

MAY 2 1974

REVIEW & OUTLOOK

The March 21 Tape

Frankly we have not finished reading, let alone digesting, the 1,308 pages of documents released by the White House. But we think it well worth while to offer a few preliminary observations on the March 21 tape, when John Dean first laid the Watergate cover-up on the table before the President.

A number of indications — our own sampling of the rest of the transcripts, the initial stories on the documents, the emphasis in the President's own brief—suggest that this was the most significant meeting, though perhaps the least typical one. Most of the other transcripts we have sampled do succeed, at least at first reading, in the exculpatory effect intended by the White House. There is a definite impression of a President only gradually over a few weeks comprehending the dimensions of the cover-up. As it looks so far, the March 21 tape does most of the damage to the President.

The meeting is subject to various constructions, and the reader is invited to judge for himself from the lengthy abstracts printed alongside. One construction is that the President decided to pay hush-money to convicted Watergate defendant E. Howard Hunt, and is thus deeply implicated in the cover-up plot. Another construction is that in the end the President rejected this course, deciding instead on a grand jury investigation extending to members of the White House staff. Our own interpretation is as follows:

1. The only firm decision reached at the meeting was to convene another meeting among the President, Mr. Dean, H. R. Halde- man, John Mitchell and John Ehrlichman. The purpose of the subsequent meeting would be to decide among three courses: paying off the jailed defendants indefinitely for silence, or refusing further payoffs and allowing the whole story to "hang out," or convening a grand jury as a more constrained forum for investigation.

2. Among these three courses, indefinite payoffs were rejected because they could not be followed up with clemency to insure silence. By the end of the meeting, the President was leaning heavily toward the grand jury course as the permanent response.

3. However, there is a strong inference that the President wanted Mr. Hunt's immediate demands met in order to buy time for the ultimate decision. There was no explicit decision to pay the \$120,000, but the President specifically suggested this course of action at several points. One could argue that these remarks were intended to elicit Mr. Dean's opinion. Or one could argue that the President's final remarks on the subject—"my point is, do you ever have any choice on Hunt"—coupled rejection of immediate payoffs with rejection of ultimate ones. But these defenses are strained, while the President's suggestions are perfectly clear.

Now, in reacting to all of this it helps to separate two questions. The

first, and not an unimportant one, is a judgment about the general propriety of the whole conversation. The dominant question at this meeting, and for that matter at many of the others as well, was not, what is the right thing to do? It was, what can we get away with? The President of the United States was at least willing to contemplate raising a million dollars to buy silence from convicts, and rejected clemency merely on expedient grounds. Naturally much of the initial reaction to the new disclosures has been one of distaste for the unsavory tone of the discussion.

As public debate continues, however, inevitably it will have to return to the second question—was an impeachable offense committed? We doubt that very many people will want to impeach a President for considering and rejecting an immoral course of action. But even by far more exacting standards the March 21 tape raises real questions. The Rodino committee has had this particular tape for some time now and no doubt has been wrestling with its ambiguities. We begin to appreciate the urgency of its requests for more information.

To put the worst face on it, assume the President did sanction a payment to meet Mr. Hunt's immediate demands. There have been allegations that the last in a series of payments intended for Mr. Hunt was made on the evening of March 21. If you assume this date of this final \$75,000 payment is correct, you can start to build connections that implicate Mr. Nixon in a criminal charge of obstructing justice. At least for that day, the argument would go, he was part of the cover-up.

This connection would at this point seem tenuous. The President may or may not have meant to sanction the payoff. The date of the final payment has also been reported as March 20. In any event, it apparently was set in motion before the key meeting, and approved by Mr. Mitchell, who did not attend it. Even if Mr. Nixon supported a payment in his mind it may have been, as subsequent tapes in fact suggest, intended as a legitimate legal support. Still, on the basis of what we can see so far, these are the important questions to explore.

Thus it seems likely that Tuesday's disclosures will at least serve to focus the question, especially as the initial reaction subsides. Indeed, it now seems likely that the nation will eventually have a pretty good idea of how deeply the President was involved, though the answer to that question may or may not turn out to correspond with our first reaction on an incomplete reading of the transcripts.

But if the nation should conclude that the President was not involved in the cover-up before March, and cleaned house when he did learn of its dimensions, the final decision may turn on the definition of an impeachable offense. What would a President have to do in one such meeting to merit impeachment?