

Petersen: 'He Never Spelled

Assistant Attorney General Henry E. Petersen yesterday testified before the Senate Watergate committee about his role in the investigation of the Watergate affair. Following are excerpts from his testimony:

Chief committee counsel Samuel Dash: Mr. Peterson, how and when did you first learn of the break-in of the Democratic National Committee Headquarters at the Watergate on June 17, 1972?

Petersen: Approximately 8, 9 o'clock in the morning while I was at the breakfast table. I received a call from the United States attorney, Harold Titus of the District of Columbia, who advised me that five people whose identities even at that point where somewhat in doubt, had been arrested at Democratic National Headquarters in possession of what was considered to be at that time explosive equipment . . .

Dash: Well, how soon did an investigation under the sponsorship of the Department of Justice begin in this case?

Petersen: Investigation was under way at that time. Mr. Titus' staff had already been alerted and he had assistants working on the matter at that point with the metropolitan police department and the FBI, who were just coming into it.

Dash: Now, what role as chief of the Criminal Division did you play with regard to the United States Attorney's Office investigation?

Petersen: A general supervisory role, Mr. Dash . . . I decided at a very early stage that that investigation ought to be as isolated from the political element as it could possibly be. And I suggested that Mr. Titus appoint as principal assistant Earl Silbert to conduct the investigation in his office and report to Mr. Titus and to myself on a daily basis, oral reports on a daily basis.

Dash: What was your relationship with the Federal Bureau of Investigation during the investigation? Did you get any kind of reporting from the FBI?

Petersen: Well, the FBI, of course, reported their reports to the prosecutors, Mr. (Earl) Silbert and company, were more immediate than their reports to me. Their reports to me had to wait the normal process of bureaucracy, the preparation of the reports and the submission through normal channels, whereas the prosecutor on the scene was getting the witness statements almost immediately but the reports were coming over to me rather slowly at first, very slowly . . .

Dash: Now, shortly after the break-in, do you recall receiving a telephone call from Mr. (Richard G.) Kleindienst (the Attorney General) who was at the Burning Tree Country Club? . . . Did he tell you about a meeting he had or an encounter, really, at the Burning Tree Country Club with Mr. Gordon Liddy (later convicted in the Watergate burglary) shortly after the break-in?

Petersen: Yes. Recently. The second call, whether I made it or he made it, I remember predominantly because he said, 'Henry, I want these people treated the same as everybody else.' I conveyed to him at that

point the information about the electronic equipment and I guess I thought it a little odd that he should make that statement because I did not know any other way to treat them. But I do not recall him telling me that Liddy was there. If he did, I simply do not remember it.

Dash: Now, what were your relationships with Mr. John Dean (counsel to the President) at the White House during this period of time?

Petersen: Good. Good. John Dean, I guess, was kind of an unofficial liaison with the Justice Department since he had been there . . .

Dash: Well, did he inform you that he was in charge in any way or liaison between the White House and any investigation?

Petersen: Not at that stage, Mr. Dash . . .

Dash: Now, do you recall a meeting on or about June 20, 1972, in Mr. Kleindienst's office, where Mr. Dean was and at which Mr. Dean made some statements to you, according to his testimony, that this investigation should go very high, in fact it might involve the White House; in fact, he testified he didn't know how far it might go.

Petersen: I remember the circumstances, I don't remember it as Mr. Dean testified to it. I was called up to Mr. Kleindienst's office. Mr. Dean was already there. They asked for a status report and I gave them a general status report on the nature of the investigation.

We had some discussion. I think common place discussion. My God, what has happened, who is doing this and what type of a situation is this? And I told him that, I remember the words very distinctly, I said, "John, I don't know who I am talking about but whoever is re-

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sponsible for this is a damn idiot and there is only one thing that the President of the United States can do and that is cut his losses and the way that he should do that is to instruct the Attorney General publicly to run an all-out investigation and let the devil take the hindmost. And that ought to be done immediately."

We had some discussion of that and finally Dean said, "Well, the President is out in San Clemente." I said it is well enough for somebody to go out there and Mr. Kleindienst said, "John, set that up." Dean then got up to leave and we had some conversations about the investigations and I told him I had no intention of conducting a fishing expedition but we were certainly going to conduct a thorough investigation of this matter.

