gives a damn, he is not visible.

P. Well, the thing that—

H. And he has been out of here for a month anyway.

E. Any objection to going to Florida this weekend, if you go?

P. Would you like to go down?

E. Yes.

H. I don't expect to get much sunshine but—

E. It might help.

H. I think we should unless our lawyer keeps us here and he could.

P. Yeah.

H. We normally would and I think we should.

P. Oh, I think you should Bob. Right, now understand that if they crack this

H. Oh well, then that would be a problem.

E. One concession that I would ask and that is that people on leave be considered for use of Camp David occasionally.

P. Let me say, what I had in mind. I want you to go forward and if this thing comes out which I can't believe, I want you to go forward at all costs to beat the damned rap. They'll have one hell of a time proving it. Yours is a little tougher I think Bob, and it shouldn't be—the 300. That's why I hope you could raise with the judge and your attorney—that at least gave you the law on that point.

H. Yes, sir. On that point, yeah. We haven't gotten into (unintelligible)

of the law at all on obstruction of justice.

E. He's briefing that tonight for us.

H. He says its damn tough, loose.

E. He cites Glazer as the leading authority on it. He uses it like a bludgeon.

P. Only if it's a (unintelligible)

E. Oh, he hasn't given us that yet.

H. He didn't give us the opinion. He just said, "I'll tell you in the top that it's very tough. It's Luke's law and cases go all ways."

P. I hope he has an opinion sometime on the case involving Dean to the effect (unintelligible) establishing—

H. Why the hell we didn't see then—

P. Remember I was a little suspicious of Chuck. I was not, after all, I said, "Damn it, what's he talking to these people for?" And remember the way I put it is, "He was saying, 'Gee, I have talked to these guys and they're mind-picking.'"

H. Well, they're not in error.

P. And I said, "I think they are taken." Remember? I said that.

H. Yeah, sure did.

P. Well, I don't—I think he was being taken by the Senator.

E. Well, I think he figured rape was inevitable so he was going to enjoy it.

P. Bob, remember, I said, "I think they are taking Dean."

H. Sure do.

E. Well, as I said before. We beat the rap but we're damaged goods.

P. Right, you can't go back in the government, but I will tell you one thing, you are not damaged goods as far as I am concerned. It's one hell of a thing. The point is that let's wait and see what happens before we see where we are.

H. Sure.

P. We ought to expect the worst but I think that what I would like both of you to consider 50 per cent of your time also for editing etc., and so on, with the foundation. The foundation is going to be a hell of a big thing, it's bound to be. These first four years are terribly important and so forth. I mean after all, you understand, that looking down the road, looking down the road, as far as—you say your dad was good at looking down the road?

H. Yep.

P. If you are indicted and tried and found innocent, it washes away.

H. Well—

P. Agree? For government service, I mean.

E. Or for the practice of law.

P. I don't think so. Really?

E. Well, I think so. I think so. Jeanne is furious about it.

H. That isn't true John.

E. It depends on the circumstances. There is nothing I can be discouraged about at this point. But I think we've just about had it. I think the odds are against it.

H. You can always handle traffic cases—

E. Well I am not too pleased with the traffic cases.

P. The hell with the traffic cases. Well, anyway—

H. Well there's all kinds of things we could do.

P. Well I have a foundation. I just think it is fair, I don't know whether I can find anybody to do it. I don't know whether you would even do it. Incidentally, it is terribly important that poor Kalmbach get through this thing.

H. I think he is alright.

P. How could he learn? Did you talk to him there? Did Dean call him about the money?

H. Yes, sir.

P. Does he say what said?

E. Dean told me that he told him what it was for. I don't believe him. Herb said that he just followed instructions, that he just went ahead and did it and sent the money back and—

P. They said they need it for?

E. I don't even know if they told him what for. It was an emergency and they needed this money and I don't know whether he can get away with that or if it's more specific than that.

P. You can corroborate then Herb on that one.

E. I can if Dean is the accuser. I can.

P. If Dean is the accuser, you can say that he told you on such and such



a date that he did not tell Herb Kalmbach what the money was for.

E. That he has told me—that he has told me—

P. That's right—that's right.

H. If we have to get out of here, I think the foundation funding—is one thing—but there is a lot of intrigue too—I hope to get funding for the ability to clear my name and spend the rest of my life destroying what some people like Dean and Magruder have done to the President.

Telephone conversation between President Nixon and Assistant Attorney General

ney General Henry Petersen, April 18, 1973 from 2:50 p.m. to 2:56 p.m.

Operator. Yes, please.

P. Would you get me Assistant Attorney General Petersen, please?

P. Hello.

HP. Hello, Mr. President.

P. Well what's—anything I need to know today?

HP. No, sir. There is no significant developments.

P. Right. Uh, huh. Alright.

HP. Strachan is coming in. Fred Vinson, former assistant attorney general under Johnson, is representing him.

P. Representing who?

HP. Strachan, I think it is, who is going to come in.

P. Strachan? Oh, yeah, yeah. Gordon Strachan.

HP. But there have been no developments. We are still negotiating. We have a problem with the grand jury. The only copy of the grand jury transcript has been locked up in the prosecutor's office. We have the FBI checking out the reporter on the ground that they have leaked it. The judge called us in about it this morning.

P. Uh, huh. Sirica did.

HP. Yeah.

P. About what? About part of it leaking?

HP. He was concerned about leaking and, of course—

HP. Anderson has been printing some of it. We have changed reporters. We haven't even been bringing it over here for security reasons.

P. Yeah. I would hope to keep the grand jury from leaking. But—

HP. Well, you know I don't want to go too far on it either, because I don't want to get into a diversionary battle with Anderson.

P. Hell, no. I wouldn't pay that much attention to it. I agree, I agree. What I meant is just do the best to control it.

HP. We are indeed.

P. Because we know that it's just wrong. Now we are handling it over here, I trust, aren't we? I just told Ziegler he won't comment on anything because it might affect the rights of either the prosecution or the rights of innocent people or the rights of defendants.

HP. We are not taking any calls from them over here.

P. So that is all we are saying.

HP. You can't talk to them at all.

P. Fine.

HP. I was kind of pleased with the reaction your statement got.

P. I think it was probably the right thing to say.

HP. Yeah.

P. What have you got—you haven't made—you haven't finished the thing with Magruder yet, then, huh?

HP. No, we haven't finished the thing with Magruder. Ah—

P. Dean the same, huh?

HP. Dean's, well, we have just backed off of him for a while. His law-

yers want time to think.

P. I have deliberately, Henry—I left Dean in a position where I said look he was going to be treated like everybody else because it wasn't fair, I mean for him to be at all, you know—what I mean, like when we talked about resignation, etc., since he was making some charges. Well, it isn't that. Since he has at least had some private discussions, but they haven't yet been in the grand jury forum, so I have to respect those.

HP. I think that is right.

P. So that was your suggestion, at least, that we should not do anything on Dean at this point.

HP. I think that is right. I think you

ought to just let him sit.

P. All I have is just information—

HP. That's right.

P. Basically from you and from him, but it is information the gravity of which I just can't judge until I see whether it is corroborated.

HP. You have to treat that as private, in any event.

P. Private, don't I? Yeah. And for that reason if I were to move to do it—so I think we are in the right position and, then, fine. OK—then I won't expect any more from you today. I won't bother you.

HP. No. I am a little concerned about Senator Ervin's committee. They have just, under the agreement Klein dienst worked out with Senator Ervin have called the Bureau and asked to see the interview statements of Magruder, Porter, Sloan and Larue.

P. Oh, my (expletive removed).

HP. Ah, and I feel like I am sitting on a powder keg there, but I don't feel like I can dare go to Senator Ervin until I get a definite commitment from Magruder.

P. Yeah, yeah. On Magruder, what's waiting besides the committee with him? Oh, the deal with the D.C. jail and—

HP. Well that is right and whether or not the judge is going to clap him in right away, and whether or not the committee is going to put pressure on him.

P. In other words, you think—you haven't yet tried to talk to Ervin?

HP. No, sir, and I don't want to until I can tie him down.

P. 'Til you've got him tied? I get it.

HP. Well, I've got to be able to say that I am coming out with something public in terms of a charge.

P. I see. Right, right.

HP. You know, have a valid basis for asking him to slow it up.

P. OK. Well, in any event, I am glad you thought the statement went well. I worked on it to be sure that it didn't compromise anybody one way or the other and as you noticed too I put the immunity thing. It leaves the ball in your court, but—

HP. I noticed.

P. But on the other hand, I had to express the view because basically people are going to ask me, what about Mitchell, what about, you know, a lot of people and you know I just can't be in this position.

HP. I agree wholeheartedly.

P. Lower people are different. But you know, upper people, you know, they might think I am protecting (unintelligible).

HP. I agree.

P. OK.

HP. Alright, Mr. President.

P. Fine.

Meeting between President Nixon and attorneys John J. Wilson and Frank Strickler, in the Executive Office Building office, April 19, 1973, from 8:26 p.m. to 9:32 p.m.

P. That is my EOB office where I do a lot of . . .

W. Yes. We were—you know those initials that we were . . .

P. This is where I do most of my speech writing . . .

S. We saw your Oval room tonight.

P. What's that?

S. I said, "We saw your Oval Office tonight."

P. Oh, you were over there? You hadn't seen it before?

S. No.

W. No, I've never been in it.

P. My gosh.

W. You know we are local boys here and . . .

P. You are going to get to see the things that tourists see . . .

W. Yes. One of our dear friends is a dear friend of yours and that is the Marriotts.

P. Oh, aren't they great people?

W. Aren't they? We have represented them for years—until young Bill got so he wanted large out-of-town law firms.

P. Foolish.

W. But Bill and Ollie and I have been—I have been friends with them forty years; they are the sweetest people in the world.

P. Well, they are really fine Americans, and you know—and gee whiz, they don't drink themselves but they make a lot out of selling it.

(Laughter)

S. There was a time when they didn't do that, as you well know.

P. Oh, I know and it's interesting they were telling me that they had a custom now in some of their houses where they—where they reserve a couple of floors for people who don't smoke.

W. Yes.

P. So people who come in—incidentally, do you guys smoke?

S. I gave it up.

W. I never started.

S. —Five or six years ago. I feel that . . .

P. You didn't start? Cigarettes or . . .

S. I was a cigarette smoker—about three packs a day. When I gave them

up, I missed them. I was a hopeless addict.

W. I never smoked in my life.

P. Like some coffee? Uh? Coffee or Sanka?

W. A little Sanka—would be nice.

S. Coffee.

P. Coffee or Sanka? I have Sanka, I guess, Manolo?

M. Yes sir.

P. Get a little sleep tonight.

W. I don't guess you get very much (laughter)

P. Yet all of our other problem we've got—we've got the one you've got.

W. Yes. We admire you so much—that we both are dyed-in-the-wool Republicans. I was just telling Bob Halde man that I joined the party years ago I said, "No sign of beating Calvin Coolidge with a liberal!"

(Laughter)

P. Well, tell me where it stands and...

W. Yes.

P. And, if you will, both from the standpoint of the people you are representing and from the standpoint of the presidency, which, of course, we got to (unintelligible) and I...

