

An Elephants' Graveyard?

The Watergate. The Watergate. It's beginning to be like Teapot Dome. I mean, there's a smell to it. Let's get rid of the smell.

The complainant was no less a Republican than Barry Goldwater—and the complaint was symptomatic of the rising pressure on Richard Nixon within his own party to lay the complex Watergate scandal open to full outside scrutiny. The senator was followed in short order by White House counselor Anne Armstrong, who agreed that the affair was hurting the Republicans across the U.S.; by GOP chairman George Bush, who conceded that Mr. Nixon had a problem; even, at the weekend, by Spiro Agnew, who was reported to be "appalled" at Watergate and the way his superiors had handled it. The Administration officially clung to its above-suspicion posture and in fact claimed a broader immunity than ever to Congressional inquiry. But the White House was even then negotiating backstairs with Sen. Sam Ervin's Watergate investigating committee—and the betting was that some face-saving way would be found for the President to make his men available as witnesses.

His options were narrowing daily as the GOP rebellion spread—and as the story dribbled out bit by bit and name by name into the press. James W. McCord Jr., the first of the seven convicted Watergate conspirators to talk, was said to have identified a prominent party lawyer as a conduit for hush-money paid out to silence McCord and his co-defendants. The procession of witnesses before the Watergate grand jury continued, the week's cast notably including the alleged political agent provocateur Donald Segretti and his two White House contacts, ex-staffers Dwight Chapin and Gordon Strachan. And Government investigators were working on an assortment of tantalizing new leads—among them, NEWSWEEK learned, the possibility that the Committee for the Re-election of the President had fielded a far wider network of college-age political spies than has hitherto surfaced.

'He Knows': The Administration has been trying to ride out the storm, on the guess that nobody cared outside the Georgetown gossip circuit and the Eastern Establishment press. But the week's chorus of voices suggested—and a national NEWSWEEK sampling confirmed—that the scandal has indeed begun to trouble the party professionals. "The President," said one old and indefatigably loyal Nixon operative, "has been getting very bad advice from people who are still reading last summer's opinion polls. They convinced him that it will all go away. It won't, and now he knows it." The evidence indeed was mounting that Mr. Nixon was not only aware of his problem but

was sorting out options for doing something about it. He took off suddenly one evening last week for a solitary night at Camp David; the guessing was that, of all his problems, the one he wanted to be alone with was Watergate.

In public, he maintained and in fact drastically widened his claim that his staffers are shielded by "Executive privilege" from having to testify before Congress. The President dispatched Attorney General Richard Kleindienst to a Senate hearing on the issue, with orders to yield nothing. "Let's be tough there," he told the A.G. "Let's start hard." Kleindienst in the event started even harder than the White House had expected, arguing that nobody at all in



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Armstrong: The party was smarting

the President's employ—from senior staffers to Patent Office janitors—could be required to testify if the boss forbade it. Maine's Sen. Edmund Muskie demanded incredulously whether any of the 2.5 million employees on the executive-branch payroll could then be commanded to appear before a committee of Congress. "Not if the President says not to," Kleindienst answered coolly, and moments later he told the senators what they could do about it: "... cut off appropriations; impeach the President; have another election."

The claim was, in the word favored by constitutional scholars, breathtaking—so breathtaking that some spectators read it as a bargaining ploy, or even a feint designed to make the President look generous if he allows anyone to testify at all. Muskie called it "frightening"; he was



Wally McNamee—Newsweek

Goldwater: 'Get rid of the smell'



Segretti: The grand jury called

supported through the week by a parade of witnesses, memorably including House Republican caucus chairman John Anderson of Illinois, who found Kleindienst's position "contemptuous" of Congress and the settled law of the land. Newsmen asked him afterward whether most of his GOP confreres shared his injured feelings. "I hope so," said Anderson. "I didn't come over here to be heroic." Amid the hot words, it nearly escaped notice that Sam Ervin—who has railed eloquently against far less sweeping assertions of Executive privilege—sat through the Kleindienst furor without protest. His silence was plainly strategic: his committee was already actively negotiating with senior White House officials

□ Newsweek

—and was nearing a compromise under which some past and present staffers will be permitted to testify after all.

Ervin's best leverage in this effort came from the Republicans themselves. NEWSWEEK's survey confirmed Goldwater's diagnosis that the Watergate scandal has begun damaging the party where it hurts most, among the pros who keep it together and the bankrollers who keep it afloat. "I've advised the White House several times," said one Midwestern national committeeman, "to run its own committee, identify the sons of bitches and throw them out on their cans."

