

Sen. Ervin: A Kind of Situation

Following are excerpts from the testimony before the Senate select Watergate committee yesterday by Frederick C. LaRue and Robert C. Mardian, both former Justice Department officials who worked under former Attorney General John N. Mitchell in the Nixon re-election committee.

The excerpts begin with questioning of LaRue by the Senate committee's chairman, Sam J. Ervin, concerning LaRue's knowledge of and participation in the post-June 17, 1972, effort to cover up the involvement of high Nixon campaign officials in the Watergate affair.

Ervin: . . . did you not apprehend that there was danger that some of the five burglars and . . . Mr. (G. Gordon) Liddy and Mr. (E. Howard) Hunt, after they were arrested, might, in the common parlance, spill the beans about this matter?

LaRue: . . . Yes, sir.

Ervin: And so, thereupon, you joined other persons connected with the Committee to Re-Elect the President in what—in an effort to finance these people pending their trials and finance their defenses, legal defense?

LaRue: Senator, yes, I engaged in such activity, as I have testified here previously.

Ervin: And how much of this money did you yourself pay or deliver to any of these defendants or their counsel?

LaRue: As I add up these figures, Senator, I come up with a figure of \$242,000.

Ervin: Now, was that additional to money (about \$219,000) that was delivered to them through the arrangements with (Herbert) Kalmbach and (Anthony) Ulasewicz?

LaRue: Yes, sir.

Ervin: And as a result of this we had a situation which arose which is calculated as to pollute justice . . .

The prosecution of these seven men was in the hands of men who held office at the pleasure of the President, and the Committee to Re-Elect the President was furnishing the money to pay the lawyers who were supposed to defend these men, is that not true?

LaRue: Yes, sir, that is true.

Ervin: And that kind of a situation is enough to make justice weep, is it not?

LaRue: I agree with that, Senator . . .

Ervin: I can't resist the temptation to philosophize just a little bit about the Watergate.

The evidence thus far introduced or presented before this Committee tends to show that men upon whom fortune had smiled benevolently and who pos-

sessed great financial power, great political power, and great governmental power undertook to nullify the laws of man and the laws of God for the purpose of gaining what history will call a very temporary political advantage.

The evidence also indicates that it might possibly, the efforts to nullify the laws of man might have succeeded if it had not been for a courageous federal judge, Judge (District Court Chief Judge John J.) Sirica, and a very untiring set of investigative reporters. But I come from a state like the State of Mississippi, where they have great faith in the fact that the laws of God are embodied in the King James version of the Bible . . .

And I think that those who participated in this effort to nullify the laws of man and the laws of God overlooked one of the laws of God, which is set forth in the seventh verse of the sixth chapter of Galatians: "Be not deceived. God is not mocked; for whatsoever a man soweth, that shall he also reap."

(Applause.)

D a s h: Mr. Chairman, whatever few mundane questions I might have to follow up I don't believe I really need to ask, and I think the record is complete. I have no further questions.

Robert C. Mardian, now a resident of Phoenix, Ariz., testified next and was questioned by James Hamilton, an assistant majority (Democratic) counsel for the Senate committee:

Mardian: . . . I was, as has been testified to, appointed (in May, 1972) as a (Nixon) campaign coordinator, but with respect to the events which are subject of this Committee's inquiry, I should point out that I had not in my capacity as one of the political coordinators or otherwise been consulted, advised or favored with any information relating to the "dirty tricks" campaign which has now come to light, much less given even a hint of any proposed burglary or electronic surveillance.

I was not included until my help was needed as a

lawyer and, if I make no other point in this brief prefatory statement, I would like it in the record that as of the morning of June 17, 1972, I was relieved of my political responsibilities to the extent possible and charged with the responsibility of acting as counsel to the Committee, at least as far as Watergate was concerned. I accepted this responsibility with the understanding that I would obtain the assistance of independent legal counsel and that I would be relieved of this le-

gal responsibility when they were sufficiently acquainted with the facts to handle the matter . . .

