

Walter Pincus

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The Tapes on Trial

I have long believed that the White House tapes would be the best evidence at the Watergate cover-up trial. And from that assumption I went on to suppose they would also be the evidence with most influence on the jury. I may change my mind, however, if there are more days in court like Monday and Friday. Important facts revealed by the June 23, 1972, tape were obscured and confused for the jurors by the testimony of live witnesses who followed. Because the tape, once started, simply rolls along without stopping, important phrases frequently are drowned out in a listener's mind by the unimportant. And since a tape cannot be questioned or cross-examined, its impact can be dulled by the repetitious testimony of a live witness.

The focus of testimony last Monday was the improper use of the Central Intelligence Agency to interfere with

The writer is executive editor of The New Republic.

the FBI investigation of the Watergate burglary—one of the many acts that the government seeks to prove were undertaken to obstruct justice.

To understand what went on, some background is necessary. Money found on the apprehended men had been traced by the FBI to a Miami bank account of one of them: Bernard Barker. And the checks Mr. Barker had deposited to supply these funds for the burglars had in turn been traced back to a Mexican, Manuel Oggarrio, and an American, Kenneth Dahlberg. By June 22, 1972, just five days after the initial Watergate arrests, the FBI was preparing to interview Mr. Oggarrio and Mr. Dahlberg.

The Nixon re-election committee and, subsequently, the White House wanted to stop those interviews from taking place. Why? Because they knew the Oggarrio and Dahlberg checks had originally been campaign contributions for the re-election of Mr. Nixon. Should the FBI uncover that fact, it would provide a direct link between the burglars and the Nixon committee—a connection Nixon campaign manager John Mitchell had already publicly denied.

Sometime late in the evening of June 22 or in the early morning of June 23, 1972, Mr. Mitchell and his aides apparently concocted a plan to halt the FBI interviews by falsely warning the bureau that pursuing that phase of the investigation might uncover CIA covert activities in Mexico. This was an invention, but there was just enough speculation around about a CIA role in Watergate to make it be-

lievable. Three of the arrested burglars had past CIA connections and another suspect, E. Howard Hunt, was a retired CIA official. In fact, the FBI agents running the case themselves thought Watergate might just be a CIA job.

The Nixon re-election committee and White House staff knew about the checks and the FBI's suspicions of CIA because acting FBI director L. Patrick Gray III had said as much to John Dean. Mr. Gray was a Nixon loyalist who wanted to be certain the bureau's investigation did not cause embarrassment for the President's re-election campaign. Mr. Gray's FBI subordinates, who did not know their boss was "leaking" reports to the White House, were pushing Gray to press the Watergate inquiry wherever it led. And Mitchell, the former Attorney General, knew that, with a few words from the Director or Deputy Director of the CIA, the FBI inquiry interviews of Oggarrio and Dahlberg could be brought to a stop.

The plan was simple. H.R. Haldeman and John Ehrlichman, the President's top aides, would meet with CIA Director Richard Helms and his deputy, Lt. Gen. Vernon Walters. Like Gray, Walters was a loyal Nixon appointee who just two months before had been promoted by the President from the minor post of military attache in the U.S. embassy in Paris to the prestigious job of number two man at CIA. Walters would be told to carry the message to Gray. Gray, in turn, could tell his men that Walters, from CIA, wanted the

Mexican phase of the inquiry stopped.

At 10:04 a.m., June 23, 1972, President Nixon and Haldeman met in the Oval Office. The tape of that meeting, when played, is clearly audible at the important parts. It was six days after the arrests and Haldeman, in a matter-of-fact reporting tone, is heard saying "the FBI is not under control because Gray doesn't exactly know how to control them . . ." After reporting on FBI information passed on from Gray, Haldeman tells the President, "the way to handle this now is for us to have Walters call Pat Gray and just say, 'Stay the hell out of this . . . this is ah, business here we don't want you to go any further on it' . . . and uh, that would take care of it."

Mr. Nixon doesn't ask whether CIA is really involved; he knows the agency is not. Instead he asks whether Gray is perhaps not being loyal enough. "What about Pat Gray," Mr. Nixon asks in a slightly irritated tone, "ah, you mean he doesn't want to?"

Haldeman quickly sets the former

President right on Gray's complete loyalty. "Pat does want to. He doesn't know how to, and he doesn't have, he doesn't have any basis for doing it. Given this (Walters' false story), he will then have a basis . . ."

Those brief exchanges between the former President and Haldeman, which on the tape consume less than two minutes of listening, establish the false nature of the undertaking.

Standing alone, the tape provides clear evidence of the government's argument that the CIA was being brought in to stop the FBI inquiry. And the idea that covert agency operations in Mexico would be uncovered is shown to be a false, concocted story.

The tape, however, was not the only government evidence introduced last Monday. Before the tape was played CIA Deputy Director Walters testified and after the tape, former FBI acting Director Gray took the witness chair. The government prosecutors' purpose in calling Walters and Gray was clear. They could prove that the plan dis-

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cussed on the tape was, in fact, carried out. But the two witnesses did much more. In order to justify their own shabby, even willing, participation in this phase of the cover-up, they both gave support to the false contention that there was a *legitimate* fear that somehow the FBI inquiry would cause harm of CIA covert operations in Mexico.

Walters, for example, told the jury that he carried the message to Gray because he thought Haldeman may have known something about CIA operations that he did not. Gray, on the stand, kept emphasizing the CIA involvement theory that his own agents put forward. To make matters worse for the prosecution, Gray also repeated several times for the jury to hear how aggressively the FBI Watergate investigation had been carried out under his direction—a characterization that tended to undermine the government's contention that the FBI inquiry had been impeded by the White House aides now on trial.

In their cross-examination of Gray, the defendants' lawyers hammered on the theme of CIA involvement, conveniently forgetting that the already-played tape demonstrated the real reason for calling in the CIA was to prevent FBI discovery of Nixon committee connections. When Gen. Walters returned for his cross-examination on Friday the CIA theme was hit again. By then, the jurors may have forgotten the brief exchange they heard on the June 23 tape — which exposed the plot for what it really was.