'It Hurts': There were signs, moreover, that Watergate has already begun infecting the Presidential politics of 1976. One potential candidate, Spiro Agnew, got his dismay at the scandal on the record. Another, John Connally, has delayed his expected switch to the Republican Party. A third, Ronald Reagan, broke up partisan audiences for months by wondering aloud why the Democrats were

counter-proposal ought to be, but only a few war hawks still held to the position that nobody ought to testify. The likeliest counter-offer was that some would, publicly and under oath, but only after rehearsing their testimony in executive session—and hopefully with television cameras banned.

The President's men obviously would prefer not to go at all. They have persisted in painting the Ervin investigation as a circus; they have been abetted in

maintained the only independent public forum available.

The Justice Department, at any rate, seemed unlikely to satisfy the demand for answers. Officials there say the grand-jury inquiry has hit a dead end with the continued refusal of Watergate spymaster Gordon Liddy to name names; NEWSWEEK learned that a few more low-level operatives may be indicted—but no higher-ups unless Liddy cracks. NEWSWEEK also learned that a much-heralded inquiry into Segretti's political-sabotage operations by the department's fraud section was being reined in on orders from top Justice officials. And the General Accounting Office is known to be disgruntled at the department's sluggish response to GAO recommendations that it investigate possible election-law violations by the re-elect-the-President committee. The latest such recommendation, dispatched to Justice on March 12, had not been acted on or even acknowledged by last week, moving one senior GAO official to complain angrily: "Nothing really is happening."

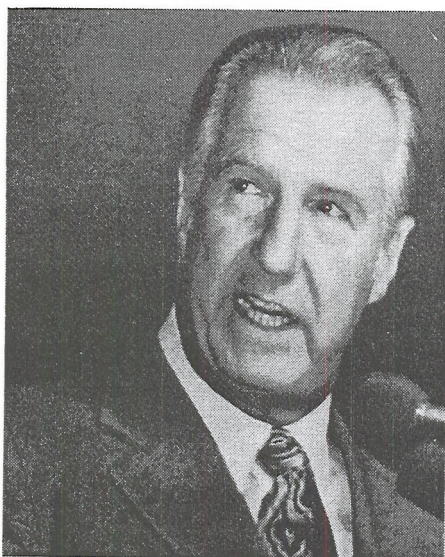
Money: Still, Federal investigators have kept on poking through the re-elect-Nixon underground, and lately their interest has been piqued by a mysterious series of disbursements on CRP's books. These, NEWSWEEK learned, looked to the Feds suspiciously like the \$150 a week paid one known student spy to collect political intelligence. Investigators believe that the money came from the cash fund in campaign finance chairman Maurice Stans's office safe—the same reserve that financed Liddy's operations—and that the fund may have paid for a whole ring of student undercover operatives as well. The continuing search through CRP's financial records didn't stop there; The Washington Post said that investigators have found evidence that \$70,000 was transferred out of Stans's office fund two weeks after the Watergate break-in to CRP official Frederick C. LaRue, a former White House aide and a close associate of former Attorney General John Mitchell. The transfer, for unexplained purposes, was not reported to the GAO—a possible violation of the election law.

The disclosures, much as they might hurt in an open forum, were all the more damaging to the Administration for having leaked out piecemeal—a process that inflated headlines, stained reputations and wrapped the whole case in a cops-and-robbers atmosphere. In the swirl of name-naming, some Nixon men have begun seeking vindication singly; former White House staffer Charles W. Colson took (and passed) a private lie detector test on Watergate. But the only real remedy lay in the direction in which Mr. Nixon has apparently begun moving—toward cooperation with Ervin's committee of inquiry. "Everybody in the White House that's been remotely involved will testify," John Mitchell guessed at the weekend (adding he was eager to appear). "And I don't think it will hurt



