

When Did the President Know?

By JUDE WANNISKI

As the Ervin Committee hearings rolled on and on last summer, time and again Senator Baker would refocus the audience's attention on the question, "What did the President know and when did he know it?" Yet now, with voluminous evidence of the President's knowledge suddenly available, few people have yet paid much attention to Senator Baker's presumably crucial question.

The focus so far has been elsewhere, for quite understandable reasons. The President warned the transcripts would be embarrassing to him, and they are. Especially at first reading, as the reader flinches with embarrassment for the President—the cocky Nixon, way ahead in the polls on election eve, Watergate supposedly disposed of as an issue, talking of putting the screws to his enemies in his second term. And there is all that outrageous brainstorming about how to handle Hunt's blackmail threat, Mr. Nixon's worst moments in these 1,308 pages.

But if the reader persists, and especially upon selected re-readings, the importance of Senator Baker's question reasserts itself. The reader is wrenched out of the present back into the Nixon mind of a year ago, beginning to realize that the President then did not know as much about Watergate as the average informed American knows today. Once the reader grasps that fact, he is far less embarrassed for the President, just as the reader who has been told the outcome of a mystery story at the outset cannot feel disdain for the detective who seems slow to put the pieces together.

A great part of the drama of the transcripts, indeed, is watching the President stumble on revelation after revelation about Watergate, seeing this lawyer gradually learn the meaning of the words "obstruction of justice," watching him reach for reassurance that he could rely on the aides he was trusting to investigate. The record may show executive weakness, misplaced loyalty, character faults and even a certain startling naïveté. But in answer to Senator Baker's question, the transcripts show the President surprisingly uninvolved.

Some of the first revelations came in the meeting with John Dean on March 13. At this point, it's clear, the President thought his problem was with the Ervin Committee, the press, the defeated anti-Nixonites of 1972, and that he was fighting a political public-relations battle. The talk is of what new revelations may come out of the Ervin hearings:

D: They would want to find out who knew.

P: Is there a higher up? D: Is there a higher up? P: Let's face it, I think they are really after Haldeman.

D: Haldeman and Mitchell. . . .

P: In any event, Haldeman's problem is Chapin isn't it? . . . D: Chapin didn't know anything about the Watergate. P: Don't you think so?

D: Absolutely not.

P: Strachan? D: Yes. P: He knew?

D: Yes. P: About the Watergate? D: Yes. P: Well, then, he probably told Bob. He may not have. . . .

P: But he knew? He knew about Watergate? Strachan did?

D: Yes. P: I will be damned! Well that is the problem in Bob's case. Not Chapin then, but Strachan.

A few days later, in the March 17 telephone call from Mr. Dean, the President learns of the Ellsberg burglary:

D: The other potential problem is Ehrlichman's and this is — P: In connection with Hunt? D: In connection with Hunt and Liddy both. P: They worked for him?

D: They — these fellows had to be some idiots as we've learned after the fact. They went out and went into Dr. Ellsberg's doctor's office and they had, they were geared up with all this CIA equipment. . . .

P: What in the world — what in the name of God was Ehrlichman having something (unintelligible) in the Ellsberg (unintelligible)? D: They were trying to — this was part of an operation that — in connection with the Pentagon papers. They were — the whole thing — they wanted to get Ellsberg's psychiatric records for some reason. I don't know.

P: This is the first I ever heard of this. I (unintelligible) care about Ellsberg was not our problem. D: That's right. P: (expletive deleted).

By the March 21 meeting, of course, the Ellsberg burglary had become the centerpiece of the "blackmail threat" from Hunt,

and this leads to all the agonized brainstorming. But even at this point, the President seems to view his problems as merely those of public relations. At one point he stumbles over the words "obstruction of justice." And he thinks if necessary the problems at the White House can be solved by simple disclosure.

P: So what you really come down to is what we do. Let's suppose that you and Haldeman and Ehrlichman and Mitchell say we can't hold this? What then are you going to say? What are you going to put out after it? Complete disclosure, isn't that the best way to do it? D: Well, one way to do it is — P: That would be my view.