Thus, it was as a lawyer, not as a political associate, that those persons confided in me and that this was made clear to me not by implication, but by express statement. And that it was as a lawyer and not as a political protegee that I agreed to maintain the fiduciary obligation not to disclose that which was confided in me.

If this be the basis of the broad-brush charge of "cover-up" then it is a charge that every lawyer must under our adversary system of criminal justice—a system that requires a lawyer to respect the confidence of his client, no matter how helpful it might be to the lawyer to disclose.

I adhered to this principle in seeking a court ruling on the attorney-client privilege before testifying in May before the grand jury. In light of the court's ruling and the waivers resulting from the testimony of others, I feel no constraints now and can fully discuss the facts with which I am familiar without causing the public or the bar to feel that I have not fully adhered to the duty of a lawyer to respect his client's confidence.

I would also like to say at this point that the information that I received on the morning of June 17 and June 21 was the most shocking experience in my entire legal career. The facts thus learned thrust me into a situation which I can only compare, in terms of personal anxiety, to being caught in quicksand . . .

Hamilton: When did you first learn of the break-in at the Democratic headquarters?

Mardian: On the morning of June 17, 1972.

Hamilton: And where were you at the time?

Mardian: I was at the Airporter Hotel in Englewood, California . . .

I had made arrangements to have Mr. Mitchell meet with the party people and the CRP (Committee to Re-elect the President) people in California . . . We were on our way . . . from one hotel to the other, following a limousine in which Mr. Mitchell and Gov. Reagan were riding and present with me were the National Committeeman from California, Mr. (Jeb Stuart) Magruder and Mr. LaRue, and Mr. Magruder told me in the car on the way to the Airporter that he had a slight PR problem he wished to discuss with me . . .

I don't know for sure where this briefing took place . . . I thought that Mr. LaRue was with us, I heard his testimony this morning, which would indicate that possibly he wasn't. My recol-

to Make Justice Weep

lection is that Mr. LaRue was present when Mr. Magruder briefed me.

He (Magruder) told me that he had had a call . . . it was from (Robert) Odie (in Washington) . . . and he had been informed that Mr. McCord, who was the security officer for the Committee, along with five Cuban

Americans, maybe four, I am not sure, had been arrested in a break-in of the Democratic National Committee headquarters.

He told me that the people arrested all, all had fake ID cards, which Mr. Hunt had procured for them from the CIA, and that although they were incarcerated the identities of the accused were not known.

He (Magruder) told me that, I guess in response to my question of how and why, he told me that Mr. Liddy was some kind of a nut, he should have suspected that something like this would happen, he regretted that he had not insisted on firing him when he attempted to some weeks or months before . . .

He also told me, I believe that this was not the first break-in of the Democratic National Headquarters.

Hamilton: Did Mr. Magruder tell you the sources of his information that this was not the first break-in?

Mardian: Mr. Liddy.

Hamilton: Now, did there come a time later that afternoon when you had a further discussion on the events surrounding the break-in with Mr. Mitchell and Magruder and LaRue? . . .

Was there a discussion that afternoon about a budget that had been approved for dirty tricks and black advance?

Mardian: Yes, I believe that that was told to me by Mr. Magruder at the Airport Hotel and, in other words, during that briefing, one of the items I think he told me there. . . .

Hamilton: Mr. Mardian, I think after two months, we know what dirty tricks refers to, but could you explain the term "black advance?"

Mardian: I will attempt to the best I can. I never heard the expression before. I assumed when they told me about it that it was for black advance men. I learned, however, that a black advance was a counter advance that was carried on against the opposition candidates or persons acting on their behalf. In other words, an attempt to disrupt the advance schedule of the opposition.

Hamilton: Did Mr. Magruder inform you who had approved the budget for dirty tricks and black advance?