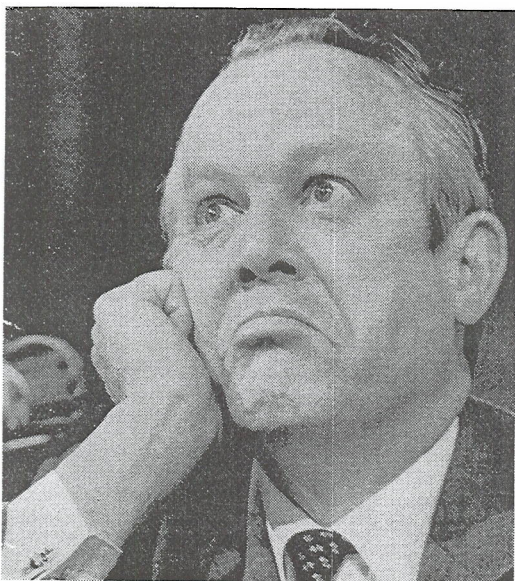
Wally McNamee—Newsweek

Colson: No lies detected



Agnew: The Veep was 'appalled'

this effort first by a torrent of leaks from McCord's secret testimony to the committee—and last week by the disclosure that one of the committee's own staffers was a private eye with a 1966 arrest for bugging a Manhattan hotel room in a divorce case. But short of the appointment of a Presidential commission to pre-empt the field, the Ervin panel re-

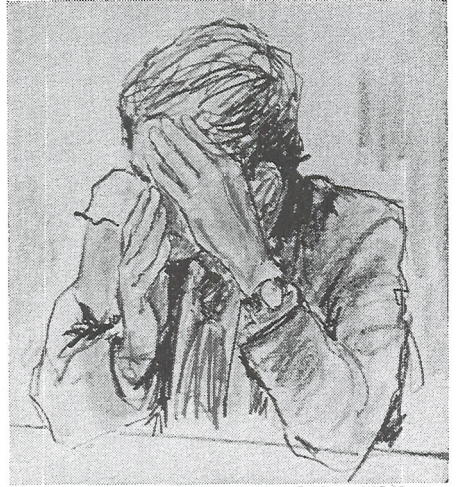
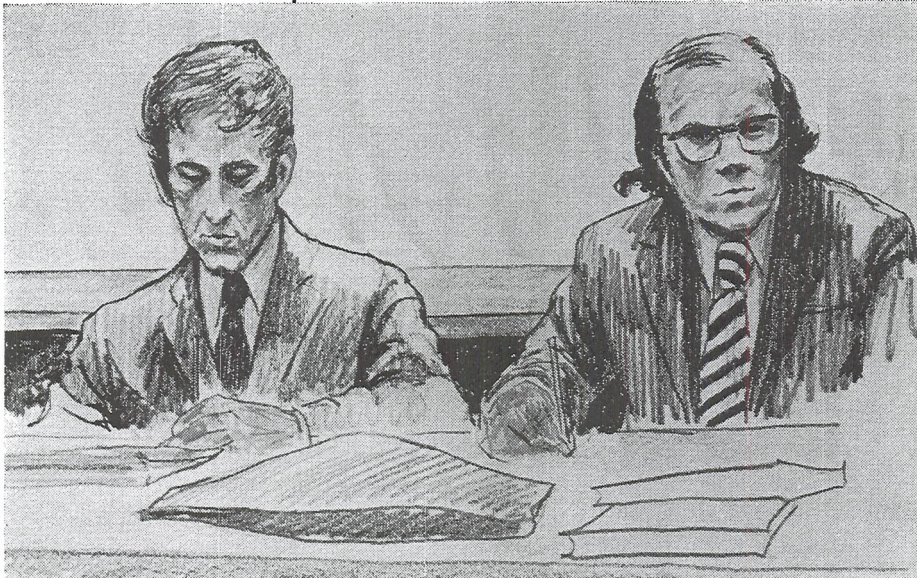


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Kleindienst: A point of privilege

so riled about having been bugged—"They should be glad *someone* wanted to listen to them." But a fortnight ago, the gag fell flat at a party fund-raiser in San Francisco, and Reagan dropped it from his repertoire. "Watergate is starting to hurt," he concedes now. "People are disturbed."

With the heat rising, the Senate Republican leadership privately sent the White House a proposal that it break the impasse with Congress by making its people available as witnesses and having them plead Executive privilege on the stand if the questioning impinged on their confidential dealings with the President. The proposal, said one staffer, was "not acceptable to us" as it stood but was regarded nevertheless as a take-off point for peace talks. The Nixonians were themselves divided over what their



Sketches by Don Juhlin—CBS News

Ellsberg sobbing, and in court with Russo: A question of tactics

the Presidency or the Republican Party.”