W. I can tell you (unintelligible)

P. Oh, sure, one of those things where people with the best of inter

See TEXT, A25, Col. 1

TEXT, From A24

tions—I mean everybody. John Mitchell I love.

W. Of course.

P. He did things here, you know, that were (unintelligible) on a less, here we have people who got involved—tangentially. Really and...

W. We have had three days—three different daily sessions with Bob and John.

P. Right.

W. And two today. And two were...

P. (Unintelligible)

W. By our visit to the District Attorney's office.

P. Right.

W. By our visit to the district at first, go over the Bob situation. He's written a memo of things which boils down the sensitive area...

P. You're talking about Haldeman now.

W.—Boils down to Bob—boils down to the matter of \$350,000.

P. Three fifty, right. I am aware of that.

W. And what knowledge he has...

P. And I have questioned him very thoroughly on all things myself.

W.—Uh—I'm sure you have and he said that Dean had come to him and of the need of this money.

P. For what purpose?

W. To help alleviate families and legal counsel of the Watergate people.

P. All right.

W. And that was one occasion. Later on, when the money was transferred over to the committee, he just wanted to get rid of it. And he had no intention as to where it might go. And—uh—that's that. Now we said to him that we don't doubt that—about the truthfulness and what parties in these two effects (unintelligible) we said, "Circumstantially, if it be wrong to have done this, a jury might think that he did it with (unintelligible).

P. If what? If what? That it would look...

W.—It'd look like it to an impartial jury.

P. When you put it to a jury it looks like—it's just very questionable?

W. Yes. Yes.

S. Depending upon how the testimony comes out of the various people, it could become an issue.

P. Right.

W. Now that we—he said, "But wait a minute. What is this sin? What is wrong with this?" Well, by a far stretch, this might be something of accessory after the fact to a conspiracy at the Watergate. This, Mr. President...

P. Accessory? For what? For the purpose of?

W. Of sort of aiding the consequences. I gave an example of Dr. Mudd...

P. Yeah.

W.—In the John Wilkes Boothe case.

P. Just got that pardon.

W. Yes. I pointed out that he didn't commit the crime but he did sort of aid in the thing afterwards.

P. Right.

W. Uh.

P. Now, I suppose—it was evident? I suppose there, too, the motive as to whether he gave it to Dean with the knowledge and with the intent of keeping the defendants quiet. That...

W. That would be the argument. Uh...

P. The argument of the prosecution?

W. Yes.

S. Exactly. Now, we don't know what Dean will say on this.

P. Well, I guess you don't because he is involved himself.

S. Yes, this is right.

W. But...

P. (unintelligible) you've got to.

S. We assume the worst. In our thinking, we assume the worst.

P. Exactly. Absolutely.

W. Now, we are old prosecutors, Mr. President.

P. Good.

W. And we think that this is not a case, according to our standards. This is not an indictable case against Bob. On the other hand, bear in mind that we have got a group of zealots—uh, particularly in Seymour Glazer who is a fire-eating prosecutor, and uh—these zealots always shoot for the top.

P. Sure.

W. And they are not always conscientious enough to, uh...

P. To see what's wrong about it.

W. Whether it's a convicting case or whether it's...

P. In other words, they may indict even though they don't think they can (unintelligible).

W. That's it exactly. I couldn't—we couldn't exclude the possibility that the prosecutors might take this up. On the other hand, we—we—we don't think it amounts to a criminal case in a practical sense.

P. In other words, if it goes to a court—you—whoever tries it—you think you might be able to defend him?

S. On the evidence that we now have, yes.

W. Yes. That's our feeling.

P. Now, that's (unintelligible).

W. I want you to know we are guessing at this, Mr. President.

P. The letter to Larue—was it to Larue?

S-W. Yes. Yes.

P. The letter to Larue—was in one sense a—(unintelligible) admitted that he was raising money for the defendants—have you got that?

S. Yes. We have that.

P. You must have it all, you see.

W. Yes, we have that. When I say that we don't think this is really a good case, this is just our best judgment.

P. Sure. I understand.

W. We could be as wrong as the devil about this thing, and, yet, coming to certain conclusions—that's the reason we are presenting it to you in this way. Now this is Bob's situation—Bob and John brought up their problems three days ago. I want you to know that I never knew these guys.

S. But they are wonderful fellows.

P. They are. They're great, fine Americans. And they tell the truth, too.

W. Yes...

P. I can tell you one thing about your clients. They'll tell you the truth. They don't lie.

W. Yes. Yes. Now, now—we took up John's situation about the deep six.

P. Yes. This is Ehrlichman.

W. Yes.

P. Okay.

W. And—he tell's us that he (unintelligible) Hunt's safe and that there was a pistol there, there was some electronic...

P. Right.

W. Equipment. Bob didn't think it was bugging. But it was more recording than bugging. But this is unimportant.

S. And a batch of papers.

P. Right.

W. Sensitive or semi-sensitive in nature.

P. Sensitive in what respect—politi-

cal or other?

W. I don't think it was much political as it was—didn't he have something to do with national security?

P. Yes.

S. I think it was a mixture of both.

W. Was it—guess it might have been.

P. Yeah.

W. Anyway. Uh—what I was going to say today.

P. Go ahead.

W. The same day, or almost—yes, I do.

S. So the FBI was brought in and it seems that...

P. They got the pistol.

S. They got the pistol. They got the bugging equipment. And they got a large quantity of papers.

P. Which they gave to Dean, I mean to Gray.

W. Well, presumably not this particular sensitive area.

P. Oh.

W. Gray, as the head of the department, may have seen it. But this is not the particular instance where we see Gray. Uh, Dean held back some papers.

P. Oh. They gave some of the papers to the FBI?

W. Most of them. Now Frank, correct me this if...

P. Thank goodness, they did that.

W. Oh yes. It was promptly done, wasn't it?

S. Yeah, it was.

P. They saw the papers and they secured the area and they gave them to the FBI.

W. Yes.

P. And other papers though they didn't give to the FBI?

W. Now, do you recall whether John said that Dean informed him he was holding these back.

S. Yes, not contemporaneously but later on.

W. Yes.

S. Dean had...

W. Not at the moment.

S. Not at the moment.

W. Now let me go on. Dean had a little envelope which was unopened as far as John was concerned. He was unaware of its contents, and Gray was sent for. I think Dean suggested

that Gray be sent for. Or maybe that was John.

S. I'm not sure whether it was Dean or John—I think it was John, though.

W. We have taxed our system in the last seventy-two hours.

P. I know, I know.

S. (unintelligible) did not make (unintelligible).

W. At any rate, this next meeting which was almost the next day—it wasn't more than twenty-four hours after the FBI had entered and as John described—Gray sat over there and John sat—he sat here—and Dean handed Gray this package of papers which as I say for John's purposes was sealed. He never saw the contents.

Gray took it—the meeting did not last over four minutes. And left. Now Gray approached John.

S. Ehrlichman.

W. And said, I want you to not mention the fact that I received those papers.

P. Gray said that? To Ehrlichman?

W. Yes. And John said, "Well, I can't do that." He said, "This was a—(unintelligible) in this somewhere. I didn't know where it was.

I never asked you what was in it." And Gray said, "Well, I'm embarrassed because I destroyed it." Now this is Gray's fault.

P. Terrible damned thing to do.

W. Oh terrible.

S. Wasn't there a solicitation from Gray on the basis that he had testified to the contrary?

W. I think he had.

S. And the—and then.

P. I don't think he—as I recall—he didn't testify. He told the U.S. assistant—U.S.—Petersen.

S. He's got it wrong.

P. Yeah. It's in the record.

S. John left a rather equivocal response to the request. He called him back, upon reflecting, and said, "Look, I want you to know that I have got the question of papers."

P. John Ehrlichman?

S. John Ehrlichman, yes.

P. Then Gray got to Petersen and said, "Look, I did get it. And I destroyed it."

S. Yes, that's right.

P. That's the story.

S. Incidentally, you mentioned Petersen...

P. And I guess the only basis Gray could say that it was political stuff and I didn't want to appear—pretty bad.

W. Yes. Yes. With respect to Petersen, I must give you an aside. I don't trust him. Myself.

P. You don't?

W. We both have had one experience with him. He divulged things we thought was confidential in a very serious matter to a potentially co-defendant's lawyer who was an ex-Department of Justice lawyer when we played golf over the weekend, uh—and told him the whole of our business and I got it back from a lawyer in Philadelphia who heard it from the golf partner the next day. And I'm always aware that Petersen is dealing with ex-employees of the Department of Justice.

P. I'll remember that.

W. Well, I wish you would.

P. Well, I've got to talk to him now.

W. I know you do, but I don't go around maligning everyone.

P. I know—I understand. I need to know.

W. He's on my list of people I don't trust.

P. I understand.

W. Now, the second phase of John

Ehrlichman was the idea of raising funds.

P. Which he was approached on.

W. Yes, and this was not to come out of the three-fifty. This was—

P. He didn't know about the three-fifty.

W. Oh, I think he knew about it—the—he must have according to the...

P. Well, what I meant is, it wasn't his field.

W. That's right. But he did get (unintelligible)

P. Raising money and Dean says, "Can I talk to Kalmbach?" And he said, "Yes." And—

W. And Kalmbach went out and did raise the money. Now these matters involving John alarm us even less, if I can make a comparison, than Bob's do. Because I don't quite—

P. Do you mean from a criminal side?

W. Yes, that's it. See—

P. He said they come to him and they say, look here. I'm going to raise some money. And Kalmbach here suggests okay. You mean that doesn't make him guilty of something?

W. Well, let's go back to the accessory after the fact idea. This gets even removed further than the release of the money from the (unintelligible).

P. Yeah.

W. Of the White House fund to be used for that purpose. Now this compares—this contrast is not to be taken as making any great division between Haldeman and John. Well, frankly, our judgment is that neither one can be successfully prosecuted.

P. Because of what you see here?

W. Yes.

P. Well, now wait a minute. Let me ask you this though. When you talked—give me a little rundown of your talk with the U.S. attorney.

W. I certainly have.

P. Have you?

W. Yes, now we have—neither of us—I—

P. And also give me your judgment on this thing that Petersen told me about this—rather, I—I—

W. Non-indicted—they're better—

P. It seems to me the moment they come out of that, they killed themselves. They are dead.

W. Let me, yes.

P. I have never heard of that procedure before. But I may be naive about the law.

W. Let me answer that one, first, because that is more brief. In conspiracy indictment, very frequently they will name express defendants—conspirators—and they will name co-conspirators by name as well as other people to the grand jury unknown. But will not indict them. Now that's the (unintelligible) it's characterized as a non-indicting. It isn't—the word is not unindictable—non-indicting.

P. Which means that they were indicted in public

W. Well, it's—they certainly are. And usually from that group they find witnesses who will testify against the defendants. Now that's what that phrase

Petersen: Dean says I didn't want to get rid of them (the Hunt papers) so I gave them to Gray. But in any event, Gray took them back, and I said Pat where are they, and he said I burned them . . .

President: He burned them?

Petersen: I said that's terrible.

is. It's commonplace in the law of conspiracy. And, uh, I've seen it—I've been privy to it as a prosecutor myself.