By March 27, the President learned from Mr. Haldeman that Mr. Mitchell may in fact be guilty, but had trouble believing it.

H: The more he thinks about it, the more O'Brien comes down to Mitchell

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could cut this whole thing off, if he would just step forward and cut it off. He said the fact of the matter is as far as Gray could determine, Mitchell did sign off on it. And if that's what it is, the empire will crack.

E: You said, "Gray." P: What's that? I am sorry. H: O'Brien, not Gray. As far as O'Brien can determine Mitchell did sign off and Dean believes that to be the case also. . . . [a long explanation follows]

P: What I can't understand is how Mitchell would ever approve. H: That's the thing I can't understand here. . . . H: [according to Dean] Liddy told Kleindienst that Mitchell had ordered it. P: Oh. . . .

P: You know Mitchell could be telling the truth and Liddy could be too. Liddy just assumed he had abstract approval. Mitchell could say, "I know I never approved this damn plan."

In the same conversation with Mr. Haldeman and Mr. Ehrlichman, the President worries about being told what is going on, and concludes Charles Colson is probably innocent.

P. Colson in that entire period, John, didn't mention it. I think he would have said, "Look we've gotten some information," but he never said they were. Haldeman, in this whole period, Haldeman I am sure—Bob and you, he talked to both of you about the campaign. Never a word. I mean maybe all of you knew but didn't tell me, but I can't believe that Colson—well—

By April 14, the President is recalling his March 21 conversation with John Dean, and wondering about the legal status of money payments to defendants.

P: I said, John, "where does it all lead?" I said, what's it going to cost? You can't just continue this way. He said, "About a million dollars." (Unintelligible) I said, John, that's the point. (Unintelligible) Unless I could get them up and say look fellows, it's too bad and I give you executive clemency like tomorrow, what the hell do you think, Dean. . . . The word never came up, but I said, "I appreciate what you're doing." I knew it was for the purpose of helping the poor bastards through the trial, but you can't offer that John. You can't — or could you? I guess you could. Attorneys' fees? Could you go a support program for these people for four years?

E: I haven't any idea. I have no idea. P: Well, they have supported other people in jail for years. E: Sure, the Berrigan brothers. P: Huh? E: I say, I don't know how the Berrigan brothers and some of those — P: They all have funds. . . . E: So that they — P: But not to hush up. E: That's right. P: That's the point.

And by the same date, the President has learned something about obstruction of justice:

P: We did not cover up, though, that's what decides, that's what decides. . . if three of us talk here, I realize that frankly — Mitchell's case is a killer. Dean's case is the question. And I do not consider him guilty. Now that's all there is to that. Because if he — if that's the case, then half the staff is guilty.

E: That's it. He's guilty of really no more except in degree. P: That's right. Then others E: Then a lot of

P: And frankly then I have been since a week ago, two weeks ago.

E: Well, you see, that isn't, that kind of knowledge that we had was not action knowledge, like the kind of knowledge that I put together last night. I hadn't known really what had been bothering me this week. P: Yeah. E: But what's been bothering me is

P: That with knowledge, we're still not doing anything. E: Right. P: That's exactly right. The law and order. That's the way I am. You know it's a pain for me to do it — the Mitchell thing is damn painful.

The next day, the President has the fateful visit from Attorney General Richard Kleindienst, who has been up late with prosecutors briefing him on their talks with John Dean and Jeb Stuart Magruder:

K: Magruder's conversations and John's conversations with attorneys, with every absolute certainty that Magruder's going to be put on before the Grand Jury. P: Are they going to call him back? K: Yeah. P: Oh, of course, because he's going to plead guilty. K: He's going to plead guilty and he's going to tell everything he knows.

P: Sure.

K: That kind of information is not going to remain confidential.

