

Criminal Involvement?—A Preview

The House Judiciary Committee's official hearings on impeachment of President Nixon open this afternoon. After public statements by members, the staff will present its case against the President. Chairman Peter W. Rodino Jr. has said that initial evidence will concentrate on the Watergate break-in and subsequent cover-up.

From the public record, it seems evident that much of the case will center on the question of whether President Nixon, during his March 21, 1973 meeting with John Dean and H. R. Haldeman, involved himself in the criminal offense of conspiring to obstruct justice by authorizing payment of money to insure that the convicted Watergate defendants would withhold information from legal authorities.

Issues will include the question of whether the President's statements in fact authorized such payments; lengthy extracts including the relevant parts of the March 21 meeting were published on this page May 2.

Another issue will include whether his statements can be connected with the actual payment of \$75,000 for defendant Howard Hunt, allegedly made later that evening. Still another issue will be the purpose of the payments; they would not be illegal if intended for such purposes as attorneys' fees, only if they were intended to buy silence.

Only when the Judiciary Committee hearings become public will it be possible to know the full extent of the case developed by the staff. But a great deal of material on this crucial payment is already public, and it's possible to pick out some potential exhibits:

Exhibit One

An extract from the indictment of John Mitchell, H. R. Haldeman, John Ehrlichman and others for conspiring to obstruct justice. Indictments of course are not evidence, but a statement of what prosecutors later intend to prove. While the President is not named in the indictment, the meeting referred to in paragraph 40 is obviously the famous March 21 meeting. Thus, proof of the indictment would put the President in the chain of events:

38. On or about March 16, 1973, E. Howard Hunt Jr. met with Paul O'Brien at 815 Connecticut Avenue, Northwest in the District of Columbia, at which time Hunt told O'Brien that Hunt wanted approximately \$120,000.

39. On or about March 19, 1973, John D. Ehrlichman had a conversation with John W. Dean 3d at the White House in the District of Columbia, during which Ehrlichman told Dean to inform John N. Mitchell about the fact that E. Howard Hunt Jr. had asked for approximately \$120,000.

40. On or about March 21, 1973, from approximately 11:15 A.M. to approximately noon, Harry R. Haldeman and John W. Dean 3d attended a meeting at the White House in the District of Columbia, at which time there was a discussion about the fact that E. Howard Hunt Jr. had asked for approximately \$120,000.

41. On or about March 21, 1973, at approximately 12:30 P.M., Harry R. Haldeman had a telephone conversation with John N. Mitchell.

42. On or about the early afternoon of March 21, 1973, John N. Mitchell had a conversation with Fred C. LaRue during which Mitchell authorized LaRue to make a payment of approximately \$75,000 and for the benefit of E. Howard Hunt Jr.

43. On or about the evening of March 21, 1973, in the District of Columbia, Fred C. LaRue arranged for the delivery of approximately \$75,000 in cash to William O. Bittman.

44. On or about March 22, 1973, John D. Ehrlichman, Harry R. Haldeman and John W. Dean 3d met with John N. Mitchell at the White House in the District of Columbia, at which time Mitchell assured Ehrlichman that E. Howard Hunt Jr. was not a "problem" any longer.

45. On or about March 22, 1973 John D. Ehrlichman had a conversation with Egil Krogh at the White House in the District of Columbia, at which time Ehrlichman assured Krogh that Ehrlichman did not believe that E. Howard Hunt Jr. would reveal certain matters.

Exhibit Two

As with earlier payments to the defendants or their attorneys, the final \$75,000 was paid from money held by Frederick C. LaRue, a re-election committee official who has since entered a plea of guilty to obstruction of justice and has been cooperating with law-enforcement officials. His testimony on the \$75,000 payment before the Ervin committee was:

Dash. Now, when was your last payment to Mr. Bittman, counsel for Mr. Hunt? Do you recall?

LaRue. Yes sir, it would be in March.

Dash. March of 1973?

LaRue. Yes sir.

Dash. Can you tell us how much was involved in that payment?

LaRue. As I recall, \$75,000.

Dash. \$75,000?

LaRue. Yes, sir.

Dash. I take it that was the largest sum of money that you ever transferred to any of the lawyers?

LaRue. The largest sum I transferred, yes, sir.

Dash. What led up to that unusual payment?

