

Excerpts From Ehrlichman's Testimony

Special to The New York Times

WASHINGTON, July 27—
Following are excerpts from the track. The preoccupation by John D. Ehrlichman today on the 30th day of hearings on the Watergate case before the Senate Select Committee on Presidential Campaign activities:

MORNING SESSION

SENATOR GURNEY: I think Dean talked to the President on Feb. 27 and in that conversation with the President, the President assigned the investigation of Watergate, at least that current phase of it, to Dean. As I recall, he said that he wanted Dean to report directly to him. He also said that it was taking up too much of your time and also Halde- man's time.

MR. EHRLICHMAN: Yes, Senator, except chief investi- gator, I think, is slightly off the track. The pre-occupation at that time, as far as the President was concerned, was not in an investigation of the facts as nearly as it was to get some one person in the White House who was going to look after a number of existing problems with rela- tion to this whole subject matter and they were primar- ily the problems of executive privilege and separation of powers as he saw it then, not a question of who done it.

So rather soon after this meeting we had at La Costa, which was, incidentally, the result of the President say- ing, "Who is in charge and what plans are being made and how is the work com- ing?"

Q. And this came at about the time this committee was created, is that right? **A.** This is right, yes, sir.

Q. Concern about what to do about the investigation of the committee, how to re- spond to it?

Dean Put in Charge

A. Coming out of that session, as a result of our report back to him that the work was largely undone, that a tremendous amount of work was left to be done in terms of developing the Administration's position on executive privilege and at- torney-client privilege and marshaling all of the Files that had to be marshaled and all the rest, that he said, "Well, I want Dean to take charge of this. I want you fellows to get out of it." He said to me, "I have got something else I want you to do and I want you to press on it," so I started off on an entirely different project that had to do with legisla- tion and from about the third week in February the under- standing was that I was out of it. Bob Haldeman was basically out of it and Dean was the lead man in the White House on this whole subject of privilege, the committee, the grand jury and all of the collateral questions that were associ- ated with this.

Q. Did Dean make any re- ports to you after that or only to the President? **A.** I saw very little of Mr. Dean in those months and quite a few weeks went by when I didn't see him at all or for that matter really talk to him very much.

Q. Just one further ques- tion on that. Was there ever any suspicion in your mind that the President appointed Dean to sort of be in charge of Watergate on Feb. 27 be- cause he might have had some suspicion that maybe you were involved or Halde- man was involved or some- body else in the White House involved.

A. Well, what the Pres- ident explained to me was that the central question here was one of executive privi- lege and the availability of Presidential assistants to tes- tify before the Congress.

Presidential Concern

And through my notes of meetings with the President, there are three or four re- ferences to the President's strong concern that Halde- man and I were test cases, so to speak, of the availabil- ity of Presidential assistants to testify before the Con- gress, and I know there were some questions about his reference to us as principals. I think you have to take it in that setting. We were princi- pals on the question of the availability of assistants to testify.

Now, the precedents that might be set by our testifying he was concerned, would in turn, open up Henry Kissin- ger's testifying and the whole panoply, so to speak, of Presidential assistants and very soon you would have a breakdown of the White House staff system because everybody would be up here testifying like Cabinet secre- taries do every day and couldn't get any work done.

So, basically, he thought that was where one drew the line, and he wanted Dean to focus very hard on that. I don't think, on the 27th, that the President was advised of any implication in this matter of either Mr. Haldeman or me, and in point of fact he continued to be confident through the 30th, I know, and as matter of fact, on through the 16th of April, because he had a report from Mr. Peter- sen, the assistant attorney general, and the Attorney General to the effect that neither Mr. Halderman nor I

were criminally involved in this matter in any respect. So, and that was on the oc- casion of their meeting on that Sunday, which would have been the 15th, wouldn't it?

So, I don't think, particu- larly the 27th of February, but continuing down through the next three weeks that he had any real concern about that.

Q. Let's go to this meeting between you and Mr. Halde- man and Mr. Dean following

the March 21 meeting or Dean with the President. That is when the roof sort of started to cave in, and I am curious to know what trans- pired in that meeting be- tween the three. After the meting between Dean and the President when presum- ably, according to Dean's testimony, Dean told the President everything he knew about Watergate.