P: As you now, the — we have no — I have not and I would not try to get information from the Grand Jury, except from you. K: Right. P: And we have not. But the reason — the reason that I am aware about the Dean thing — I have

taken Dean off the matter, of course. I had to. As far as what he was reporting here at the time. I put Ehrlichman on. . . .

P. Except that Magruder may — you can't tell, in his view, that you can believe everything Magruder says because Magruder's apparently got a — K. Got a self-interest involved. P. He's got his self-interest and you don't know whether he's going to drag this fellow or that fellow or whatever the hell is. You know that's the trouble when a guy starts lying and, you know — I mean — wondering whether Magruder is telling the whole truth on John Mitchell — you know, Mitchell — have you talked to Mitchell?

K. No and I'm not going to. I don't think that I can talk to him. P. I think you should know, Mitchell insists — I didn't talk to him. You know, I have never asked him. Have you ever asked him? K. No sir. We have never discussed the matter. P. I never have either. I asked Bill Rogers about that. I said, Bill, should I ask him? No, John Mitchell. And so I asked Ehrlichman. I said, now I want you to ask him. . . .

K. The basic problem that — it's possible that Dean might testify to, what Magruder will testify to, and then you've got Strachan or somebody like that. He was on Haldeman's staff. There is a possible suggestion that Haldeman and Ehrlichman ah, as yet — it looks that way — whether there is legal proof of it so far as that — that they

P. Indicating what?

K: Well, knowledge in this respect, or knowledge or conduct either before or after the event. But that in any event, whether there's —

P: Both Haldeman and Ehrlichman?

K: Yes. . . .

P. I have asked both Haldeman and Ehrlichman. K: I know you have. P. And they have given me absolute — you know what I mean. You can only — it's like, you'd believe John Mitchell, I suppose, wouldn't you? I don't believe Haldeman or Ehrlichman could ever — you know — (unintelligible) hurt to be so close to people and yet I think of —

Mr. Kleindienst recommended that the President put Assistant Attorney General Henry Petersen in charge of the investigation, and Mr. Nixon and Mr. Petersen met that afternoon. The White House has said their conversation was unrecorded. The new transcripts do show, however, that on the evening of April 15, the President and Mr. Petersen talked by phone from 8:14 to 8:18, from 8:25 to 8:26, from 9:39 to 9:41 and from 11:45 to 11:53. In the last conversation, the President said:

P. Let me say this. The main thing we must not have any question, now, on this, you know I am in charge of this thing. You are and I am. Above everything else and I am following it every inch of the way and I don't want any question, that's of the fact that I am a way ahead of the game. You know, I want to stay one step ahead of the curve. You know what I mean?

Perhaps Senator Baker's question, which seemed so relevant back last summer, is not the relevant question today. But if impeachment proceedings go forward, it will become the relevant one again. The Congress is a body of lawyers. While as Congressmen, politicians or partisans they may want to be rid of this President, the lawyers under their skins will not let them do it without the clear legal basis Senator Baker's question suggests.

Especially in this light, the most damaging revelations in the transcript go to the question of whether or not Mr. Nixon authorized a blackmail payment or payments on March 21. A point that bears heavily in the President's favor should not be overlooked: The context of the conversation was that if further payments were to be made, someone would have to go out and raise the money. There was no question of whether money in hand should be turned over to Mr. Hunt. If the President intended the payment to go forward, surely the meeting would not have ended without resolving the important question of where the money was to come from.

The total weight of these transcripts, moreover, hangs in the President's balance. During the past year or more, a small minority of Americans have believed he was involved in the planning of the burglary. The transcripts quickly make it obvious he was not. A majority of Americans have believed that he must have known about the cover-up, if not having masterminded it. The transcripts indicate he did not begin sensing the full dimensions of the cover-up until mid-April 1973, and that he had only had bits and pieces of the story in March of that year, when John Dean began to spill the beans.

This is why the President will not be impeached. He may not be "innocent," but he is a thousand times "less guilty" than the people have imagined him to be.

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