LaRue. I got a phone call from Mr. Dean. Mr. Dean stated that he had—I think he had had a conversation with Mr. O'Brien, in which Mr. O'Brien had told him that there was a need for \$75,000 asserted that by Mr. Bittman for attorneys' fees. I asked Mr. Dean if I should indeed make a delivery of this money. He said that he was out of the money business, that he was no longer going to be involved in it and that he would not, you know, I would have to use my own judgment as to whether to make the payment or not.

Dash. Did you use your own judgment?

LaRue. I told Mr. Dean I would not do this, would not make the delivery without somebody else's OK.

Dash. What did you do, Mr. LaRue?

LaRue. Mr. Dean suggested I call Mr. Mitchell.

Dash. Did you?

LaRue. Yes, sir.

Dash. What discussion did you have with Mr. Mitchell?

LaRue. I discussed my telephone conversation with Mr. Dean, told Mr. Mitchell that Mr. Dean no longer was willing or was no longer in the money business. I asked Mr. Mitchell whether I should make this delivery or not.

Dash. What did he say?

LaRue. He asked me the purpose of it. I told him my understanding was that it was

for attorneys' fees. He told me he felt I ought to pay it.

Dash. When you told him you understood it was attorneys' fees, you also let him know it was attorneys for the particular defendants in the Watergate case?

LaRue. Mr. Dash, I can't recall that. I was just assuming, I think, it was attorneys' fees for the Watergate defendants.

Dash. In your discussion, you made an assumption, certainly, that he knew what you were talking about and whose attorneys' fees were involved?

LaRue. Yes, sir.

Dash. And he said you ought to go ahead and pay it?

LaRue. Yes, sir.

Dash. And you followed the same method?

LaRue. Same method.

Dash. That was a bigger packet, though, was it not?

LaRue. You would be surprised, Mr. Dash, how many \$100 bills you can get in a small package.

Dash. Good things come in small packages. Now, when did you go to the U.S. attorney, Mr. LaRue? By the way, prior to that \$75,000 payment to Mr. Bittman, was not this just shortly before Mr. Hunt was sentenced on March 23?

LaRue. I think that is correct, yes, sir.

Exhibit Three

Mr. Mitchell's testimony to the same committee on the same events:

Dash. There came a time, did there not, Mr. Mitchell, that the pressures for money by the defendants or by Mr. Hunt increased. Would you tell us what you know about that?

Mitchell. Well, I am not sure, Mr. Dash, that I can tell you very much about them other than the fact that somewhere along in the fall, Mr. Hunt had a telephone conversation with Mr. Colson, which, I think, and then later on, as I recall, covered the subject matter Mr. Dean has got in the record a letter from Mr. Hunt to Mr. Colson, which I think is quite suggestive of the fact that he was being abandoned. Then I heard later on, in March of this year, there were oral communications from either Hunt or his attorney relating to requests for legal fees and so forth, which were communicated to the White House.

Dash. How did you hear about that request, the March request?

Mitchell. The March request? I think I probably heard about it through Mr. LaRue, if my memory serves me right.

Dash. Do you know about how much money was actually being requested at that time?

Mitchell. I can't really tell you about the monies across this period of time. It seems to me that the March request had some amount in the area of \$75,000 which Mr. LaRue described to me, that was being requested by counsel for their legal fees in connection with the representation of Mr. Hunt.

Dash. Did Mr. LaRue ask you what your opinion was or whether he should pay that amount of money to Mr. Hunt or his counsel?

Mitchell. Mr. LaRue, to the best of my recollection, put it in this context: I have got this request, I have talked to John Dean over at the White House, they are not in the money business any more, what would you do if you were in my shoes and knowing that he had made prior payments? I said, if I were you, I would continue and I would make the payment.

Exhibit Four

The staff of the Ervin Committee apparently dated the final \$75,000 on March 20 rather than March 21. This would make it impossible to associate the March 21 presidential meeting with any known payment of funds. An extract of testimony before the Ervin Committee by Mr. Hunt:

Dash. But despite what you consider to be an unsatisfactory reception by Mr. O'Brien and Mr. Shapiro, you in fact did receive a large sum of money prior to being sentenced; is that not true?

Hunt. Yes.

Dash. And do you remember when you received that? Would it refresh your recollection if the record would show that you received it on March 20?