The President's Office

A. There was a meeting at 3:45 on the 21st. And then that meeting moved to the President's office after about an hour.

Q. Now, could you describe to us what happened in your office?

A. The conversation, large- ly involved the question of testimonial availability of White House staff people. Mr. Dean did not report in my hearing what he had told the President that day.

Now, Mr. Dean and I got into a difference of opinion at that time about the ques- tion of immunity, and how that should be handled. His theory was that the President should negotiate blanket im- munity for the White House staff with the Attorney Gen- eral so that the entire White House staff, lock, stock and barrel could testify freely be- fore the grand jury as to any and all facts and clear the air and everybody would be im- mune from prosecution. That just didn't make any sense to me from either a practical standpoint or a public ap- pearance standpoint, and we got into a difference of opinion on that.

Q. Well now, why did he say that?

A. Well, he was looking for formula, he had come up with a concept that there ought to be some kind of a commission, an independent commission that would be set up.

Q. But when somebody talks about immunity, ob- viously they are afraid of ending up in the pokey. Did he say, "Now we are all go- ing to jail so he had better get some immunity here."

Expert on Immunity

A. No, he said he was con- cerned that people would not talk freely. Now, Mr. Dean is an immunity expert, Mr. Dean told us early in the game that he was the author of the statute which the Con- gress eventually adopted granting immunity to people in certain criminal situations so that they would testify against higher-ups or co- conspirators or what not, and so he gave us quite an accounting of the difference between use immunity and transactional immunity and the various technicalities of this and he explained that immunity was sort of the lubricant that was needed in this thing to get people to come forward and to fully tell their stories.

Q. If everybody is innocent of everything and stop with Liddy, why would people worry about immunity?

Before Senate Committee on Watergate

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A. Well, I don't think at that stage that there was any necessary assumption on our part that everybody was innocent of everything. I think this was implicit in the conversation that there were liabilities. We were thinking in terms of Mr. Magruder, we were thinking in terms of people at the committee, but Mr. Dean was also implying to us that people in the White House would not come forward and testify freely without immunity.

This was a line that picked up, I guess, about this time and then was replayed over and over in his conversations with Mr. Haldeman.

Q. Did he mention to you in this discussion who would need immunity in the White House? A. No, he did not.

Q. Who did you think might, because you had some discussion on this?

'Out of the Question'

A. I don't think that I thought who might at that point. Bear in mind I had been totally out of touch with this situation for some period of time. My reaction to his proposal was to simply say to him that that was out of the question, that we simply could not expect anybody to grant immunity either on a blanket basis or on an individual basis to anybody in the White House.

Q. What was Mr. Haldeman's reaction?

A. He didn't express a reaction that I can recall to that. He was concerned, as I recall, with the general subject of executive privilege because he had been hearing from Mr. Mitchell strongly about executive privilege, and he conveyed to us Mr. Mitchell's strong feeling that the executive privilege position that the Administration was taking was untenable.

Q. Did you know at that time about who may have been knowledgeable about the break-in.

A. That developed as a re-

sult of phone calls that Bob Haldeman was getting while we were in San Clemente. I left about five or six days later for California. While we were out there, we began realizing there was a strong conflict between Dean and Mitchell on this whole question of people going to the grand jury or the committee and so on, and could not get a feel of it because I didn't know what was behind it and I began trying to find out what was behind it, and then I talked to Mr. O'Brien and that is the first time that I knew about these four meetings back in November and December [1971] January and February [1972] where these plans were laid.

Inquiries Begun

Then I began inquiring through Mr. Moore and others as to what Mr. Mitchell testified to that was worrying him, and why he didn't think Dean ought to go near the U.S. attorney or the grand jury and what his concerns were.

Q. Is it fair to say that up to this March 21 date you had no knowledge of what Dean's activities were in connection with Watergate, and now I am talking about possible illegal activities, other than the Kalmbach business [of raising money for Watergate defendants] and this

talk you had on executive clemency? Is that a fair thing to say?