Mardian: Yes.

Hamilton: Whom did he say?

Mardian: He told me that the budget had been approved by Mr. Mitchell.

Hamilton: Did Mr. Mitchell later that afternoon confirm that he had approved such a budget?

Mardian: I would like to put it this way: It is my best recollection that I think the subject was discussed and he didn't deny it . . .

Trying to be eminently fair, I am not positive that it was discussed, but I feel that it was because I was trying to get at the fact. I didn't know the facts. I hadn't heard of black advance or dirty tricks and it certainly must have come up in the discussion.

And again, it may have come up when Mr. Mitchell wasn't in the room. I want to be fair on that point.

Hamilton: Well, what is your best recollection as to whether Mr. Mitchell was in the room when that was discussed?

Mardian: That is my best recollection. I am trying to be fair, however . . .

Hamilton: Mr. Mardian, while in California, did you receive an assignment from Mr. Mitchell regarding the Watergate matter . . . Did Mr. Mitchell assign you to deal with the legal matters that might arise in connection with the break-in?

Mardian: Yes.

Hamilton: Mr. Mardian, while in California, did you make several telephone calls to Mr. Liddy?

Mardian: . . . I talked to Mr. Liddy on three occasions — two occasions — three occasions. The records show three and there were three, but one of the ones that the record shows was not a call to Mr. Liddy, as I recall . . .

The first telephone call was a, as I recall, was an urgent demand on the part of Mr. Liddy that I return to Washington. I had indicated in that call, as I understand it, that Mr. Magruder was going to return, that he did not want Mr. Magruder to return. He was very reluctant to — not only reluctant, he refused to use the telephone to discuss anything about Watergate. He did make some derogatory remarks about Mr. Magruder . . .

The second telephone call, as I recall, was when I called to tell him that I was not going to return and that Mr. Magruder had left—had returned . . .

The final telephone call was with respect to a call I got from Powell Moore . . . to tell me of an occurrence the previous day. He said that he wanted me to know, for Mr. Mitchell to know, that Mr. Liddy had told him in his presence that he had received a call from Mr. Mitchell, that Mr. Mitchell

had instructed him to go see Mr. Kleindienst and to have Mr. Kleindienst get the Watergate burglars released from jail. He told me that he did not believe that these instructions came from Mr. Mitchell.

He told Mr. Liddy that he should not contact Mr. Kleindienst, that when he realized that he was in fact going to contact Mr. Kleindienst, he went with him, that Mr. Liddy made con-

tact with Mr. Kleindienst at the Burning Tree Club and that in order to advise Mr. Kleindienst that he was not to pay any attention to Mr. Liddy, he said he stood behind Mr. Liddy so that Mr. Liddy could not see him, but that Mr. Kleindienst could, and shook his head as violently as he could so that Mr. Kleindienst would know that what he was telling him was an untruth.

He told me that Mr. Kleindienst, in effect, had told Mr. Liddy to go to hell, and as I understood it, went on playing golf.

I then called Mr. Kleindienst. I think I told Mr. Mitchell about it. Mr. Mitchell was amazed. I believe I told—I then called Mr. Kleindienst to tell him that Mr. Mitchell had given no such instructions and Mr. Kleindienst told me, I believe, that he was satisfied that he had not given any instructions and in effect, said, keep that—he used an adjective—away from me.

I then called Mr. Liddy and reprimanded him, told him that Mr. Mitchell had given no instructions and that he had done a very, committed a very embarrassing error on the part of the Attorney General.

Hamilton: Mr. Mardian, I want to read to you a portion of Mr. Magruder's testimony that is found at Page 1,910 of the record: "We knew that Mr. Mardian, who was there, was a closer friend of Mr. Liddy's than any one of us, and Mr. Mitchell asked Mr. Mardian to call Mr. Liddy and ask him to see the Attorney General, the current Attorney General, Mr. Kleindienst, and see if there was any possibility that Mr. McCord could be released from jail."