P. Yes.

W. I'm sure Frank has too. Some of that (unintelligible) it's a black market. It might be compared to the treatment over (unintelligible) that people think that I'm guilty.

P. Well, for Bob and John—if they put them on that list—it kills them.

W. Oh.

P. I mean—it may not. It may not kill them legally, but it kills them from the standpoint of the public.

W. Now, as to our visit with these gentlemen this afternoon. We contacted—we sought to contact—Glazer first, whom we both know very well, and he was—uh—said to be unavailable and we asked Silbert, whom I had met on one occasion. Frank didn't know him at all.

P. Yeah. Yeah.

W. And so we were—we made an engagement for 4:30 and they said—this was with—do two things—and that they were going to go before the grand jury and that they were going to be very busy and they couldn't give us more than an hour. We came in—I'm telling you this so you'll be (unintelligible) we were taken into the room at (unintelligible) I began the presentation by saying that we were there representing Haldeman and Ehrlichman. And I had the strange feeling—and I think Frank will—now, you weren't there for the first few minutes.

S. I was not there the first ten minutes.

W. I think he indicated surprise to me—I think it was a mixture.

F. Glanzer?

W. Yes. He was alone with he until a subordinate named Campbell came in. And then eventually Silbert. But his surprise to me, I felt was that in

a certain sense he was surprised that Haldeman and Ehrlichman had engaged me. This gave me a little encouragement as to whether he thought that they should engage (unintelligible). I will tell you why in a couple of minutes. Uh, secondly, I—he suspected that we were down there possibly representing John Mitchell. And I said, "Well, that isn't so. Anymore"—and he said, "Well, these people—these perspective people have been switching counsels," and he said, "I wasn't sure Mitchell was going to keep his counsel." And I said, "Who was his counsel?" and he said (unintelligible). Now, somebody said this. But anyway, uh—I said, "Now Seymour, you know I have heard you tell me before and

I said I will (unintelligible) if my clients are being kicked around at the courthouse." I asked him many questions. Get as many answers as you can. I don't come away with many answers. But I'll get mine. I said, "I asked you pertinent questions and I am not offended if you say you can't." Now, this is the way we talked. And we thought he was a little tight today because he was in the presence of his superior. We have found him more loose—and maybe on other occasions we'll be able to get him alone. And I said, "What have you got planned for these two? You going to have them before the grand jury?" He said, "We'll have an office interview which will not be recorded. We'll take no notes and you can be present while you take no notes. We want to know what they will say before we take them before the grand jury—if we go."

P. Petersen had told me they were going to be called before the grand jury.

W. Well, this is—this is quite possible. We've got some more to tell you.

P. I'm (unintelligible) about this thing.

W. Silbert arrived about this time and I repeated everything that had transpired. (Unintelligible) and he qualified Glanzer by saying, "Well, I think we are going to have to talk to the Department of Justice about the interview." This wasn't the interview versus the grand jury, I don't think. This was interview at all. Did you get that impression? So, we—then he said to me—said to us Silbert did—"We see from the papers that Ehrlichman has been conducting investigations." Can you admit this? (unintelligible) have been witnesses. I said, "We would like to have his notes on this." And I said "We had them." He says, "It's all in the paper."

P. This is true.

W. Ehrlichman says (unintelligible) I don't know and I'm not getting any answer from him (unintelligible) "Now I'm going to ask, you what have you (unintelligible) from the other? He said, "Nobody's giving us any coopera-

tion." And then Silbert said, "You know," he said, "this will (unintelligible) against the (unintelligible) problem. (Unintelligible) and the said, "Well, if you come up with one of them (unintelligible) proceeding (unintelligible) and then Glanzer came to his rescue and said, "What could be—what is morally wrong with this whole thing—(unintelligible)" then we got into—they volunteered this quite interesting problem. They volunteered that these leaks from the grand jury were irritating the hell out of them. And I said—

P. Do you think (unintelligible) put it out (unintelligible)?

W. Well, I do too—but they think a court reporter. I said.

P. Bull (laughter) a court reporter!

W. He says Anderson's getting it right from the court reporter.

S. Fire him.

W. Well, I said, "Why do you bring the court reporter back the next day for?" I said, "This is a crime in itself."

P. And a very bad thing.

W. They—we didn't take him seriously. Now, general inquiries. "Oh," I said, "How are you proceeding? Are you proceeding with packages? Have you got a forerunner of some indictments? Have you got a package of other people? A second set of indictments?" He can't answer that. So I said, "Well, we understand—we'd be happy—we know you can't stay any longer. Can we leave here with the assurance that you will communicate with us?" (unintelligible) — an agreement with us that whatever you're going to do in the way of getting a grand jury—we got it pretty well committed there that (unintelligible) permitted. The interview would come first.

P. Yeah.

W. And he, and we left there with a commitment from them I think that's—a commitment for what it's worth. (unintelligible) we didn't—we didn't trap people like this. This is a (unintelligible) thing. Anyway, we left there with sort of a commitment that this would happen. Now this wasn't much, but at least we have kind of (unintelligible) and then I added a question. I said, "Are you going to get around to this before Senator Ervin begins his proceedings?" He said, rather deliberately, rather hesitating, Silbert said, "Yes, they would get around before then." Now, I had in mind the fifteenth of May, which is (unintelligible).

P. Yeah.

W. But that's the only point—any point there was. This was a relaxed meeting except that Silbert is not a (unintelligible) fellow. He is a serious man and a business-like man. But that's because, it seems to me, I met him one day (unintelligible) chambers.

P. (unintelligible)

W. He didn't even remember me that day. He said, "(unintelligible) who you are." Glanzer, (unintelligible) with his boasting—and with some of

his weaknesses. Isn't that right?

S. Oh yes, oh yes. Glanzer (unintelligible).

P. Yeah. He is obviously rough—

W. Oh, he is a rough, rough fellow. He exaggerates and at times he doesn't tell the truth. And at other times he tells you half the truth. But we couldn't go about it any other way today. And with Silbert practically sitting in his lap. We couldn't handle it any other way, but when the chips are down—

S. He is obviously clear (unintelligible) point.

P. Do you think he'll go back and (unintelligible)?

W. Oh, I think he will (unintelligible) but Hunt was before the grand jury this afternoon.

P. Yeah.

W. And his lawyer was in two rooms from where we were meeting.

P. What happened? Of course, nobody knows what happened.

W. No—and then they—apparently nobody got the press in, to give them an opportunity to see him—he possibly went out a back door. I ran into a photographer down there and I said, "Did you get a picture of him?" and he said, "No—we—they shipped him out the back way."

P. Hmmmmmm.

W. So, that's where that stood. Now, Mr. President, Frank and I—uh—have these conclusions if I may get the conclusions.

P. Right.

W. Now, do you have any questions before this?

P. No. I'd like your conclusions and then I'll ask some questions. You've thought it over. You know what, my questions are.

W. We think—we think that you and these two men—

P. Let me say my good friend Len Garment and some others think that—uh—that Dean out there is a loose cannon—

S. Yes.

P. Threatening, and all that sort of thing. And I think obviously what is happening—and I think that Glanzer and Silbert are giving, trying to give, Dean an incentive to lie in order to get Haldeman and Ehrlichman. Dean is scared and Dean is capable of doing that. Do you agree with that.

S. I think so.

P. And Mitchell told him so. But, of course, that wouldn't get him out of it. There's no way he'd (unintelligible) criminal, (unintelligible). Now, that's one point.

W. Let me say this.

P. Yeah.

W. (unintelligible) see if this (unintelligible) I don't know whether Frank wants to talk to you about it. When I

as a result of some serious charges which came to my attention, some of which were publicly reported, I began intense new inquiries into this matter . . .

was at that meeting today, I had a feeling—and here again, it's only my (unintelligible) have a feeling that these two men—Ehrlichman and Haldeman are really not (unintelligible).

P. But Petersen certainly indicated, when he came to see me here last Sunday—he said Haldeman and Ehrlichman should resign, and so forth (unintelligible) it is non-corroborated testimony, you know. General Eisenhower where Adams was thrown out for this sort of little thing—the poor guy—he sort of got—

W. And he served him well.

P. For seven years and that damned vicuna coat. Unfortunate thing.

S. Yes.

P. But my point is we have very great pressures, you know—quite candid about this—and say that Haldeman and Ehrlichman destroyed in the public mind and they'll say breach of a public trust. (Unintelligible) two questions that I really think—one, I don't want to do anything—the heat's going to be on anyway. I don't want to do anything that would jeopardize their case. I want these men to be (unintelligible). I know there is. I really.

W. Quite so. We (unintelligible).

P. The second point, however, I have (unintelligible) and they know that. And if—if—uh—you conclude that the best thing to do is for Haldeman to step forward and say, "You're not guilty of a doggone thing." They have released the grand jury notes. I've been attacked by the press; I've been (unintelligible) all this (unintelligible) outside of this office including (unintelligible). In it, one (unintelligible) regard to the (unintelligible) as to whether it affects their (unintelligible) too in regard to the President. You've thought of both of those points?

W. We have. Yes. We have.

P. All right. What is your present conclusion?

W. Well, these are related items and in the area of presidential judgment, we are (unintelligible). You know you've had such an awful experience. Excuse me, if I state it frankly. I think that either a suspension which I understood has been proposed by Petersen on the basis that . . .

P. They've been attacked.

W. Yes.

P. They've been named.

W. But there would be a suspension or either their resignation is no assurance that they would not be indicted.

P. I asked Petersen that today. He

said it would . . .

W. There's no assurance.

P. That's right.

W. Yes.

P. Frankly, I said, "Now look here. If they resign does that mean that—" I put it straight to him.

W. Well, then my guess is . . .

P. If I thought their resignation would avoid an indictment, I would have them resign.

W. Yes, yes sir.

P. All right.

W. Now, I trespass on your area of judgment when I say—I think that if they resign or are suspended that this is a reflection on the Presidency.

P. Well, if they don't resign or are suspended and then are indicted, that's all (unintelligible).

W. Well, yes. But if—you have already announced you would suspend them then.

P. That's true.

W. And . . .

P. Anybody who was indicted will be suspended—anybody who is indicted will resign.

W. Is there, except for their own (unintelligible) is there any difference between—if they stay? By the way, you know this. I don't have to tell you. They are willing to leave.

P. Oh, I know—they're—(unintelligible) my (unintelligible) absolute (unintelligible).

W. And yet on the other hand they are willing to stand up to this thing.

P. Oh, yes. Yes.

W. If it doesn't hurt you.

P. Yes.

W. And that's the reason I look at these two things in a kind of a best . . .

P. Right, right, right.

W. Because of—in an urgent way, I think if they resign or are suspended then—that it reflects on you. I think if they are indicted and you suspend them or they resign upon indictment, I imagine that they wouldn't even expect you to . . .