A. I did not know what he had to do with the Kalmbach business except in the recruiting of Mr. Kalmbach.

Q. Well, I am only talking about what has transpired here this week.

A. Right. I do not know about what lay behind that in terms of these meetings in Dean's office with LaRue and Kalmbach and all the others.

Q. But you knew nothing about these activities other than these little bits and pieces that we mentioned.

A. Well, in retrospect, I evidently knew about bits and pieces but I never had enough to alert me to put it together.

Difference of Opinion

Q. Well, all right. Is there anything else that occurred in that one hour that we should know back to the March 21st meeting in your office or Haldeman's?

A. You will get better information on that meeting, I think, from Mr. Haldeman, since he took notes during the meeting, I did not.

Q. What transpired in the President's office when you moved the meeting over there?

A. There was virtually a reply of this difference of opinion between Dean and me on the question of immunity for the White House staff. The President was advancing a premise at that meeting [that] everybody goes to the grand jury, nobody goes to the Senate committee and we go to the grand jury right away, and the White House staff marches down there in platoons, if necessary, and we get it all cleaned up, and if there is any problem, why, the problems are smoked out.

Q. Was that the decision when the meeting ended?

A. No, no, as I say it was advanced as sort of a premise for argument and Mr. Dean said, "Well, that is what I have been saying, we ought to do that. We ought to do it under a blanket immunity and in that way all the truth will come out," and I was saying, I just think that is wrong, Number 1, I do not think anybody in the White House is entitled to immunity if they have done something wrong, and then they ought to take the penalty. More than that, I think it would be just terribly misunderstood by the American people.

Q. What was Haldeman's position? A. Again, you will find that throughout these kind of things Mr. Haldeman seldom, if ever, takes an advisory position. He listens, he takes notes. He undoubtedly gives his opinion but he does not usually give it in an open meeting.

Q. Of course, he must have realized that he was involved in some way here and I should think he would have some opinion upon his future at a very important meeting like this. Q. I am not sure that either he or I had any real appreciation at that point in time that we were, in fact involved in this, as you put it.

Q. Well, but we do have the evidence that he instructed Strachan to shred some papers that might have some weight on this.

A. I do not think he knew about it either. I interviewed Strachan at great lengths and my notes are here, and I asked him, because I was trying to find out about Mr. Haldeman, frankly, I said, "Tell me everything you know about Haldeman might be tied into this thing," and he gave me four or five instances of some contact that Mr. Haldeman might have had with the Watergate business. There was not a scintilla of a mention of shredding documents anywhere in that.

Q. What you are saying is we may get different testimony from the next witness [Mr. Haldeman]? A. Well, and I am saying, too, that as we sat in this March 21 meeting, I do not think Mr. Haldeman or I had any contemplation that there was

going to be a suggestion of our implication.

Q. Well, now what did the President say to this difference of opinion between you and Dean on immunity?

A. He said that he would like to have us have a meeting with John Mitchell, and sit down and talk with him not only about that, about the basic question of whether staff should appear here or at the grand jury or both, but also recasting the Administration's approach to the question of executive privilege because he knew Mr. Mitchell had very strong views on that.

Q. The next day you did have such a meeting, did you not? With the three of you and Mr. Mitchell?

Mitchell's Views

A. Right, and then that meeting, likewise went over to the President's office in the afternoon. I was only in a part of the first meeting held in Mr. Haldeman's office. While I was there there was largely a discussion of executive privilege, and Mr. Mitchell's views that the Administration position had been too restrictive, and that it was untenable both from a legal standpoint and also from a political standpoint.

Q. Now, again in this meeting in the President's office, there was no discussion of gory details of Watergate.

A. There was none, there was none. When the four of us went to the President's office again, it was largely how to get the whole story out, the question again of the grand jury, of immunity, in John Mitchell's presence with the President trying these various things out on John Mitchell and it finally ended up with the President assigning to Mr. Dean that he wanted Mr. Dean to sit down and write out a statement as completely as possible of the facts of this whole subject matter.