Resisting was no longer a politically viable alternative. “The President,” said an old Nixon hand, “must answer the basic public question: Who was responsible for Watergate?” Merely to address that question may be painful. To avoid it much longer could be ruinous.

CONGRESS:

A Candle in the Gloom

“We sure would like your support on the President’s veto,” the White House aide told the reluctant Southern congressman. “I notice you have several EDA [Economic Development Administration] grants pending. There isn’t enough money to go around, you know. We’re meeting right after the vote tomorrow to approve the allocations.”

A Presidential lobbyist called it “fighting pork with pork,” and so it went in more than a hundred White House calls to the Hill last week—right up to the moment before the latest showdown in the spending war between the Nixon Administration and Congress. The battle this time was over a bill dear to many a congressman’s heart—a \$120 million measure to build rural water and waste-disposal facilities, vetoed by the President last fall along with a dozen others. Until last week, the bill seemed to have a good chance for repassage over Mr. Nixon’s veto.

But the President’s power to dance sugarplums before legislators’ eyes carried the day. By the time the House roll call was over, Administration aides had rounded up 50 more votes than the one-third-plus-one needed to sustain the veto. And coming as it did barely a week after another Administration triumph in the Senate, where Democrats had failed to repass a vetoed vocational rehabilitation bill, the House vote represented a crushing and perhaps definitive defeat for congressmen who still hoped to challenge Mr. Nixon’s arrogation of budget-

ing authority through impoundment and veto. “If they can’t beat us on vocational rehabilitation or waters and sewers,” crowed GOP House leader Gerald Ford, “they can’t beat us on anything!”

He may have been right—at least if the 93rd Congress were left to its own devices. Congress, it seems, can prevail only on issues directly affecting enough of its members to override a veto—and thus Mr. Nixon decided last week to reverse his earlier impoundment of Federal aid to school districts with major Federal installations. The funds go to 380 of the 435 Congressional districts.

But Congress also got some help from the judiciary branch when U.S. District Court Judge William Jones ordered the Administration to stop its dismemberment of the Office of Economic Opportunity. The dismantling of the agency, the judge said, was “unauthorized by law, illegal and in excess of statutory authority.” The President, he said, cannot veto Congressionally mandated programs merely by failing to include them in his budget message, for if he could do that, “no barrier would remain to the Executive ignoring any and all Congressional authorizations . . .”

Volunteers: The Administration, and especially acting OEO director Howard Phillips, remained publicly unfazed by the ruling—at least partly because the agency seems fated to wither away after June 30 in any event. As Phillips said after the decision: “It’s entirely possible for people to keep working as volunteers . . . but I’d be very surprised if there’s any money in the budget on July 1.”

All the same, the decision lit a dim candle in the Congressional gloom. For its general phrasing seemed designed to extend beyond the OEO case to other instances of budgetary overreach by Mr. Nixon—including his broad new use of Presidential impoundment. Even if Congress fails to reassert its own budget-making authority, the Administration might just be persuaded to tread a little more lightly.

TRIALS:

Ellsberg on the Stand

Three months into the trial of Daniel Ellsberg and Anthony Russo for espionage and theft of the so-called Pentagon papers, the romantic flares of antiwar heroism were burning low. The once-portentous case had apparently reduced itself to a contest between a Federal prosecution that was trying to prove simple theft and a defense that was challenging even that—and not even Ellsberg’s own first appearance on the stand last week did much to increase the level of electricity.

Yet there was a sweeping precedent riding on the tangle of Federal charges against the two defendants. Citing an obscure and never-tested subsection of the Espionage Act, the Justice Department was attempting to establish that unauthorized possession of classified data relating to the national defense is a crime—regardless of the use to which it is put (if any) or its value (if any) to another country. These are tighter security provisions than the U.S. Government has ever tried to assert over its citizens, even in wartime, but the Nixon Administration seemed eager to push them through one way or the other. As a few outraged liberal senators were complaining in Washington last week, the same restrictive provisions are tucked away in a hideously complex revision of the Federal Criminal Code recently submitted to Congress by Mr. Nixon. In the view of some worried constitutional lawyers, passage of the code as written could make it a crime for a citizen to expose any and all evidence of government incompetence or illegality that was related to defense and carried a stamp marked “Secret.” Congress may well reject this part of the code—but its main point would still enter the common law if Ellsberg and Russo were to be convicted on count 1 of their thirteen-count Los Angeles indictment.