P. No—they know (unintelligible) or if they are even included in this list of co-conspirators . . .

W. Yes. I just don't think . . .

P. Already said, of course . . .

W. That—there's any difference. I really don't.

P. What do you think, Frank?

S. This is my feeling. I feel that resignation now by these two gentlemen will be a tremendous reflection on the Presidency. There are—the effect to it—because the public statement says that this is only in Senator Ervin and other sources, because there is no evidence to tie them into a criminal situation. Now if they stepped out at this point there is going to be a public feeling that this is an admission of guilt and this is going to flow over from them right to the (unintelligible) and I have a very strong feeling

President: On March 21st,

that this is not one—and I don't want to say you shouldn't run from it. It's not running from it—but it's facing up to it. That's the way I feel about it.

P. Now, on the other hand—then just take—you would say that you would lean in the direction of taking the risk which there would be—that they may be named as so-called co-conspirators? And, if they are, then we just have to move in.

W. That's it. As I see this, Mr. President, and I hope this time schedule works out—it is possible that if these gentlemen submit to this informal interview—and we haven't decided that question yet—but I think we are leaning toward doing it and I think they are leaning toward having it, too. And maybe we will be present at the interview. And I told them, I said, "We don't sit silent in these interviews. We're not just spectators. We cover for our client. And if the question is unfair, I enter into the act."

P. Absolutely.

W. Oh, yes. This is not a thing where we are throwing the sheep to the wolves. And so, they, I think they—we didn't make a decision, but I think they—I think they are inclined to think that way. Did you get that?

P. I wonder if you could give that interview soon? Is there any way? If you could get that timing some way—or other.

W. I think that—

P. Or maybe you don't want it soon.

W. This was a little (unintelligible) that I had with him. Silbert turned to me and said, "(Unintelligible)." He said, "The man who is being talked about seeks the interview, or seeks to go before the grand jury, I—this, I never would seek. You are in there alone with no counsel and the prosecutor has been in there for months and he controls the grand jury and this is the score—of the rule. And I said—now the other point is whether we would ask for the interview or that he would call us for it. I said, "Listen, Silbert, (unintelligible) not taking it in the order in which the thing is supposed to. You suggested, first, that you want them for the interview. Why don't you play your cards? Why don't you call upon us first? I would prefer it that way."

P. In other words, wait 'til they're ready?

W. Yes. Yes, I would. Uh, now I...

P. I told Petersen they'd come anytime he wanted them. That's the way I felt it.

W. Well, this is—we did not resist it. (Unintelligible) any idea (unintelligible) to the interview for. It wasn't that at all. It wasn't that we said, "If they didn't come—nothing like that." But I have said—Frank, if you don't agree with this, please tell the President.

S. No—Whenever I don't disagree with John—I agree.

W. He's...

S. But I am not hesitant to disagree.

P. I understand.

W. Oh yes—he is. He's just awful at times.

P. Good.

W. And he's always willing to be critical when he thinks I'm going astray.

P. Let me ask—in other words, your advice at the present time is stand with these men, because basically if you flush them now, it's going to probably hurt—let me put it this way—it will hurt their case. Wouldn't it?

W. Yes. That's right.

P. Unless we can look at their case first and then everybody. It will hurt their case, don't you think?

W. I—It will—in the public eye.

P. And you think that—but—and my point is—so take the risk of going down and letting them be indicted and then if they—

W. Well, so you take a risk, hopefully, of the interview.

P. Oh, the interview. Certainly.

W. Yes.

P. Then what?

W. Well, let's find out—let's find out...

S. Then you take another look at it...

W. What question they ask and what they appear to have and what they are after—and then reappraise this situation. This—this thing, Mr. President, in my judgment has to be played in steps.

P. Don't go too fast?

W. Well, no.

P. You don't know how much they have and what they can prove?

W. That's it, exactly.

P. Then, you got to remember Dean, as I have said, is a loose cannon.

W. I know he is.

P. The damnest charges you've ever heard. Some of them are unbelievable.

W. Yes.

P. This fellow that was sitting in here and who in the office of the President—a very bright young guy and these guys would talk to him and so forth—but he now wants to drag them down with him.

W. Yes. Oh, he's bad.

P. They must have told him what I—they—I think—have told Dean that, "If he'll—if he can get Haldeman and Ehllichman—he gets immunity." Now, on that point, do you want Petersin to give him immunity, or not?

W. Uh.

P. Dean.

W. Well:

P. Should he?

W. Uh. Let me—as I understood, they were hung up on that right now.

P. They are.

W. Now.

P. See, that's why—I put out a statement that no major figure should be given immunity.

W. Let me tell you—

See TEXT, A26, Col. 1

TEXT, From A25

P. Basically, because I think it would look bad if—(unintelligible) from our standpoint. What do you think about it?

W. Let me tell you about the two kinds of immunity, may I get to this?

P. Sure—anything.

W. The prosecutor has the power, of course, to say I'm going to (unintelligible) that man, usually use him as a witness and he may have other reasons (unintelligible). So, he'd get case immunity. But it gets to the prosecutor now to use him as a witness and he'd involve in the cross-examination of (unintelligible). You admit he's named you, involving your total service. You are going scott free while you hope that this will contaminate him before the jury.

P. I see.

W. So that's case immunity. Now, the immunity statute that has been on the federal statutes for years—up to 1968—was a confusing statute. It was to be co-terminus with the Fifth Amendment. That is to say, that no testimony was to be used against you. But the (unintelligible) in the court has variously confused. It was because of that fact and so nobody would ever believe that it was co-determinus with the Fifth Amendment. So in '68, perhaps it was, thereabouts, Congress passed a statute which we call "use amendment"—use means use of the testimony. This does not exonerate him from indictment. This merely says that what you tell us cannot be used against you, except for perjury.

P. I see.

W. And that we can turn around and indict you the next day if we can indict you on independent evidence, having no source. So we call it case immunity in the instance where the prosecutor turns a fellow loose, and that's it. And use immunity. Now I don't know whether Dean is dickering for—by the way, this use immunity is a very elaborate procedure. This Attorney General must ask the district judge for it and the district judge gives it to him. As far as I know, I guess this is an open court proceeding. We considered one but it never seemed to work.

S. I mean, we got them sufficiently confused enough at one time on this very question, but—

W. But we got it resolved in the meantime. But this is a—this is a fairly new statute—but if this means—in the use immunity case—that the man can incriminate—get himself immunity. Now this is devastating where there is a witness on the stand too.

P. Yes.

W. This is a weak link in the prosecutor if he has to use a witness who got immunity by trading off his friends. And for that reason I don't know what he is trading with you—trading with

trading loose on this whole mess—

P. Yeah.

W. Or whether he's trading him loose on himself.

P. I don't think Dean's lawyers—Schaffer is his name. Do you know him?

S. Who is he?

P. I think Dean's lawyers are just trying to get him off.

W. Yes. On this one case.

P. Off the whole damned thing.

S. What we have found in other cases with Glanzer is that they don't want to go to the elaborate statutory procedure and just want to have an oral understanding, "If you cooperate with us, we'll give you our word we won't prosecute you."

P. That's what they told Dean.

S. That's generally their procedure when there are conspirators.

W. This is Petersen's style. He practically gave us this in another case but he double-crossed us gently and we just don't believe him. You see, let me tell why we—why we are a little cocky. And maybe this—this is a bad basis for judgment. But a very prominent national industrialist was charged with — threatened with perjury before a grand jury. In order to get him to testify against a dubious lawyer and it was said that Mitchell wanted to get and uh—the man had been threatened by—on the perjury thing before the grand jury. If a man gets indicted he's not entitled to

W. (unintelligible). We studied law for two years on that case until finally we got alarmed and we brought our client and we said, "Mr. So and So. We've got to take a chance. The time is running out on you, the time is running out on the District Attorney, but if you just want to stand the way you've stood it for two years and—you can't do that for two years—it's your risk. You can only judge us as you would be judged."

P. By the fact.

W. He says, "To hell with it. I will stand up to it. He hasn't got a perjury case. He didn't say anything."

S. What this was—they were applying the screws to get this industrialist to testify against the lawyer more than they wanted the one against the industrialist. They didn't have the evidence against the industrialist but they would just sit down in that office and swear they had enough to return an indictment. This—this, I think—this is what they are doing. I am confident that they are going to tell each one of these witnesses that are scattered around — potential witnesses against Mr. Ehrlichman and Mr. Haldeman — they are putting the screws on them — they are scaring them. And they are using psychology. Now this overflows—it overflows on John, it may and the (unintelligible). You have to recognize this—have to recognize what we've got here. Go from

that to the merits of the case—this is what I am trying to do, and when I look at it from the merits of the case, I don't think they have a criminal case against these gentlemen at this point.

P. Even on conspiracy? You see, the thing is, I understand that conspiracy is very broad—

S. One overt act and they can bring conspiracy.

P. But you have to have an overt action.

W. Not on the part of every defendant. Not on the part of every defendant. But the overt act could be in itself innocent if they are part of the pattern.

P. I think that is really what they are going to try to nail Haldeman and Ehrlichman on. Not on the—not the Watergate thing—they can't do that. (unintelligible) had approved the budget that (unintelligible). They can never prove that whole thing. Never prove that that's what (unintelligible) never prove that.

S. Sure. Sure.

P. But on the otherhand, they will say that on the three-fifty— "Haldeman and Ehrlichman were involved with Dean and Magruder in an effort to get the money to keep the defendants quiet." What's the answer to that? (unintelligible) McCord—you say

W. Well, of course — Dean's — if I understand John and Bob correctly — Dean's presentation goes no further, as far we know, than money to take care of their families.

P. That's right.

W. And legal counsel.

P. That's right.

W. Well, you might say circumstantially that helping the defendants—

P. Yeah.

W. And (unintelligible) it, but it isn't quite as wrong as — having to pay the money to the defendants for the purpose of shutting their mouths.

P. Yeah. The other thing — there was perhaps one instance — very little — very little where it said there is the matter of (unintelligible). I am confident their motive in every instance was to help their families and with their legal counsel.

W. Yeah.

P. I can't see that that's wrong.

S. I cannot either. No, there's no crime in this. And we — we asked them because the innuendos and inferences of pay-off to keep the defendants quiet — yes — surfaced quite a while ago.

P. Well, McCord has said it. Yes, and the defendants may so now testify.

S. Yes. That's right. But none of these actions have we been able to pin down occurred after these allegations arose. This to us —

P. I see your point.

S. Is significant. If they had —

P. If they knew that these allegations had been made and they still were (unintelligible).

S. Yes. That's right. If they were chargeable with newspaper stories of allegations of payoffs and then they sent the money over, for the families —

P. I think there were newspapers stories that the defendants were getting money and so forth, but the allegations that they were paid off to keep quiet — I think it was the first time in court — but you better check that. But I know — I don't think anything after that. It is a point worth checking.

W. You know, Mr. President, it may appear to you and I repeat only because I, (unintelligible) if you had the interview (unintelligible) and given these two men together on the basis of what we call the vernacular of capital appeals.

P. Oh, I understand.

W. And, I really —

P. Well, there are no good choices in a case like this.

W. No.

P. Just take the least bad one.

W. That's right.

P. Your point is that, which has some merit to me, that probably it's just as bad — let's look at it — at its worst. It's just as bad to sink them now as it is to sink them if they are indicted.