Later on I asked him what had been decided and he said, "Yes, somebody is going to go out but it has been decided it should be me."

Dash: Meaning Mr. Dean?

Petersen: Mr. Dean rather than Mr. Kleindienst, which I thought was a little awkward, but quite honestly I took it as another indication or as an indication that perhaps the Attorney General, who I think most highly of, was perhaps not in the best graces at the White House and that they would rather have Mr. Dean brief the President. After that there was an all-consuming silence, I never heard anything and I finally asked Dean about it and he said,

"Yes, you are to run an all-out investigation" but unfortunately we never heard anything from the President.

If I can jump ahead: In my later conversations with the President on April 15, I told him this and he said, one, Dean had never come to him, and I said if it occurred again, and I certainly hoped it did not, I would be up there knocking on the door myself.

Dash: Let me read the portion of the testimony that Mr. Dean gave us on page 2179 of the transcript in which he indicates that Mr. Kleindienst had another

meeting while you were up there in Mr. Kleindienst's office, that you and he went to Mr. Kleindienst's back office and he said to the best of my recollection "We did not discuss specifics, rather it was a general discussion. I told them I had no"—meaning you, Mr. Petersen—"I had no idea where this thing might end but I told him I did not think the White House could withstand a wide open investigation."

Do you recall him saying that?

Petersen: Do I recall him saying that?

Dash: Yes, do you?

Petersen: No, I do not. I do recall some discussion, some concern about this ought not to be an excuse in a political year to run a general probe of the White House. I had no problem agreeing with that. I certainly didn't conceive the occurrence as a specific crime, of a specific crime as an excuse for me to run a general investigation of the White House and all of its activities and I assured them there would be no fishing expedition as far as White House activities were concerned in this investigation but that we would run a thorough investigation of that burglary.

Dash: Mr. Petersen, do you recall having any conversation with the acting director of the FBI (L. Patrick) Gray over giving Mr. Dean investigative reports such as 302 files?...

Petersen: ... I had no conversation with Mr. Gray about investigative reports until sometime after April 15 when we discussed—

Dash: I am addressing myself now to the time while the investigation was focusing on the White House staff and also on the Committee for the Re-election of the President.

Petersen: Absolutely not. I can elaborate on that...

Mr. Kleindienst called me at one stage and I recall this very vividly, it was on the telephone, and he said I have just spoken to John Dean and he has asked if he can have the FBI reports and I answered him very quickly and abruptly and said, "tell him no," and I was so abrupt that he just started to laugh; his reaction was you are a big help.

Dash: ... can you recall a time when Mr. Ehrlichman got in touch with you concerning the appearance of (former Commerce Secretary) Mr. Maurice Stans before the grand jury?

Petersen: Yes, sir... I received a call at 11:45 in my home. I was sitting at the kitchen table and it was Mr. Ehrlichman and he charged Earl Silbert with harrasing former Secretary

Stans and I told Mr. Ehrlichman that Mr. Silbert was not a responsibility, that I had approved of that and that it was not harassment...

Dash: What did Mr. Ehrlichman want?

Petersen: What did he want? I asked him that question twice and he never spelled it out except to stop harassing Mr. Stans and I said we were not harassing him and he charged that Earl Silbert was acting like a local prosecutor. Well, Mr. Silbert is a local prosecutor.

Dash: Did you get the impression that Mr. Ehrlichman was perhaps asking that Mr. Stans be excused from going to the grand jury?

Petersen: Well, that is what he was driving at. I asked him twice what he wanted and he never answered other than to say stop harassing. I asked him, I said, well, if Stans has a problem with the subpoena, why doesn't his lawyer call him? and he said it was not necessary that Ehrlichman was calling me and we ended up telling him tell his lawyer to call me...

Dash: All right. Now, you said you did agree on a concession. Could you tell us here was Mr. Stans interrogated?

Petersen: He was interrogated in my conference room by the prosecutors on the case with a reporter present and no one else.

Dash: And not before the grand jury?

Petersen: No, sir.

Dash: Who else, by the way, was given a similar concession during the investigation?

Petersen: (Charles) Colson, (Bruce) Kehrli, (Egil) Krogh and (David) Young (all White House aides).

