

JURY HEARS TAPE OF NIXON BACKING HUNT CLEMENCY

Colson Says in Recording That Watergate Burglar Has 'Incriminating' Data

3 OTHER TALKS PLAYED

They Appear to Hurt Case of Haldeman, Ehrlichman and Mitchell in Cover-Up

By LESLEY OELSNER

Special to The New York Times

WASHINGTON, Nov. 18—Richard M. Nixon agreed to a plan for clemency for E. Howard Hunt Jr., one of the seven original Watergate defendants, on Jan. 8, 1973, the day they went on trial, according to a tape recording played today in the Watergate cover-up case.

Mr. Nixon did so during a conversation with Charles W. Colson, a Presidential aide, in

Excerpts from White House tapes are on Page 30.

which Mr. Colson told him that the burglars were acting on orders issued in behalf of John N. Mitchell and that Mr. Hunt, in particular, had information "very incriminating to us."

The recording was one of four played to the jury. Like the three others, it backed up the basic theory of the prosecution: that the five defendants in the cover-up case and others, including Mr. Nixon, sought to conceal the facts of the break-in at Democratic headquarters in the Watergate complex on June 17, 1972, through such means as offers of clemency and money.

Seeming Implications

Mr. Nixon did not pardon Mr. Hunt, but another tape played this afternoon showed that Mr. Nixon was still considering clemency in March of 1973 after Mr. Hunt pleaded guilty and was awaiting sentence.

The tapes appeared to implicate H. R. Haldeman, the former White House chief of staff; Mr. Mitchell, the former Attorney General and re-election campaign director, and John D. Ehrlichman, the former White

House domestic affairs adviser. "Because of the law of conspiracy, the recordings, played in a two-and-a-half-hour session that left many in the courtroom complaining of headaches and fatigue, are potentially damaging to the two other cover-up defendants, Robert C. Mardian, a former Assistant Attorney General, and Kenneth Wells Parkinson, an attorney for the Nixon re-election committee.

Nixon Named

The law provides that the acts of co-conspirators, made in the furtherance of a conspiracy, are attributable to the other co-conspirators.

Mr. Nixon was named an unindicted co-conspirator when the grand jury returned indictments last March 1. Leon Jaworski, then the Watergate special prosecutor, had told the grand jury there were legal

Continued on Page 30, Column 1

Continued From Page 1, Col. 8

doubts that an incumbent President could be indicted.

This means that the acts of Mr. Nixon are attributable to each of the five defendants if the prosecution can prove that they were part of a conspiracy.

The acts of Mr. Colson are also attributable. Mr. Colson was originally indicted in the cover-up case, but the charges were dropped when he pleaded guilty in a related case. He is serving a prison term, but he is now considered an unindicted alleged co-conspirator.

So are the acts of Mr. Haldeman, who appeared on two of today's tapes.

The tapes show that Mr. Nixon agreed to money payments to the seven original defendants as well as clemency to Mr. Hunt; that he discussed clemency for the others; that he and Mr. Haldeman discussed various explanations that could be given to justify a \$350,000 cash fund controlled by Mr. Haldeman; that he and Mr. Haldeman also discussed such options, in the days when the cover-up seemed in danger of coming apart, of throwing "to the wolves" Mr. Mitchell and Jeb Stuart Magruder, Mr. Mitchell's deputy campaign director and now a confessed conspirator.

Mr. Haldeman appeared to implicate himself in a conversation with Mr. Nixon on March 22, in which he told Mr. Nixon that he turned over his secret cash fund to campaign authorities after Mr. Mitchell said that the money was needed to pay off the seven defendants.

The tapes provide second-hand though apparently serious evidence against Mr. Ehrlichman and Mr. Mitchell in statements by Mr. Nixon, Mr. Colson and Mr. Haldeman about their

being possible liabilities.

There is much discussion of Mr. Mitchell's knowledge of the intelligence-gathering plan that led to the break-in. There is also discussion of Mr. Ehrlichman's knowledge of non-Watergate operations such as the break-in by the White House special security force known as the plumbers of the office of Dr. Daniel Ellsberg's former psychiatrist.