W. Sure.

P. Isn't that the point?

W. Yeah.

P. If they are indicted, then I've given them every chance. And if they are indicted, we'll let them go.

W. That's right.

P. If on the other hand they are not indicted —

W. You may —

P. You have to remember, though, that they may even if they are not indicted — this is the argument that these prosecutors and Petersen will make — that if they are not indicted, they will be indicted in the public mind with all this stuff.

W. That's right.

P. Well, put your hat on now.

W. If they are named as not involved—

P. Not named at all. Not named at all. Because of the newspaper stories, and the leaks and the columns and in the attacks by the Weickers, et cetera — these men are going to be really merciless by—Dean's testimony. They are going to be indicted in the public mind. Do you think their usefulness will be destroyed by that?

S. Won't there come a time when they will testify before Senator Ervin's Committee and have a chance to make their public presentation?

P. Yes. Well, no. I think they will be testifying in court before that.

S. In court before then.

P. I don't see how—I personally don't see how the Ervin Committee can possibly be allowed to go forward at a time when these court suits develop.

S. Yeah. They will probably say that

(unintelligible) too.

W. Going back to the Petersen—

P. Yeah.

W. And here again you must take my observations with the fact that I am prejudiced against him.

P. Yes. Tell me about—

W. Dean's getting off the hook, possibly,

P. For having revealed too much to Dean?

W. No. From indicting your top men.

P. He didn't want to indict them.

W. Well, yes. And I — in other words—

P. Well, he doesn't seem to be concerned about indicting Mitchell. He is concerned—he is petrified. And Mitchell will be indicted.

W. That's what I am told. I have never been in quite this far as they are with this situation, but I know—

P. You mean they are going to be reluctant to indict the two top men.

W. That's—that's what I would say except you know—I would put it this way—Petersen will handle—this problem. I guess—a holdover from the Democratic administration.

P. That's right. He is.

W. Well, I doubt (unintelligible)

F. What's your judgment?

S. I was following Petersen. I don't know his (unintelligible)

W. I said, "His background — his

background as a Democrat—"

S. Oh, Assistant Petersen?

W. I thought as the prosecutor he would love to—unless he was just crazy or ruthless to want to indict the top of the ladder.

S. Without the strongest case and I think—

P. He didn't want to indict unless he can convict.

S. Yes. But this is not one. I don't think he would throw in your two top assistants—into an indictment as defendants, without clear evidence against them.

P. How about this co-conspirators—not-indicting? Think they would do that?

S. Not without clear evidence. I equate either one as being one and the same.

P. I do, too. Because they know if they are named as that then I would have to suspend them. They have to fight that. It's a hell of a procedure—that co-conspiracy.

W. Yes. But it's been going on since time immemorial.

P. Unindicted co-conspirators?

W. Yes. And using that phrase the man who hands down unindicted guys would say—and others to the Grand Jury unknown—so they have a sweeping cover that way in getting them confused. I just think—

P. Well, at this point, I think the thing to do is to stand firm.

W. That's what I wanted to say.

P. Stand firm.

W. Let's play this almost—

P. Don't panic

W. That's a very good phrase. And let's play this slowly and as things develop and take another—

P. These are good men. I just hope we can save them. It's a miserable thing to have them go through.

W. But you do know, I am sure, we have said to you that while we have their interests — well, I'll say, not primarily, but largely—in our heart, they are—because they are our friends.

P. Sure.

W. We are equally interested in this possibility.

P. I understand.

W. We think it spills over other people.

P. If anything's done now—let's just sit it out awhile—take the smears for awhile.

S. One thing I was wondering and I hesitate to bring it up because it is more of my problem. The statement from Huston—interviews in depth with your top assistant that you have gone into the facts with them—that you've put your confidence in them—believe what they say.

P. If I said that to them?

S. Yes.

P. Want me to say that?

S. Yes.

P. Want me to say that?

S. Well, I'm wondering, I'm curious—and you put this critic and foe that you have had this in-depth contact with him on this basis—that you believe them—you place your faith and credit in them—and from what they have told you—they have not done anything wrong.

W. If you come to the conclusion to do this, Mr. President, and while I like Frank's presentation of that—I'm concerned about the credit.

S. I haven't given it any thought.

W. But I think you could add—I'm not trying to get any bouquets for this and their counsels then (unintelligible). I don't know that you want to say that, but support for you because that—

P. Their counsels advise me that.

W. No, not advised (unintelligible)—

P. That they have not—

W. That they have not—I mean I don't—

P. I think the timing on that—let's have that in a reserve—I think that's a good point.

W. I wouldn't mix the (unintelligible)—

P. Let's let Easter go by—hope the weekend survives.

W. Now Magruder isn't coming back 'til Monday, have you been informed of that?

P. No.

W. They heard that this afternoon while—

P. Hunt was there today.

W. Yes.

S. But, somebody is coming in tomorrow—it was flashed by very rapidly

in an exchange. I don't know who it was.

W. The thing is if they can work and we're going to be—obviously, we'll see these men tomorrow again.

P. We appreciate your work.

W. And, any time over the weekend that they—

P. You going to go back and talk to Glanzer again some time?

W. Yes, aren't we, Frank?

S. Oh yes, there's always been that we have a formal conference—then maybe another one. Then you can drop in the office and see them informally and see—you go down on another matter and Seymour is very cooperative.

W. You couldn't do that initially—this had to be a scheduled conference. He had a man there—he didn't know us and besides he was jumping in first (unintelligible).

S. The problem—that we should be trying to get information at Seymour Glanzer's level and you're in conversation with the Assistant Attorney General, but yet it seems worthwhile and productive.

P. I'm not sure that Glanzer is telling the truth.

W. Well, on occasion I've never been (unintelligible) to that—He did some good opinions.

S. You know why I remember that case. He was an Assistant Attorney General then but—

W. Yes, he was one of the (unintelligible)—

S. He was doing all the work. Well, we're at your disposal.

P. Well, as I say, you've got honest men; I know they're telling the truth.

W. I'm extremely impressed with them.

P. Well, they're touched by this because anybody who was in the campaign is touched by everything about it. And frankly, Mitchell's an honest man. He just wasn't tending the shop—he had problems with his wife—these jackass kids and other fools around did this thing and John should have stepped up to it—that's what happened in my opinion. And I think I—

W. Sure, I know.

S. Well, we're available to them and if you would like to see us again any time you want to and we can tell you always be delighted.

P. Well, I appreciate that.

W. It's nice to talk to you even under these circumstances.

P. Well, we hope that by golly—that we'll talk under better—

S. Last time I saw you it was crowded—out at the Wardman Park—the Shoreham—I could have lifted my feet off the floor and watched you

—you and your family on the podium.

P. What was that?

S. That was election night.

P. Election night—you were there? Oh boy. That was a great night? Well, that was what it was all about.

S. Yes, it sure was.

P. Well, we'll survive this. You know—people say this destroys the administration and the rest—but what was this? What was Watergate? A little bugging! I mean a terrible thing—it shouldn't have been done—shouldn't have been covered up. And people shouldn't have and the rest, but we've got to beat it. Right.

W. Everybody does—the Democrats have been doing—going on for 20 years. (Laughter)

S. Mr. President, on behalf of my daughter Nancy—she asked me to do it.

P. How old is she?

S. She's sixteen.

P. Next time you come in—I'll give her a little something—You've got—they have good men to (unintelligible).

Meeting between President Nixon and Assistant Attorney General Henry E. Petersen, Oval Office, April 27, 1973 (5:37 p.m. to 5:45 p.m.).

P. Come in.

HP. How are you today?

P. How was your hard day?

HP. I'm sure no harder than yours, sir.

P. Sit down, sit down. I was down in Mississippi today. We have gotten a report that, ah, that really we've got to head them off at the pass. Because it's so damned—so damn dangerous to the Presidency, in a sense. There's a reporter by the name of Hersh of the New York Times you probably know.

HP. He's the fellow that did the Vietnam stories.

P. Right. Who told Bittman, who told O'Brien, apparently that they have information—Hersh has information I don't know. You can't ever tell who is saying "this is from Hersh" or "this is from Bittman." Information indicating that Dean has made statements to the prosecuting team implicating the President. And whether—and whether—The Post has heard similar rumors. Now, Henry, this I've got to know. Now, understand—I have told you everything I know about this thing.

HP. I don't have any problem with that, Mr. President, and I'll get in touch with them immediately, but—

P. Who?

HP. With Titus, Silbert and Glanzer and Campbell? Who are—

P. Do you mind calling them right now?

HP. No, sir.

P. OK. Say, "Now, look. All of your conversations with Dean and Bittman, do they implicate the President?" Because we can't—I've got—if the U. S. attorney's office and, ah—

HP. Mr. President, (unintelligible) I had them over there—we had a kind of crisis of confidence night before last. I left to come over here and I

left my two principal assistants to discourse with Silbert and the other three. And in effect it concerned me—whether or not they were at ease with my reporting to you, and I pointed out to them that I had very specific instructions, discussed that with them before on that subject, and—well—

P. Yes.

HP. As a consequence—I kind of laid in to Titus yesterday and it cleared the air a little bit, but there is a very suspicious atmosphere. They are concerned and scared. Ah—and I will check on this but I have absolutely no information at this point that—

P. Never heard anything like that—

HP. My gosh—As I said—

HP. Mr. President, I tell you, I do not consider it, you know, I've said to Titus, "We have to draw the line. We have no mandate to investigate the President. We investigate Watergate." And I don't know where that line draws, but we have to draw that all the time.

P. Good. Because if Dean is implicating the presidency—we are going to damned well find out about it. That's—that's—because let me tell you the only conversations we ever had with him, was that famous March 21st conversation I told you about, where he told me about Bittman coming to him. No, the Bittman request for \$120,000 for Hunt. And I then finally began to get at them. I explored with him thoroughly, "Now what the hell is this for?" He said, "It's because he's blackmailing Ehrlichman." Remember I said that's what's it about. And Hunt is going to recall the seamy side of it. And I asked him, "Well, how would you get it? How would you get it to them?" so forth. But my purpose was to find out what the hell had been going on before. And believe me, nothing was approved. I mean as far as I'm concerned—as far as I'm concerned turned it off totally.

HP. Yeah. My understanding of law is—my understanding of our responsibilities, is that if it came to that I would have to come to you and say, "We can't do that." The only people who have jurisdiction to do that is the House of Representatives, as far as I'm concerned.

HP. I'll call them. Do you want me to call from here or outside?

P. Use the Cabinet Room and you will be able to talk freely. And who will you call, who will you talk to there?

HP. I'll call Silbert. If he's not there, I'll get Titus.

P. You'll say that "This is the story some New York Times reporter has and Woodward of The Post, but Hersh is reporting that Dean had made a statement to the prosecutors." Now understand that this is not a grand

jury thing. Now damnit, I want to know what it is.

HP. I'll call right away.

P. And I need to know.

HP. Yes, sir.

Meeting between President Nixon and Henry Petersen and Ronald Ziegler, Oval Office, April 27, 1973. (6:04-6:48 p.m.)

P. Come in. As, like all things, some substance, some falsity.

HP. Ah, last Monday Charlie Shaffer was in the office, and a continuation of the negotiations. Charlie Shaffer is the lawyer. Charlie is a very bright, able bombastic fellow. And he was carrying on as if we're making a summation in a case. And he said—that—ah he was threatening, "We will bring the President in—not this case but in other things." What "other things" are we don't know what in the hell they are talking about.