Q. This is why he went to Camp David some time later, a few days later? A. Apparently. That is what I was told, that he found it impossible to do this job with the Gray hearings going on and the distractions and Mr. Gray making accusations against him and so on.

Dean Story Doubted

Q. Now, this really puzzled me. Did not the President say at any of these meetings, "Now, listen fellows, here I have heard all about this from John Dean, what gives here, what are we going to do now, what plans do you have, who is going to get this out? We have got to do it." No discussion of that?

A. Senator, I have great difficulty in believing that the President was told what Mr. Dean says he was told because of the President's approach to this, which I saw in these two meetings.

Now, I do not know what Mr. Dean told him. I guess Mr. Haldeman was in one of those meetings or part of it and maybe he is in a position to tell you.

Q. He never told you anything about what transpired in the meeting between the President, Haldeman and Dean.

A. Well, he told me what Mr. Dean has testified to is not true. I am forced to the assumption by the Presi-

dent's conduct afterward that one of two things was taking place. Either he still confidently believed that the White House was without blame, and that Mr. Mitchell was without blame and was acting accordingly, or he was involved in setting a few snares on the trail and was playing it cool, because he did not get into any of the January, February, March planning meeting business or the involvement of January, of John Mitchell of any of those kinds of subjects which presumably Mr. Dean had laid all out for him, if you are to believe Mr. Dean.

Assignment Shifted

Q. Well now, did the President lift the phone up at any time and say "John, I want you to come over to the office area and talk about Watergate, what you know about it?"

A. No sir, not until way late in the game. He lifted up the phone one day and called me down and said, "I am satisfied that John Dean is in this so deeply that he simply cannot any longer have anything to do with it."

Q. That is when he transferred the assignment to you?

A. Yes, sir.

Q. What date was that?

A. March 30th.

Q. Would you tell the committee what you found and what you reported to the President.

A. The first thing that I did in another conversation with the Attorney General was to arrange to have someone in the Department of Justice prepare for me a thorough brief of the laws of attorney-client privilege, executive privilege, obstruction of justice and all of these objects that we seem to be encountering in this.

With Mr. O'Brien's arrival [at San Clemente] however, that was my first interview, and it brought me a whole new picture of this whole matter. A lot of information in what Mr. O'Brien gave me that I had never heard before—about money, about the involvements of people who had various funds of money and carried money around and who got money and how Liddy got money and this

Figures in Senate Inquiry

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WASHINGTON, July 27—Following are the names of individuals who figured today in hearings by the Senate select committee on the Watergate case:

COMMITTEE MEMBERS

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

COMMITTEE COUNSEL

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

WITNESSES

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

PERSONS NAMED IN TESTIMONY

John J. Caulfield, former employe of the re-election committee
John W. Dean 3d, former counsel to the President.
L. Patrick Gray 3d, former acting director of the F.B.I.
H. R. Haldeman, former White House chief of staff.
E. Howard Hunt Jr., ex-White House aide, pleaded guilty in the Watergate break-in.
Henry A. Kissinger, Presidential adviser on national security.
Herbert W. Kalmbach, President Nixon's former personal attorney.
Egil Krogh Jr., former assistant to Mr. Ehrlichman.
Frederick C. LaRue, former aide to Mr. Mitchell.
G. Gordon Liddy, former White House aide convicted in Watergate break-in.
Jeb Stuart Magruder, former deputy director of the Committee for the Re-election of the President.
Robert C. Mardian, former aide of the re-election committee.
John N. Mitchell, former Attorney General and former chief of the re-election committee.
Richard A. Moore, special counsel to the President.
Paul L. O'Brien, attorney for the Committee for the Re-election of the President.
Henry E. Petersen, assistant Attorney General who headed Watergate prosecution.
Gordon C. Strachan, former assistant to Mr. Haldeman.

kind of thing which was all a brand new subject to me at that point.

Q. Did he give you any information on the planning of the break-in?

A. Yes, and [about] those four meetings [on intelligence gathering] and that whole business.

Question of Perjury

I had only one other substantive interview while we were at San Clemente in the remaining three or four days and that was with Mr. Kalmbach, but I became aware through Mr. Haldeman, who was reporting to me, conflicting conversations that he was having with Mitchell and Dean on this whole subject of should Dean go to the grand jury or should Dean go to the prosecutor, and we began trying to understand what lay behind this.