Mardian: That statement is not true.

Hamilton: Mr. Mardian, can you suggest any reason why Mr. Magruder would falsely testify as to such a phone call on your part?

Mardian: I honestly, I don't think Mr. Magruder would intentionally falsely testify. The subject of the Liddy trip to see Mr. Kleindienst was much discussed. Mr. Liddy's position, or the story that Powell Moore told, was that, as I recall, that John Mitchell had called Liddy. Here again, I can't fathom the reason that that is the way it came out in his memory. I think Mr. Liddy would be the one to answer that question. . . .

Hamilton: . . . Mr. Mardian, I would like to read portions of Mr. Magruder's testimony to you and Mr. LaRue's testimony to you of yesterday, and receive your comments. First from Mr. Magruder's testimony:

"Mr. Dash: Did you have a meeting on that evening, the evening of June 19, when you came back to Washington in Mr. Mitchell's apartment?"

"Mr. Magruder: Yes. Mr. Mitchell flew back that Monday with Mr. LaRue and Mr. Mardian. We met in his apartment with Dr. Dean . . .

"The general discussion again was what were we going to do about the problem. It was again we had very little information. We did not, of course, know what type of investigation would then be had and we talked about times of alternative solutions. One solution was recommended in which I was to, of course, destroy the Gemstone file so I called my office and—

"Mr. Dash: That solution came up as a result of that meeting?"

"Mr. Magruder: Well, I think, yes. It was generally concluded that file should be immediately destroyed."

Now, reading from Mr. LaRue's testimony of yesterday:

"Mr. Dash: You said Mr. Magruder asked what he should do about these sensitive files?"

"Mr. LaRue: Yes sir."

"Mr. Dash: Did he get a response to that?"

"Mr. LaRue: As I remember, there was a response from Mr. Mitchell that it might be a good idea if Mr. Maruder had a fire."

Hamilton: Now, previous to that testimony Mr. LaRue had testified that you were at that meeting.

Mardian: I heard the testimony and . . . I am sorry. No such discussion took place in my presence.

Hamilton: Mr. Mardian, did you in the several days following June 19 have an occasion to interview Mr. Liddy?

Mardian: Yes.

Hamilton: And who else was present in this interview?

Mardian: Mr. Fred LaRue.

Hamilton: Mr. Mardian, I wondered in your own words if you would in some detail tell us what occurred at this meeting and tell us what information Mr. Liddy imparted to you.

Mardian: My recollection is pretty vivid. I may forget some of the items that he disclosed to me, but I will try not to.

We arrived, Mr. LaRue and I arrived at his apartment and soon thereafter, Mr. Liddy came into the room. The first thing he asked Mr. LaRue was whether or not he had a radio. Mr. LaRue indicated a radio, which was in the corner of the living room. Mr. Liddy went over and turned the radio on and asked me to sit by the radio in a chair, and he sat in a couch, as I

recall, that was next to an end table that the radio was on.

He apologized to me by saying something to the effect that it is not that I do not trust you, but his conversation cannot be recorded.

My inference from that was he thought I had some kind of a device on me, possibly something in the room, I do not know.

And again, I am going to

have to say that I do not recall the sequence of events in which he related these things to me. But I do recall that he said that he wanted to hire me as his lawyer, as his personal attorney. I told him that I was acting as attorney for the committee and that I could not relieve myself of that responsibility to represent him. He then said it was imperative that he be able to talk to me in confidence and that under no circumstances could I disclose what he told me.

I told him that since he was an employee of the Committee and I was acting as attorney for the Committee, he could talk to me as a client to a lawyer and that I would maintain his confidence, but that I would have to be at liberty to disclose what he told me to Mr. Mitchell. At first, I believe he demurred, and I told him that was the only basis on which I could talk to him.