P. Don't worry.

HP. "In other areas," more specifically is the word he used. That they regarded—and didn't consider of importance they regarded as the elaboration of his earlier threat. You know, "We'll try this Administration—Nixon—what have you, what have you." There's a new conversation by them with Dean since the Sunday we first met (unintelligible). Whatever is said is through Shaffer the lawyer.

P. What else do you have besides that?

HP. Well, let's see. They did say that at a later date in the proceedings that Dean went to the President, and I assume that's the February or March or whatever that date was. But that's in the course of your trying to find out. Ah, today they were after the Cubans and the receipt of the money which they confirmed. Dorothy Hunt on being the intermediary that passed it through. They are going to have Butterfield in in a few minutes.

P. What I am getting at, Henry, about this threat that—

HP. There's no more on that other than I've just told you.

P. Why in the hell can't we stop though—the paper that Hersh—to think that to bring the President with a thing like that (expletive removed), you know. Understand. Let me say this. If it were in with the grand jury I want to know that too.

HP. All right. Well—

P. (expletive removed.) You've got to believe me. I am after the truth, even if it hurts me. But believe me, it won't.

HP. I understand that, you see. But, you know—

P. Just like it won't hurt you. We are doing our job. And somebody was in here the other day and they were saying, well, Dean is going to blackmail you because of something you're supposed to have told me. And I said

(expletive removed), I said, you have a right to tell me what was going on.

HP. The only thing I think is that it's either Dean or Schaffer or this McCandless. Now, Shaffer says that it's McCandless that's leaking this stuff to the press.

P. Who is McCandless?

HP. McCandless is another lawyer that Dean has retained.

P. He's leaking to the press that they are going to try the President, huh? (unintelligible)

HP. Other areas, but what those areas are, we don't know. Now, Silbert said, "Stop." So, he didn't let them go on. He said, "why get into that?" Ah—

P. It's not this case. Go ahead. (unintelligible)

HP. Well, I told those fellows, look. I told those fellows this. I know you can't believe these reporters all the time. He's had one or preferably two weeks—

P. I'm glad we have that then. When I heard that, I thought that Dean must be out of his damned mind or something. The man is not, ah—I don't know. Going to have Butterfield in? Good.

HP. Well, that's in connection with the \$350,000. Now, we are going to have Jack Caulfield in to the Grand Jury.

P. That's on, because he worked on—

HP. He set up the intermediaries that were being used as couriers to transfer money either to or from LaRue.

P. Oh, he did? Caulfield, eh. What would be the liability of a man like that? Would he be a conspirator?

HP. If it's done with knowledge— if it's done with knowledge—

P. Yeah, with knowledge. But also, there is a certain—it has to be willful or—there are two statutes—

HP. When you talk about conspiracy, you are impugning knowledge, and you impugn the knowledge of the facts unless there's specific evidence of the—

P. (unintelligible) I just don't want to see guys get hurt that didn't know what the hell they were doing.

HP. And we don't want to either.

P. (unintelligible)

HP. But we are looking for witnesses, to be perfectly honest.

P. Sure.

HP. Strachan, they are still negotiating with him on having flunked the lie detector test.

P. Maybe the best thing to do is to plead guilty to the prosecutor—plead guilty?

HP. Well, you know, ah—

P. What?

HP. Basically, I mean, what we are telling Strachan is the he has got to make the choice whether he wants to be a witness or a defendant. "You can just hang tough, and you can be technically be a witness."

(Ziegler enters)

P. That story, according to, Henry Petersen—he just called the U.S. Attorney's office. It is totally false story. Needs to be totally knocked down.

Z. Yes, sir.

P. Read me exactly what you can recall the U.S. attorney—

HP. Called U.S. attorney and said that in the past an attorney representing John Dean was in his office and indicated that if we insisted on Dean, that they would be tying in the President, not in the Watergate, but in other areas.

P. That's not Watergate, but in other areas.

HP. Whatever that means.

P. Well, that's fine. Just let them tie us in.

HP. Now, to put that in context, they had previously said that if we insisted on trying Dean and not Ehrlichman and Haldeman that they would be "trying this Administration," the President and what have you.

P. So basically that's the game they are playing.

Z. I can understand how—you indicated that their attorney, the other day, said they would resist in tying in—did you say? In not the Watergate, but—

HP. They would be tying in the President. I mean it was an emotional statement.

P. Emotion at tying in the President, not in Watergate but in other things. Right.

HP. Not in the Watergate, but in other things. Whatever they would be—

P. When was this?

HP. Monday. Monday of this week.

P. Monday of this week.

HP. Monday of this week.

P. Well, I think this—I think this thing we just hit back on.

HP. Well, that's the only thing. And I don't know that. And they had no idea.

P. But Dean gave them

HP. What?

P. But Dean give them

HP. Oh, yes, but, but

P. That basically ties in the White House.

HP. That was one of the reasons that so important to disclose that because they could have hung that over our heads, you see and—

P. You remember my call from Camp David. I said, "Don't go into the national security stuff." I didn't mean—

HP. Oh, I understand.

P. 'Cause I remember I think we discussed that silly damned thing. I had heard about it, just heard about. You told me that. That's it, you told me.

P. What (expletive removed) did they break into a psychiatrist's office for? I couldn't believe it.

RZ. I think what all of this is—

P. What do you think it is?

RZ. I think it's the attorney

P. I think he is bargaining for Dean.

RZ. I had occasion to talk to Dean a few minutes ago, but a call—

P. You did?

RZ. He is a very good friend of mine.

P. Well, tell us what you—now understand we have to watch how we handle him now, because we've got

RZ. It was a very good conversation. He said, "Ron, I am issuing no statements." Incidentally, he said, "I got a telephone call."

P. A telephone call from the President. You know, that shows you what a person he is. I called—you know—some nice things we do—I called six people members of my staff. I called Ron, Henry Kissinger, Ehrlichman, and Rose, my secretary and John Dean. I just go down a list of people, and just say "I want to wish you a Happy Easter." That's all I did. And it's all over the press!

HP. Well, you know, we got a report. Again, I got it through Charlie Shaffer that he was pleased and elated and reassured. And you know, as a human being—

P. I don't want to hurt John Dean. Believe me—I'd like to help him.

RZ. He went out of his way to make the point to me, just in this two-minute conversation, he said "I didn't make that telephone call, Ron." I don't know who may have done it cause he knows—

P. Oh, you did not discuss this crazy Hersh story.

RZ. No.

P. Now the problem about this Hersh story, is that if the Times comes out and runs this—

RZ. Oh, no. As a matter of fact I talked to Clifton Daniels this afternoon, and he didn't raise it.

P. The Woodward story. Woodward also has the same story. Woodward of The Post

RZ. Woodward said that reliable sources said that someone had implicated the President in their testimony, or referred to him.

P. In the Dean story?

RZ. No, that was Hersh.

P. What did Woodward say?

RZ. Woodward said they had two stories; one was the fact that it was reaching a new plateau, and he was not ready to read the story because he was still working on it, and Woodward was taking the position that he was confused and needed to talk to someone to get a perception.

HP. They are trying people.

RZ. What they are trying to do is to get a fix on what's happened over here.

P. OK. Take a hard line. Gergen to Woodward. Anything on that they better watch their damned cotton picking faces. Because boy, if there's one thing in this case as Henry will tell you, since March 21st when I had that conversation with Dean, I have broken my ass to try to get the facts of this case. Right? Tried to get that damn Liddy

to talk. We tried to get—finally got Gray to refresh his memory. (unintelligible). We finally got—incidentally, we put Ruck in that thing rather than—I didn't think based on what you had told me earlier, we should put Feld—because there's too much (unintelligible) over there and Ruckleshaus is a perfectly trustworthy man. He'll stay 30 days —

HP. I know him and I think well of him.

P. And for that matter, we'll have another man ready. Does that sound alright to you? I told Ruck, incidentally, that he was to cooperate with the investigation and I said, "Ruck you are to do anything that the prosecutor says to do, Henry Petersen, or the prosecutors, leave no stone unturned and I don't give a damn who it hurts. Now believe me, that's what he's been told. So you got a man there who will —

HP. I know him and I think well of him, Mr. President.

P. Well, he's Mr. Clean, you know so you understand.

HP. Yes, indeed. He's quite able, he is indeed.

P. So there you are. You've got to knock that — Crack down. If there's one thing you have got to do, you have got to maintain the Presidency out of this. I have got things to do for this

See TEXT, A27, Col. 1

TEXT, From A26

country and I'm going to have—now this is personal. I sometimes feel like I'd like to resign. Let Agnew be President for a while. He'd love it.

HP. I don't even know why you want the job?

P. You are talking about this story—that Agnew is getting ready to resign. That's The Post also?

RZ. Well, that's The Post and Times.

P. Post? Well, what did Agnew say?

RZ. "That's ridiculous." Marsh Thompson's going to turn it off. Well, Look. Let me have Gergen call him back, and say,

RZ. "He raised two points with me. Let me tell you what is going on here. What's going on here Bob, is the President is going to get to the bottom of this.

RZ. And then have Gergen say, I have checked this at a very high level and you'd better, absolutely not even go into any emotional concerns of running a story like this. You had better just wipe it out of your mind. Because there is nothing to it.

P. That's right.

RZ. If you say you want to be responsible and fair, "Well, you had better not go with a source that you have to speculate on.

P. Right. The same with the Times.

RZ. The New York Times man, I'm sure —

P. Well, Hersch is so damn unreliable.

RZ. (unintelligible).

P. I'd call Daniels. Hersch told Bittman who told O'Brien that Dean had testified that there was a new—that the President was involved, right?

RZ. Not testified, but told the prosecutor or something.

P. Told the prosecutor that the President was involved, right?

P. Let me ask Henry a question. You have Titus and those saying Dean, neither Dean or his lawyers, have said anything of that sort except this one thing.

HP. They said, "tying in the President" not in the Watergate but in other areas and the prosecutor said, "Stop! We don't want to get in this. We don't want to discuss this."

HP. What I think is its bombast, its negotiation—it's ah —

P. Again make it clear that Henry's made his check.

RZ. Just to put this into perspective. This is not, as I sense it, about to break in the papers. This is just rumor type.

P. Well, kill it. Kill it hard.

RZ. Ok, sir. (Ziegler leaves.)

P. Let me say this, let me ask you about (unintelligible). First, on Dean—I would not want to get into a position —You have told me now, "You can do what you want with Dean." You have given up. You mean, in other words, fire him, hire him, leave him, treat him like the others, wait until the Grand Jury acts, or something. You see, I have three courses: I can wait until the Grand Jury acts, I can take leaves of absence, or I can take resignations, I have three different courses on all three men. I can do different things with each one of them. Right?

HP. Yes, sir.

P. These are the options, but what I will do remains to be seen. Now in Dean's case, I do not want the impression left that—I have gone over with you before, that by saying "Don't grant immunity to a major person," that in so doing I am trying to block Dean giving evidence against Haldeman or Ehrlichman.

HP. I understand that.