Hunt. I would have said 20th or 21st. If the record shows the 20th, that is perfectly satisfactory.

Dash. Just a few, a couple of days before the sentencing?

Hunt. Yes, sir. . . .

Sen. Weicker. That document you have before you is a photograph of the chart there:

[A chart inserted in the committee hearing records, entitled "Cash Transactions," and including:

Hunt Version . . .

March 20, 1973 LaRue to Bittman to Hunt \$75,000 Retained by Hunt in cash.

April 1973 Hunt to Bittman \$60,000 Legal fees . . .

March 20, 1973 LaRue to Bittman \$75,000 . . .]

Sen. Weicker. On March 20, 1973, Mr. LaRue gives \$75,000 in cash to Mr. Bittman, who in turns hands that money over to you. In April of 1973, you write out two checks to Mr. Bittman, a total of \$60,000, for legal fees. I believe you have indicated to this committee that that money came from the insurance proceeds emanating from your wife's death, if I am not mistaken. But why would you retain \$75,000 in cash?

Hunt. In terms of what? . . .

Sen. Weicker. Well, when Mr. Bittman turned the \$75,000 over to you, what was that money for?

Hunt. I construed \$60,000 of it as being for legal fees.

Sen. Weicker. Why did Mr. Bittman not just retain the \$60,000?

Hunt. His firm had expressed concern to him about receiving cash payments for my account.

Sen. Weicker. Why did you not give him a check right away? You said you had the money on deposit. By that time, the insurance proceeds had already been deposited.

Hunt. That was—I probably received the money from him on the morning of the 21st. That would be my guess, the 21st of March. I was incarcerated on the 23rd, Senator. I knew I had the money to cover the charges; Mr. Bittman knew that I had it. I was anxious to spend as much time as I could with my children. It simply did not come up. It was not a priority item. . . .

Exhibit Five

From the White House-released transcripts of a presidential conversation with Mr. Dean, Mr. Haldeman and Mr. Ehrlichman between 5:20 and 6:01 on March 21, 1973. This would be after the alleged tele-

phone call between Mr. Haldeman and Mr. Mitchell. It bears on the President's own mind about what he approved or did not approve at the prior meeting—both the contention that he approved hush-money payments and his counsel's argument that he had rejected them.

President. Yeah. And then so the point we have to, the bridge we have to cross there, that you have to cross I understand quite soon, is what you do about Hunt and his present finance? What do we do about that?

Dean. Well apparently Mitchell and LaRue are now aware of it so they know how he is feeling.

President. True. Are they going to do something?

Dean. Well, I have not talked with either of them. Their positions are sympathetic.

President. Well, it is a long road isn't it? When you look back on it, as John has pointed out here, it really has been a long road for all of you, of us.

Haldeman. It sure is.

President. For all of us, for all of us. That's why you are wrestling with the idea of moving in another direction.

Exhibit Six

From the transcript of a presidential conversation with Assistant Attorney General Henry Petersen on April 27, 1973, shortly before the President's April 30 statement accepting the resignations of Mr. Haldeman and Mr. Ehrlichman:

President. You will get Dean in there. Suppose he starts trying to impeach the President. . . . [connecting the President with] this damn Bittman stuff I spoke to you about last time. Henry, it won't stand up for five minutes because nothing was done. . . . I said, "You can't get clemency for Hunt" . . . 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, "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 the whole thing. Now kick him straight—

Petersen. 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. . . .

President. What about Bittman?

Petersen. 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

President. McCord said that Bittman—

Petersen. McCord said that Dorothy Hunt told him all this sort of thing. . . .

Petersen. . . . 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.

President. For support.

Petersen. The strange thing about this one, Mr. President, is that they could have done it openly.

President. Why, of course!

Petersen. If they had just come out in The Washington Post could say, "Well, these people were—"

President. They helped the Scotsboro people, they helped the Berrigans, you remember the Alger Hiss defense fund?

Petersen. And we're going to help these—They were doing this—Once you do it in a clandestine fashion, it takes on the elements—

President. Elements of a cover-up.

Petersen. That's right, and obstruction of justice.

President. That's what it is, a question of the way it was done.

Petersen. Sir . . .

President. Let me say, there is no way they could get that to the President without going through Haldeman 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.

Petersen. Yeah

President. 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.