One of the things that he told me was that he had a message from Mr. Hunt, that Mr. Hunt felt that it was the Committee's obligation to provide bail money to get his men out of jail. At that time, these people were incarcerated in the D.C. jail.

I was interested in finding out what had occurred and I interrogated him as to the events of the evening of Jan. 16—June 16, the morning of the 17th. And he related to me what had occurred about the break-in, told me that they had planned, as I recall, to break into the McGovern headquarters that same night.

About the arrest of the five people, Mr. McCord and the others, their flight, he indicated to me that there was nothing to fear, because the only person that could identify Mr. Liddy was Mr. McCord and Mr. McCord would not divulge his identity, that the Cuban-Americans were old soldiers who had worked in the CIA with Mr. Hunt since the Bay of Pigs, and that they would never under any circumstances disclose Mr. Hunt's identity.

I told him that, based upon what he had related to me, the events of that evening, one of which included, as I recall, his sitting on the shoulders of one of the men at a distance—I don't recall, some 300 feet or 300 yards—shooting out a light behind the Democratic Committee headquarters. I pointed out to him that a person that he was that intimate with would certainly be able to identify him, pointed out that he had spent, that he had told us he had spent some time in the room with these people in their hotel room, they had eaten, that his fingerprints would be all over the place. He kept insisting that there was no chance that he would be identified.

I tried to convince him he would be identified, that his best bet was to give himself up rather than try to wait for them to arrest him.

He discounted this possibility. He did, after some discussion, indicate that it was possible that he could be arrested, but I inquired

of him as to the, because of the news accounts of the arrest and the apparent bungled effort, the possibility that someone in the group had had it in mind that they would be arrested, to embarrass the Committee to Re-elect the President. He discounted this completely by saying that this group had been operating together for some considerable period of time, that they were all real pros, that they had engaged in numerous jobs. And when I asked him what kind of jobs, he said 'We pulled two right under your nose.'

I inquired as to what he meant by that, and he said that they had invaded the office of the psychiatrist of Dr. Ellsberg and that they were the ones who got Dita Beard out of town.

I expressed my strong displeasure with respect to—I pointed out that the worst thing that had happened in the hearings was that Dita Beard disappeared.

I asked him because of the Ellsberg break-in what, if anything, they had obtained? He told me that they had obtained nothing, that they had searched all the files and couldn't find his record.

I asked him on whose authority he was operating, and I wish to be very careful here, because I don't know that he used the name of the President.

But the words he did use were clearly meant to imply that he was acting on the express authority of the President of the United States, with the assistance of the Central Intelligence Agency.

I made some notes of—oh, I asked him what information they had obtained. He told me that the purpose of making this entry, that this entry was not of his doing, that neither he nor Mr. Hunt thought it was a good idea, that they had obtained nothing from the bug that they had previously implanted in the place. He told me that the only thing they had ascertained from that bug was the fact that somebody at the Democratic National Committee was talking to somebody at the—was talking to the people or a person at the Committee to Re-elect the President, that although he and Mr. Hunt were against the entry . . . but that he had, they had made the entry at the insistence of Mr. Magruder.

I recall again inquiring as to why the stupid adventure. It seems to me to be the most ridiculous thing I had ever heard of. As a politician, or as a person that had had political experience, I couldn't understand what they would hope to get out of the Democratic National Headquarters before they even had a candidate, much less afterwards. Party Headquarters at least Republican Party Headquarters, are very sterile during this period of time.

He could not answer the question for me other than to say that he was carrying out his orders.

Mr. Liddy told me and it may have been for the first time, that he was operating under a budget approved by Mr. Mitchell and the White House during that June 21 meeting, if it is the 21st.

Hamilton: Just to make the record clear, Mr. Mardian, did Mr. Liddy also say to you that the operations that he had been involved in such as the Ellsberg burglary and the Dita Beard incident had the approval of the President and the CIA. Is that a correct paraphrase, and if not, please correct me.