Well, I had the background of Mr. O'Brien's interview, and we zeroed in on the fact that it had to do with these four meetings or three meetings or whatever there were, and whether or not Mr. Mitchell might have some exposure for perjury on account of hav-

ing testified that the meetings were canceled or not.

Q. Yes.

A. And so I had Bob Haldeman trying to get a straight answer out of Mr. Mitchell and he said he could not, so I called Dick Moore and asked him if he would talk to John Mitchell because I knew they had a close relationship.

Mr. Moore reported back that Mr. Mitchell was confident that he had not in any way violated any perjury statute, and that he just did not think it was a good idea for the President's lawyer to be going out and testifying, in other words, it was an attorney-client privilege kind of position that he was contending for. It did not satisfy me.

Q. Mitchell now talking about Dean should not testify? A. That is correct.

In any event, on the way back we called and asked John Dean to meet us in my office when we returned to Washington that night, and he did so [on April 8].

We had a two-hour meeting, Bob Haldeman, John Dean and I, to try and understand what this hang-up was between Mitchell and Dean. We still did not have a feel for it. Then, for the first time, Mr. Dean talked to us about the four meetings or the three meetings back in January and February and explained some of the nuances of the cover-up story with regard to Mr. Magruder and the meeting which he, Dean, Magruder and Mitchell had had in Mr. Mitchell's law office at a time when they were gathered with the attorneys in the case to discuss grand jury testimony where the three of them had retired to Mr. Mitchell's partners' office away from the attorneys and had discussed how to reconcile their respective recollection of the events of the early 1972 period. So that was the first time that I had from Mr. Dean directly this subject matter.

Dean and Magruder

Q. Did he talk to you at that time about his orchestration of the perjury of Magruder?

A. He did, but he did it in very delicate terms. He did not in any way admit to me flatly that he had, in fact, orchestrated it to perjury. He indicated that he had had a part in the preparation of the testimony, that there were, well, I have forgotten how, it was a very careful explanation which did not really implicate Mr. Dean in suborning to perjury by any means, but he indicated that he was well familiar with the problems between Magruder and Mitchell, on the one hand.

He felt that Mr. Mitchell had problems which were causing Mr. Mitchell to say that Mr. Dean should not go and talk to the prosecutor or the grand jury and so this was very thoroughly discussed during that meeting.

Q. These problems between Dean and Magruder, specifically, did they involve who was responsible for the break-in, in giving the green light to it, is that what you mean?

A. I gathered not. I think they involved disputes in their recollection as to what took place at these Liddy meetings, so-called, back in the early part of 1972.

Q. Did he go in at that meeting to any detail about his own involvement from June on [in the] cover-up?

A. No, not in evidentiary terms at all. We talked about the President's desire—the President on the flight back, as I recall, we had a meeting on the flight back of about, nearly two hours about this and the President decided he

wanted Mr. Dean to go to the grand jury, so we conveyed that to Mr. Dean at that time.

Q. What was his reaction to that?

A. He was still very much interested in the question of immunity. He had some information, as I recall, about how the prosecutors felt about the White House, and so he imparted that to us, that he did not feel that anybody in the White House was a target of the prosecutors, that they were after some people who had obstructed justice, like Maridian and LaRue and people at the committee, but that he, Dean, felt that something like an estoppel or functional immunity or something could be worked out with the prosecutors if he went to testify and he seemed generally in agreement with the idea that he go and testify.

Q. Was there any discussion at that meeting about your role in Watergate or Haldeman's role in Watergate?

A. That did not come until this meeting of the 13th of April. On the 13th, after 2:30 or 3:00 o'clock in the afternoon I had a conversation with Dean which was apparently as a result of further contacts which he had had with the prosecutor. He told me that Liddy had talked with the prosecutors off the record very completely and that they might get him to talk on the record. That his attorney was going to try to get Mr. Mitchell to support his view that Liddy ought to talk on the record. And it turned out that that was incorrect apparently, but that was at least what he told me, and I suspect what was happening here was that the prosecutors were telling him this trying to get him to move to come forward and make a disclosure.