P. I have applied that to others, and I don't want to—no. Do I make myself clear?

HP. Yes, let me make myself clear.

P. Yes.

HP. I regard immunity authority under the statutes of the United States, to be my responsibility, of which I cannot divest myself.

P. Right.

HP. And—ah—we take opinions, but I would have to treat this as advisory only.

P. Right. Well understand, I only expressed an opinion.

HP. I understand.

P. And understand you have got to determine who is the major culprit

too.

HP. Yes, sir.

P. If you think Dean is an agent—Let me say. If Dean, I—I think Haldeman and Ehrlichman in the case of themselves with Dean. But my point is, you have got to—ah—I don't know what you prosecutors think, but if your prosecutors believe that they have got to give Dean immunity, in whole or in part, in order to get the damned case, do it. I'm not—I'm not telling you what to do, but—you understand? Your decision. Now have you talked to the prosecutor about this situation?

HP. They vacillated. In the first instance they, I think, felt quite strongly that Dean should be immunized, and I was resisting. And the last time we discussed it, why they had made other—

P. Why? Maybe because of what I said? See? I don't want—I don't want them—

HP. No. I don't so, because, one, they are in a position to simply make the recommendation and let me shoulder the heavy burden.

P. Why do you think that they had turned around?

HP. Well, I think they see the question of credibility. They have come to the recognition that if they are going to put him on the stand and he's going to have any credibility at all, he'll have most credibility if he goes in and pleads and testifies as a co-defendant against Ehrlichman and Haldeman as opposed to someone who has been given immunity and is testifying against them.

P. Even an old man like Wilson will tear hell out of him.

HP. Well, John Wilson may be old, but he's one hell of a lawyer.

P. Oh, I can see—

HP. A top-notch man—

P. I met him last night, I said privately and I won't again, but I was impressed with him. He is a delightful man. And I could see, I can see—I would want to be on the stand with him interrogating.

HP. He's a fair—

P. He must be pretty good.

HP. Yes, sir, he is. And did you meet Frank Strickler?

P. Yeah.

HP. They are both delightful people.

P. Yeah. Strickler, he just looks like sort of a big country bumpkin, but there is a sharp mind in there.

HP. Very able fellow. And they are decent people to deal with—as adversaries. They are decent. They are honorable lawyers, they are a pleasure to deal with.

P. All right. We have got the immunity problem resolved. Do it. Dean if you need to, but boy I am telling you — there ain't going to be any blackmail.

HP. Mr. President, I—

P. Don't let Dick Kleindienst say

it Dean ain't — "Hunt is going to blackmail you." Hunt's not going to blackmail any of us. "It is his word, basically, against yours." It's his word against mine. Now for—who is going to believe John Dean? We relied on the damned so — Dean, Dean was the one who told us throughout the summer that nobody in the White House was involved when he, himself, apparently, was involved, particularly on the critical angle of subornation of perjury. That's the one that—I will never, never understand John.

HP. I, I can almost quote him He said, "Henry, God damn it, I need this information. That man has designated me to get all these facts." And he calls me in there and chews my ass off.

P. Do you know something?

HP. And this was before the trial—

P. Dick Kleindienst, incidentally, Dick Kleindienst told me this last night when I talked to him. He said, "You know, Mr. President—" And I said, "Do you know the first time I ever saw Dean alone was on February 27, 1972, except for 5 minutes when I signed my will on August 14th." Dick probably repeated, because I think you were in the room. He said, "Are you kidding?" I said, "No, why? Did you hear otherwise?" He said, "Well, Dean was around here quoting the President all the time." Did he indicate that I was telling him to do this?

HP. He told me that he had been designated by you to accumulate all these facts and he was reporting to you personally. And that you'd be clearing his ass out if he didn't have it and I went back to him again, I said, "John, are you sure this information is not going laterally?" I said, "Not that I distrust you, but you, where is it going? Do you know?" He said, "Henry, it is only going upward," which I took to mean—Ehrlichman, Haldeman and you.

P. Ehrlichman. It went to Ehrlichman, I am sure. And then into Haldeman. And to Ziegler, because Ziegler used Dean. But that was because he had to (unintelligible).

HP. Well, I didn't have any problem with that. I got in—

P. Dean. You will get Dean in there. Suppose he starts trying to impeach the President, the word of the President of the United States and says, "Well, I have information to the effect that I once discussed with the President the question of how the possibility, of the problem," of this damn Bittman stuff I spoke to you about last time! Henry, it won't stand up for five minutes because nothing was done, and fortunately I had Haldeman at that conversation and he was there and I said, "Look, I tried to give you this, this, this, this and this." And I said, "When you finally get it out, it won't work. Because, I said, "First, you can't get clemency to Hunt."

HP. I agree.

P. I mean, I was trying to get it

out. To try to see what that—Dean had been doing! I said, "First you can't give him clemency." Somebody has thrown out something to the effect that Dean reported that Hunt had an idea that he was going to get clemency around Christmas. I said, "Are you kidding You can't get clemency for Hunt. You couldn't even think about it until, you know, '75 or something like that." Which you could, then because of the fact, that you could get

to the—ah—But nevertheless, I said you couldn't give clemency. I said, "The second point to remember is 'How are you going to get the money for them?' If you could do it, I mean you are talking about a million dollars." I asked him—well, I gave him several ways. I said, "You couldn't put it through a Cuban Committee could you?" I asked him, because to me he was sounding so damned ridiculous. I said, "Well under the circumstances," I said, "There isn't a damn thing we can do." I said, "It looks to me like the problem is sue John Mitchell." Mitchell came down the next day and we talked about executive privilege. Nothing else. Now, that's the total story. And—so Dean—I just want you to be sure that if Dean ever raises the thing, you've got the whole thing. You've got that whole thing. Now kick him straight—

HP. That's—I mean—that's what we had to do. I just don't see how we can minimize that man. That's all there is to it.

P. But I suppose he talks to his friends. Is he talking to Bittman? No, Dean was talking to O'Brien, wasn't he? Dean wasn't talking to Bittman.

HP. Not to my knowledge. Wasn't that story that Bittman? That Bittman talked to O'Brien—Bittman, Bittman to O'Brien—

P. No. Bittman to O'Brien said, "Look, we need the money."

HP. That's right.

P. Or was it Bittman to Dean? I don't know. What kind of a guy is O'Brien?

HP. I've only met O'Brien one time and then only recently at a recent Bar dinner. I don't know him. Bittman, I know well. I just thank God I broke off social relations with him from the time he represented Hunt. We had a golf date, and I just broke it and I haven't seen him since then.

P. What about Bittman?

HP. What he's concerned about is the allegation that he, in behalf of Hunt, was attempting to blackmail the White House for substantial sums of money in return for Hunt's silence. That's the allegation. And that's what McCord said—ah

P. McCord said that Bittman—

HP. McCord said that Dorothy Hunt told him all this sort of thing.

P. And so how do you get to them?

Do you have to call Bittman? what do you do?

HP. Well, we may get into the fee. Fees are not privileged.

P. I see.

HP. Now—

P. You say, "Where did he get your fee?"

HP. That's right.

P. And how would you go about that one?

HP. We'll have to subpoena the fee records out of the law firm.

P. And then if he got the fees, you say, "Did blackmail the White House for this?"

HP. Well, ah.

P. How did he pay the fee?

HP. No, no. I think that—one, we try and find out whether or not the amount of fees reflected on the books of the law firm were consistent with the amount of money that was—oh—to have gone to the law firm. In other words, what we think happened is that a considerable amount within the law firm was paid out in fees and the balance went on to Dorothy Hunt for distribution to the Cubans and what have you.

P. For support.

HP. The strange thing about this one, Mr. President, is that they could have done it openly.

P. Why, of course!

HP. If they had just come out in the Washington Post could say, "Well these people were—"

P. They helped the Scottsboror people, they helped the Berrigans, you remember the Alger Hiss defense fund?

HP. And we're going to help these— They were doing this—Once you do it in a clandestine fashion, it takes on elements—

P. Elements of a cover-up.

HP. That's right, and obstruction of justice.

P. That's what it is, a question of the way it was done.

HP. Sir.

P. Curious thing. I get your point there, I see that in other words, the—so let's look at Bittman. Bittman says he is trying to blackmail the White House. Alright you called Bittman. Bittman says that — he says that O'Brien — Where did you get the money? And so forth—

HP. Now Bittman maintains that it's a lie.

P. He'd be better off to say it's a lie.

HP. Yeah. He simply says that this is a statement by McCord that is lacking in veracity.

HP. And is attributed to (unintelligible) and Dorothy Hunt.

P. Of course, you've got Dean now corroborating—

HP. Well, we have Dean alluding to it, but not in circumstances that we can use it. It depends upon whether not—

P. But Dean must say—this is also

hearsay on that point. I had forgotten this is hearsay. Because he says that he had heard that Bittman needed money, I mean, Bittman had said had had to have a hundred—

HP. The link here is O'Brien.

P. Huh?

HP. The link here is O'Brien.

P. I—oh, I see.

HP. The lawyer.

P. I see, that Dean had heard from O'Brien, Bittman or O'Brien?

HP. No. I say the link we can break into this is O'Brien. Cause O'Brien's a lawyer. He very scared and—

P. Yeah. So. O'Brien, Let's see what he says. I am just trying to see where it sorts out. O'Brien—can you get him in? What's he done? Has he spoken up?

HP. Well, I don't know that I can really predict—ah—ah—but conceivably if he said—ah—

P. Bittman.

HP. "As part of the scheme to ensure silence of of those that were convicted, we made an arrangement whereby money would flow through Bittman in the form of legal fees for distribution to those people."—Then you've got it

P. In the form of legal fees, I see. And then you've got Bittman and then you've got O'Brien and then you got the people that did it. If they—ah—At least those that knew. Like Kalmach, might not have known.

HP. That remains to be seen. And LaRue,

P. LaRue? LaRue did know. He had to. And Mitchell. You've got Mitchell there, you've got LaRue. Who else is missing? LaRue, is he the one that used the code name of Rivers?

HP. I don't know whether—

P. I have heard that name Rivers.

HP. I heard Baker. Now there's two, but these may be couriers that Caulfield recruited, I am not sure.

P. And in all that Caulfield is involved, probably only coincidentally. You can't—they say some of these down there. But O'Brien in other words. O'Brien is scared. And O'Brien says that Bittman—I am just trying to see how they ever got—The only way you could ever get—Let me say, there is no way they could get that to the President without going through Halderman and Ehrlichman. But I am referring to this man here. There's no way they could get it to here except through the fact that on March 21st Dean, as I had reported to you, did report to me that Bittman had told O'Brien that they needed the money. They needed the money. It was discussed and we, I said, "It can't be done. We can't do it." He went on to see Ehrlichman, and Ehrlichman said, "No dice." Nothing could be done. Now that is the fact. As far as we're concerned. That isn't much of a thing for Dean to have.

HP. Yeah.

P. But you could have Bittman I suppose Dean. He could have talked to him—but then you have hearsay. But Dean is not credible. He is not

credible. He really can't. He can't go out and say, "Look I've talked to the President and he told me this and that and the other thing." First, it's not true.