Mardian: As I told you before, the staff, I don't recall, I can't say that he said the President of the United States, but the words he

used or the word he used were meant to imply that, and that is the impression he left with me.

Hamilton: That they had been approved by the President, that was your impression?

Mardian: Yes sir.

Hamilton: Now, did Mr. Liddy mention to you that he had shredded any documents?

Mardian: Yes. In trying to demonstrate to me that there was no way of tracing him he told me he had shredded every bit of evidence that would have linked him to this operation as well as all the other operations. He told me had even gone home—he has a habit, he told me, or a hobby, I should say, of collecting soap from the various hotels

(Laughter.)

Mardian: He had taken the soap wrappers off and shredded all the soap wrappers.

He also told me that during this process he had shredded all of the \$100 bills that he had in his possession that were new and serialized.

He did (also) make the statement that the Committee could be assured that he would never talk and if they doubted that that, as Mr. LaRue testified, if we would just tell him what corner to stand on he was ready to be assassinated.

My counsel advises me that despite my notes I neglected to tell you a very important part, of another aspect of what he told me.

In explaining to me that they were a purely professional outfit he told me that Mr. Hunt was the planner of the Bay of Pigs.

Hunt was extremely popular, I think he said, like a God in the Cuban community of Miami, that this was an explanation of why these Cuban-Americans would follow him to death, and that no one would disclose anything as far as they were concerned, they were absolutely loyal, worked with him for a number of years, had been working with them in these operations.

I told Mr. Liddy that I did not think Mr. Mitchell would approve the use of Committee funds to bail out the defendants and he should so advise Mr. Hunt, and that it seemed to me that if Mr. Hunt had such good connections in the Miami community that they should look to that community for the bail money.

Hamilton: When you spoke to Mr. Mitchell (about what Liddy said) did you transmit this request for bail money to Mr. Mitchell?

Mardian: Included among all of the other matters that I related.

Mr. Mitchell told me that under no circumstances would bail money be forthcoming and for me to call Mr. Liddy and tell him. And I did so.

Hamilton: Will you tell us the rest of your conversation with Mr. Mitchell? I don't want you to repeat everything that you told Mr. Liddy, but I would like to know what Mr. Mitchell said to you.

Mardian: I can't recall—oh, he asked me if Mr. Liddy—I might say that Mr. Mitchell appeared to be as sincerely shocked as I was when I got this information. He asked me if Mr. Liddy had disclosed any other of the activities of this group that had been arrested, Mr. Hunt and himself, and I told him that he had not, he had not disclosed any others to me.

Hamilton: Did Mr. Mitchell confirm or deny that he had approved the budget for Mr. Liddy's operation?

Mardian: I don't think he did.