Apparently, the prosecutors were playing this kind of a game with a lot of these people at this time, saying, "So and so has talked so you better had come and talk," and passing this word along.

He told me that Hunt was back testifying before the grand jury at that time but lying. That that grand jury was also taking testimony, or the prosecutors, at least, were taking testimony from Strachan and McCord, that there would be no indictment of anyone in the White House, that at all costs he felt a special prosecutor should be avoided in this case, because of the involvement, he said, of Caulfield and Krogh. I did not get the significance of that at the time but presumably that referred to some of Caulfield's intelligence-gathering activities and Krogh's

involvement with the plumbers. He said, "They won't subpoena me but it is better if I cooperate."

Dean's Statement

Now, he went back into the meetings in Mitchell's office about money. I was inquiring of him now about cover-up money. He said that "the way I got involved" was that Mitchell requested me to help."

He said, "LaRue and Mr. O'Brien would urge that money be made available. Mitchell would postpone making a decision until the last minute and the way he would get this thing off his desk would be by calling me — Dean." He said, "the U. S. attorney does not want to cause the White House problems. They tell Dean that Magruder, Mitchell are involved in the pre-Watergate matter and that LaRue, Mitchell and Mardian are involved in the post-Watergate matter."

He said, "I don't think Jeb can crack a deal," meaning a deal with the

prosecutors, "for immunity."

Then I have a little symbol on these notes [on meeting with Dean] which summarizes the exposure which he thought that Bob Haldeman and I had in this matter, mine being my connection with Herb Kalmbach in the provision of money for the defendants, and I have the number 350 which relates to the \$350,000 fund which presumably involve Bob Haldeman.

He said, "neither one of these are indictable but they are oging to be awkward to explain. I don't think either of them are a problem for you in an ultimate sense."

Q. Were these notes made at the time of the meeting?

A. Yes, sir, as we talked. You will recall he testified about five different ways about looks of anguish, disbelief, scorn, whatnot, on my face at the time he said I was indictable. In point of fact at the time he said I was not indictable but that the Kalmbach thing might be a problem for me as being misunderstood. I said, "Well, I just don't see how it could, John," and then we discussed just that, the assumptions which he had made that there was nothing improper about it and so on.

Q. At one of these meetings, and I can't remember which one it was now because there were several, but Dean testified, that there was a discussion between you and him, and I think Haldeman, that the best way to settle Watergate would have Mitchell come forward. Do you recall anything on that?

Speculation on Mitchell

A. Yes. During that meeting and during subsequent meetings between Mr. Haldeman and me and meetings between Haldeman, Dean and me on the two occasions, I think we had, subsequent to that, there was a lot of speculation about John Mitchell and his place in all of this. And of course he was not saying anything to anybody at that point in time, and none of us really had a feel for this. I can recall at one of these meetings Bob Haldeman saying, "I wonder if we are talking all this anguish just to protect John Mitchell."

It was a question, it was not an assertion, but I think we all shared at various times that question in our minds as to whether the beating everybody was taking on the subject of Watergate was because he was not continuing forward.

That was one of the reasons that the President asked me to meet with Mr. Mitchell on the afternoon of, Saturday the 14th of April, to say to him for the President that if Mr. Mitchell thought his silence was now serving the Presidency that was a misapprehension, that the President didn't want him to sit silent if he knew something unless Mr. Mitchell felt from his own personal point that was an exercise of his own rights, in which case that was up to him. And I delivered that message to him at that time, but that was a continuing question all the way through this period of time.

Q. Were you reporting to the President what you were finding out? A. I reported to him after I talked with Mr. O'Brien but very briefly [on the Liddy plans.]

Now, in San Clemente again when he came to this funny conflict between Dean and Mitchell [on the meetings on Liddy's plans].

And when we talked on the airplane going back and we talked about Dean going on the grand jury, and he said finally, "I am not going to wait, he is going to go."