Dash: Was this requested by anybody in the White House?

Petersen: I think it was requested by John Dean in order to avoid publicity... Frankly, Mr. Dash, one of the most difficult things I have had to do since I have been in the Justice Department are decisions with respect to public officials, because the concerns are tremendous. You err seriously if you don't conduct an investigation where it should be conducted and if you do conduct an investigation where it should not be, you do a terrible disservice to the public official involved. It is no help to say, well, Mr. Public Official we want you to know you have been cleared and we are sorry about all the bad publicity. That is a very serious thing and I have in the past made that type of concession to avoid that type of publicity and I have tried to resolve these problems by conducting where necessary investigations of public officials in as discreet a fashion as possible until we can be precisely sure of our facts

Dash: Well, now, did you participate in a decision not to get into the so-called "dirty tricks" activity of Donald Segretti.

Petersen: I sure did...

Dash: Can you recall, did Mr. Dean raise that question to you?

Petersen: No, sir... That question was raised with me by two people, one, Earl Silbert, who said, you know, in effect, we are not experts on the Corrupt Practices Act.

We don't use any violation. Do you? And I said, no, not on the basis of what we have...

You know, dirty tricks per se are not a violation to my knowledge and the only violation we have been unable to uncover in connection with these things is the failure to accurately subscribe to a political statement that is promulgated—failure to subscribe being a violation of U.S. 18,613, and that is what the investigation have gone off on, but mere dirty tricks, oral false schedules, for example, or passing an item of information on, was not a violation to my knowledge.

Dash: Now, Mr. Segretti was called for questioning before the grand jury. Do you recall telling Mr. Silbert to limit his investigation of Mr. Segretti to the so-called Watergate activities and not get into the dirty tricks.

Petersen: Yes, I did indeed...

Dash: Were you aware the Patman Committee was planning to call or subpoena a number of the witnesses that would be involved in the criminal prosecution.

Petersen: Only from the public press.

Dash: Was it your position that such a congressional committee might prejudice the criminal prosecution?

Petersen: Yes, and I sent a letter. The letter was prepared by my staff in the Office of Legal Counsel, it was sent to Congressman (Wright) Patman (D-Tex.) setting forth our position and the fact that under the Delaney case the government is regarded as a monolith and the action of a congressional committee are attributable to the prosecution in that and it might result in prejudicial publicity, yes.

Dash: Did you later learn what happened to the subpoenas that were proposed to be sent in the Patman Committee investigation?

Petersen: I have no idea about that.

Dash: As a matter of fact, the vote was against subpoenaing them and... It never got off the ground.

Petersen: I understand there was such a vote.

Dash: ... Now, Mr. Petersen, on April 16, did you receive a memorandum from Mr. (Earl) Silbert concerning the (Daniel) Ellsberg psychiatrist's break-in?

Petersen: Yes, sir, I did

Dash: Did he (the President) indicate that he knew anything about that break-in when you told him about it?