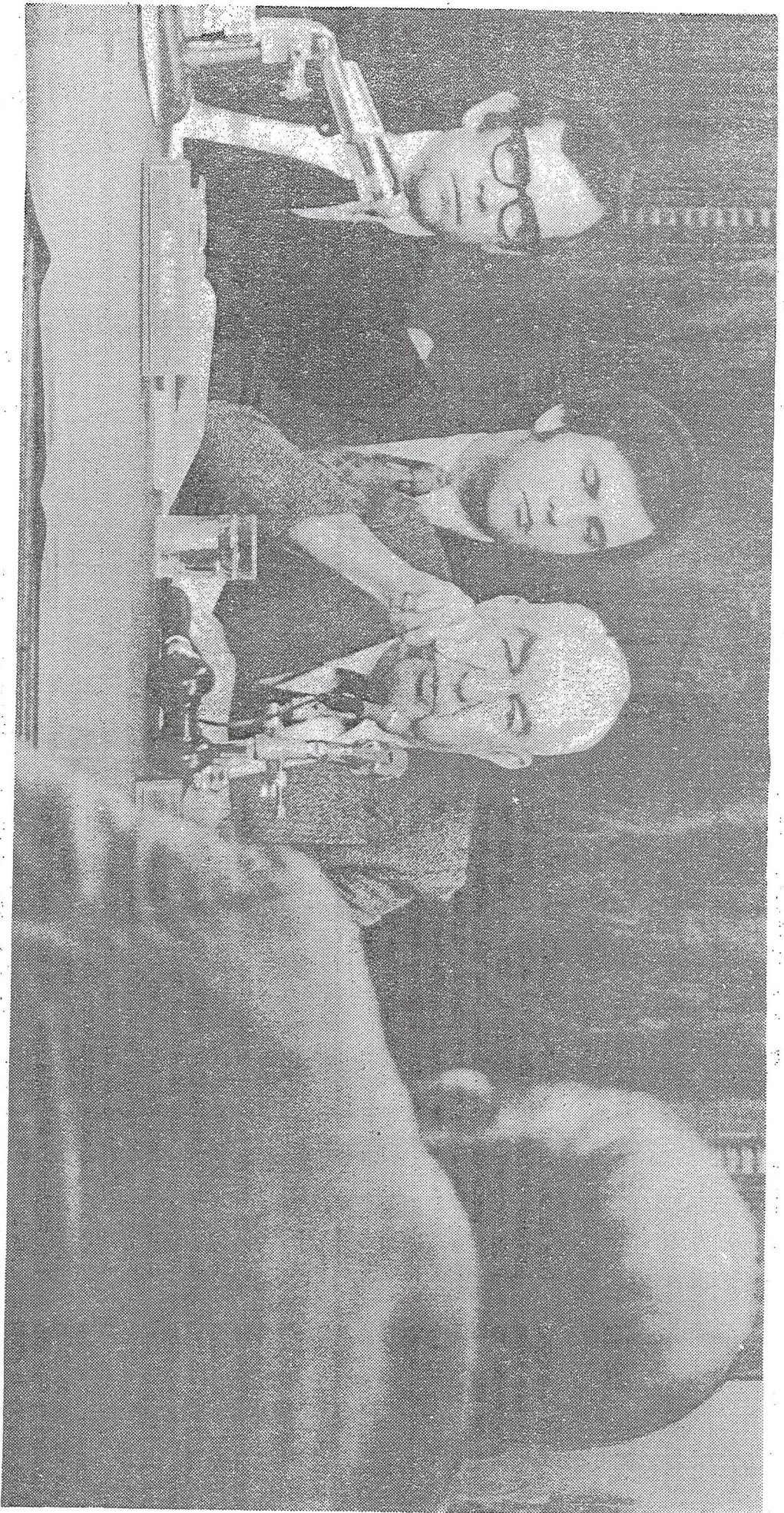
Hamilton: He made no comment in any way as to whether or not he had approved the budget?

Mardian: Not at that time. That discussion took place later.

Hamilton: A discussion on whether he had approved the budget took place later?

Mardian: Well, the discussion didn't start out in that vein. It took place when I confronted Mr. Magruder. I asked Mr. Magruder in the presence of Mr. Mitchell, I believe the next day, or as soon thereafter as I could, how much money he had given Mr. Liddy in addition. I forget the general nature of the entire conversation. I asked him whether he directed Mr. Liddy to go in there. He denied it. I asked him how much money he had given Mr. Liddy. He said he had authorized Mr. Sloane to give Mr. Liddy \$40,000. I asked him what he thought the \$40,000 was for. It seemed to me a sizeable sum of money. Mr. Mitchell expressed the same concern and wanted to know, you know, how he could have spent \$40,000 already because the campaign had just started.

Mr. Magruder lied to Mr. Mitchell that he had authorized \$250,000, and this seemed but a very small part of that sum. That is how the \$250,000 budget matter came up.



Chairman Sam Ervin makes his point during hearing. At left, Sen. Howard Baker. Center, Rufus Edmisten.

By Frank Johnston—The Washington Post