HP. That's the reason I say, in order to make Dean a credible witness; one, it seems to me that he has to plead and two, he has to be corroborated in an essential degree, not everything he says. But in sense an essential number of factors by other witnesses. And he may be corroborating in one respect by LaRue and in another respect by O'Brien, and in still a third respect by someone else, and in a fourth respect by Magruder. You know, and that's the way it goes and the case is being built. So, maybe we can bring O'Brien out

P. Well, there's only this one charge I give to you, among many others, and that is: If any of this—I mean, I can't allow it. Believe me that even prosecutors shouldn't even have informed you of this one. Or me—I—

HP. They have described it as bombast, and rhetoric, and—you know, posing—

P. You examine them tomorrow. And you tell them, they are my men. I'm for them too. I want them to do the job. I want this to come out solid and right here. And they will start right in to get the big fish. Let's come to the Dean thing again.

P. I can give you some more time if you want to negotiate with him. I mean, when I say I—more time—

HP—He needs more pressure. It's become counterproductive of the President.

P. What?

HP. It's become counterproductive. I think he was pressed up against the wall, he's seen the early-morning crisis pass and now he's had resurgence. You know, he sees Ehrlichman here. He sees Haldeman here. He sees John Dean still here. Nothing happens. His confidence is coming back rather than ebbing. And

P. What do you think? Without your advice—Is the proper course of action to have Dean to either—There are two courses of action I can take. I can take a leave of absence until they clear. You know what I mean. Which of course is a very—Bill Rogers thinks is the fairest. And in the and and then they resign, of course. Or I can ask—just resign. Now the problem with resignation, which hits at—There isn't any question about what I will do when you get through with your damned Grand Jury. I just don't—I don't want to — you know what I mean? I don't want him in effect—by something that I do—to totally prejudice even Dean. You understand what I mean?

HP. I understand that aspect of it.

P. As President I shouldn't give a damn about that, but as President—I'll speak to the country on this. And I will soon. But my point is with a leave of absence, with a leave of absence for all three.

HP. With a leave of absence, you have the best of both worlds. You have given them the benefit of the doubt and you haven't cut the Gordian knot. You haven't asked for their resignations.

P. I have asked for a leave of absence. And I say, "Now I will determine at the conclusion not just of the Grand Jury, but at the conclusion of this entire investigation, that means the Ervin Committee is in there too." If, for example, you don't happen to indict one of these three, or one or two or three. I am not going to take that as clear evidence — it is not enough to serve the President simply to get by—

HP. I understand—

P. And I have told them all of that. They have got to be—

HP. I don't see that we're in any disagreement there. The problem is one of timing, as I see it. I think, in my humble judgment, that the question of timing is working first to your detriment, with respect to your image, before the press and public.

P. Do you mean now would be a good time—

HP. And secondly, I think it is working toward the detriment of the investigation because it is giving ~~an~~ of these people an attitude of hope that I think is unwarranted and I think that if he—

P. Let me ask you this. How about moving Haldeman and Ehrlichman and see what that does to Dean. I am just thinking about that—Let me put it this way. I am not in communication with Dean at all. For obvious reasons. But Haldeman and Ehrlichman, I hold my damn brain sessions. I know that they are telling me the truth. Dean, I can't believe him. Because I don't know what he is up to; you see? And, this leave of absence talk, let me say—Please let us keep it within ourselves. I can't leak this out. It will kill them. It will kill the whole thing. I am particularly—can't let it out to Dean. I don't like to put the three of them in the same bag. Although they may all be there.

HP. Mr. President, why do you not like to put them in the same bag? You don't like to put them in the same bag because Haldeman and Ehrlichman are loyal to the last minute, and you—

P. No, no it isn't that. It isn't that.

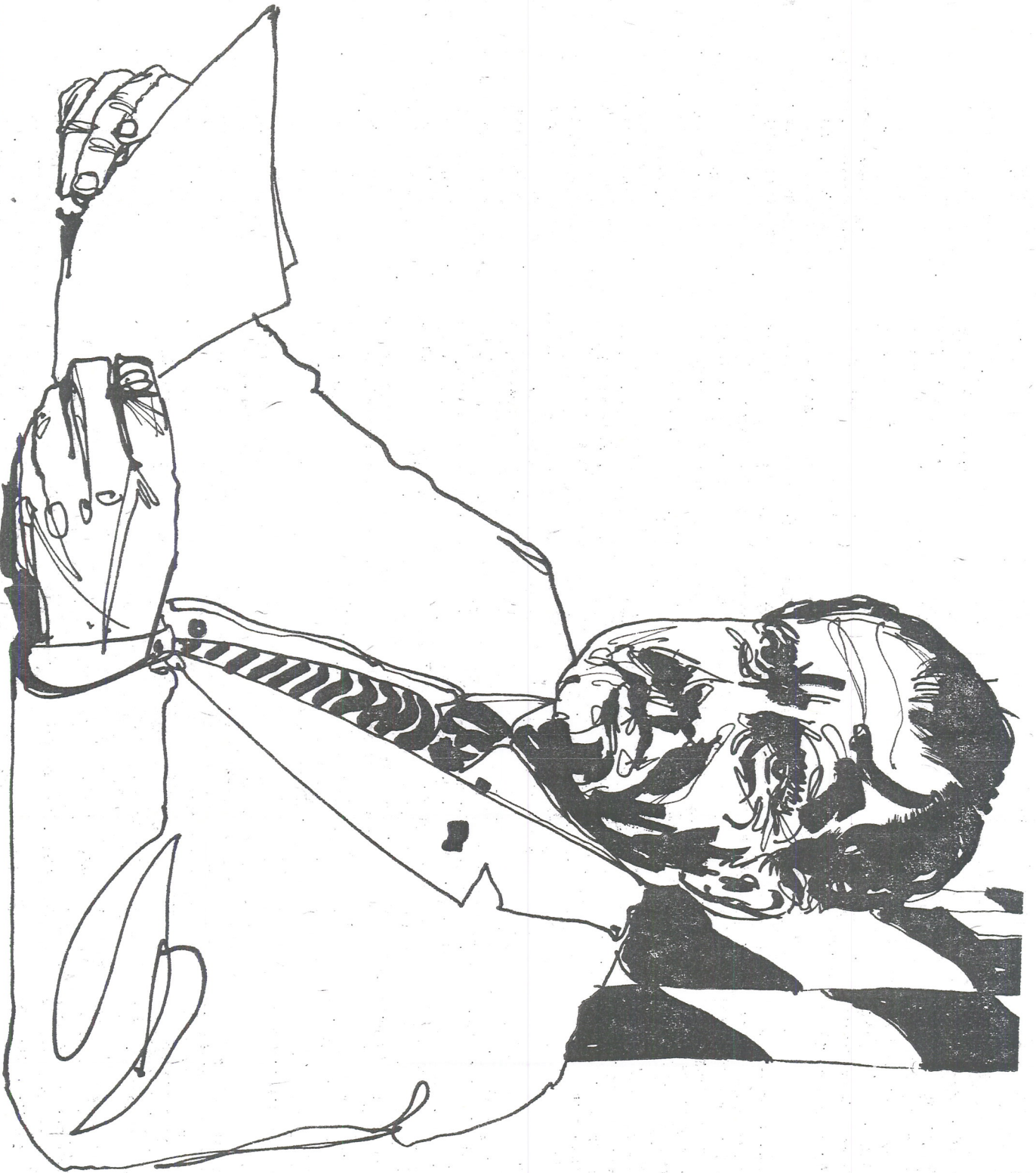
HP. I am not questioning your motive.

P. I am referring primarily to the fact that I have a different relation with the others. At this point I can't get Dean in and say, "Look fella, you take a leave of absence and if you come through clean I will take you back." You know, something like that.

HP. Well, I, in all candor, I think a leave of absence—absence—is just a preliminary step to ultimate departure.

P. I see.

HP. I don't see how either way any



April 30, 1973. President Nixon: 'Today . . . I accepted the resignations of two of my closest associates in the White House—Bob Haldeman, John Ehrlichman . . .'

of them could come back. But it certainly at least in terms of bias and prejudice it indicates to the public at large that you haven't completely abandoned them. You haven't completely and unalterably decided their fate. On the other hand, I am separating myself from them and saying now, by golly, you—What you say is you are guilty until you are proven innocent. That's what the leave of absence is. You see. The other way I am saying, "Resignation—you're guilty." That's the difference, isn't it? The leave of absence in effect is saying, "Look, fellas, I give you leave of absence. So I hold you, basically, not that you're guilty, "but—I'm not holding you guilty, I'm not finding you guilty, but I'm saying is that you've got to prove that you are innocent before you can come back.

HP. No.

P. Now in recognition I am saying —

HP. No—you're saying that you have to prove you're worthy to work in the Office of the President.

P. Oh, I see. I understand.

HP. But I think that, I think that's a much more ritualistic way of saying —

P. Well, that's what I told them. That's what I told them. You know what I mean by guilt and innocence. I mean worthiness.

HP. That's right.

P. You have to prove you're worthy.

HP. But you see that's what I see has to get out to the public. But Mr. President, my wife is not a politically sophisticated woman.

P. That's right —

HP. She knows I'm upset about this and you know, I'm working hard and she sees it. But she asked me at breakfast—She, now I don't want you to hold this against her if you ever meet her, because she's a charming lady —

P. Of course.

HP. She said, "Doesn't all this upset you?" And I said, "Of course it does."

P. "Why the hell doesn't the President do something?"

HP. She said, "Do you think the President knows?" And I looked at her and said, "If I thought the President knew, I would have to resign." But, you know, now there is my own family, Mr. President —

P. Sure. Sure.

HP. Now whatever confidence she has in you, her confidence in me ought to be unquestioned. Well, when that type of question comes through in my home —

P. We've got to get it out.

HP. We've got a problem.

P. Well you know I have wrestled with it. I've been trying to —

HP. Mr. President, I pray for you, sir.

P. I have been trying to get the thing. Like even poor Gray—there was nothing we could do. Ah—wrestling with Dean's covers. But ah —

HP. I wouldn't try to distinguish between the three of them.

P. I understand. I understand. Well, I won't try to distinguish, but maybe they will be handled differently due to the fact that I am not communicating with Dean.

HP. Mr. President, it is always easier to advise than it is to assume the responsibility.

P. I will do it my way. And it will be done. I am working on it. I won't even tell you how—how —

HP. I understand —

P. But what are you going to do? What will happen now? The FBI will now interview Dean on that report in California?

HP. Yes, sir. They will interview Ehrlichman and they will, ah, attempt to identify the psychiatrist. They will interview the psychiatrist named as Ellsberg's psychiatrist to determine whether or not they were burglarized or know they were burglarized. They will attempt to determine if there's any police report of a burglary. We will check with the Defense Department since they have been involved in this thing. We will re-check the FBI. We've already checked them once.

P. What did they find?

HP. Well, nothing. We've checked our own people —

P. Now, the FBI will not do anything.

HP. I understand. But . . . we're talking about the evidence of information that may have been stemmed from that source.

P. Yeah. Well they got into the trial.

HP. Whether any of that has gotten into the file in any way. And when we do that and we do that, we have to file a report to the Court and we will and ah we'll see what develops.

P. Alright. Thank you.