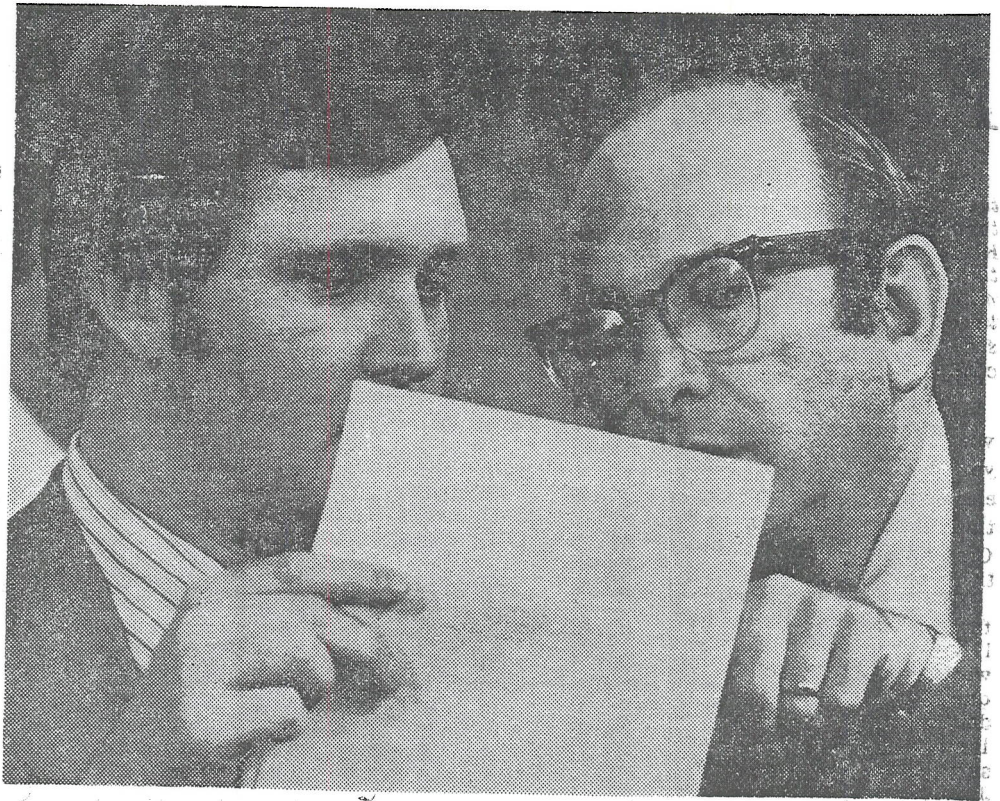
Petersen: No, he did not, Mr. Dash. I have to be very careful there. I would like to rephrase the question for you, if I can. I suppose it—

Dash: Please do.

Petersen: The question probably would be did he indicate he knew anything about it rather than anything about the break-in. And the President said when I told him, "I know about that. That is a national security matter. You stay out of that. Your mandate is to investigate Watergate."

Now, he didn't say he knew about the burglary. He said he knew about it — about the report. I think that is a vital distinction to be recognized.

Dash: When were you reporting this to the President?



By Frank Johnston—The Washington Post

Chief counsel Samuel Dash, right, confers with chief aide Rufus Edmisten at hearings.

Petersen: It was on April 18, sir. And he said stay out of it and after I got off the telephone, why, I called up Mr. Silbert and I called up Mr. Marony and said, "Mr. Silbert," I said, "The President said stay out of it, Earl, and that is it." . . . On the 25th I went on up to Mr. Kleindienst's office and said, "Look, you are out of the Watergate but you are not out of Ellsberg. I need some help." And we spent most of the day talking about this and he solicited some independent opinions and concluded that I was right, that indeed it should be disclosed . . .

I told Mr. Kleindienst that the President instructed me to forget about it but nonetheless I thought we ought to go to the President and if he was unhappy about it we would simply have to take the consequences and Mr. Kleindienst agreed with that. He went to the President. The President agreed.

May I say, Mr. Dash, that I have been distressed by some of the criticism in the press, maybe even other

pieces about the President on that score and I think it is wholly unwarranted. He made—he took a position with me, and I think I can count myself as not the most senior but at least a senior official in the administration. We disagreed with it. We went back to him and he finally agreed with us and I think the ultimate thing is that he came out with the right answer and I think he had every right to expect us to come back to him if we disagreed, and so I think the criticism is wholly unwarranted.

Dash: Now, Mr. Petersen, did you receive a call from the President on April 30, 1973?

Petersen: . . . He called up and said "You can tell your wife that the President has done what needed to be done, and I want to thank you for what you have done."

To the extent that requires some explanation in the course of our conversations, I was impressing upon the President the situation

so far as I was concerned was degenerating and it was vitally affecting the people's confidence in the White House and I related to him a conversation that I had with my wife at the breakfast table in which she had said, "Do you think the President is involved?" And I related that to the President and I said, "If I reach the point where I think you are involved I have got to resign. If I come up with evidence of you I am just going to waltz it over to the House of Representatives" but I said, "What is important it that my wife, who is no left wing kook, is raising these questions of me and that indicates to me that you have got a most serious problem."

And that affected the President quite strongly and when he called me on April 30 he made that point.

Dash: This was the day that he announced the resignation of Mr. Hadleman, and Mr. Ehrlichman, and the leaving of the office at his request of Mr. Dean.

Petersen: That is right.