Trial Discussed

The tape of Jan. 8 the first played today and the 12th played since the trial began Oct. 1, records Mr. Nixon and Mr. Colson discussing the trial of the seven burglars before Judge John J. Sirica, also the presiding judge in the cover-up trial.

During the many references to the judge, he remained mostly impassive, though there were moments when he smiled slightly.

Mr. Nixon remarked to Mr. Colson that the seven Watergate burglars "undertook" the operation "knowing the risks."

"Right?" he asks, according to the prosecution's transcript. "Whatta they think?"

Mr. Colson says "They all were taking orders from people like (unintelligible) acting on behalf of John Mitchell and others."

"Mitchell would take care of them," Mr. Nixon says. "How could he?"

"Yeah," Mr. Colson says.

"No way," Mr. Nixon says.

Then the talk turns to clemency.

Mr. Nixon remarks that "Hunt is a simple case." Mrs. Hunt had just been killed in a plane crash and one of the Hunt children injured.

"We'll build, we'll build that son-of-a-bitch up like nobody's business," Mr. Nixon says.

"We'll have Buckley write a column and say, you know, that he, that he should have clemency."

The reference was apparently to the columnist William F. Buckley Jr., who had been close to Mr. Hunt and served as executor of Mrs. Hunt's estate. Mr. Buckley's office in New York said in a statement that "at no time" did Mr. Nixon or any Administration official approach him about such a column.

"I don't need to be reminded to write columns urging clemency, even for sons of bitches, as Mr. Nixon would know by now from personal experience," the statement said.

Tapes Faint

Another tape played today, like the others faint and at times impossible to understand without the transcript, is of a telephone conversation between Mr. Nixon and Mr. Colson on March 21, when the cover-up seemed on the verge of coming apart.

Mr. Nixon appeared to refer to earlier discussions with Mr. Colson about the Watergate defendants.

Mr. Colson tells Mr. Nixon that he thinks the basic prob-

lem for the White House is not the break-in but "the stuff after."

Clemency comes up again in the tape of a Nixon-Haldeman meeting on March 22.

The two men discuss problems facing the White House, such as the cash fund controlled by Mr. Nixon and the opinion of John W. Dean 3d, then the President's counsel and now a key prosecution witness who is in a Federal prison, that the payment of money to the burglars could give rise to an obstruction of justice charge.

The discussion turns to the activities of the plumbers unit that Mr. Ehrlichman had supervised.

P. I'm trying to get down to the end of the point, that the man who knows all this is Hunt.

H. (unintelligible)

P. So Hunt becomes rather important.

Mr. Nixon says that in Mr.

Dean's view, there are two options—to cut Mr. Hunt off, or to pay him or "at least give him another contact."

What Mr. Nixon meant by "contact" is uncertain but there has been evidence regarding Mr. Colson's somewhat veiled offer of clemency to Mr. Hunt in a reference to a "Christmas" pardon.

Mr. Hunt pleaded guilty shortly after the original Watergate trial began. At the time of the Nixon-Haldeman conversation, he was about to be sentenced.

Mr. Nixon tells Mr. Haldeman that a pardon "right after the fact" of conviction and sentence was out of the question. However, it seems that he and Mr. Haldeman still want to take some step involving clemency. They talk of the possibility of going to the parole board.

Like so many of the other White House conversations made public, the discussion end with no clear decision.

The prosecution plans to play 15 more White House tape recordings, four of them previously undisclosed, in the next two days, and rest its case by Thursday afternoon.

The prosecution plans to play 15 more White House tape recordings, four of them previously undisclosed, in the next two days, and rest its case by Thursday afternoon.

Tomorrow and Wednesday there will also be testimony out of the jury's presence regarding the Government's recent disclosure that a supposed witness named William O. Bittman had lied about and withheld a memorandum prepared by Mr. Hunt in November, 1972. The memo mentions "commitments" of money and pardons.



United Press International

H. R. Haldeman arriving at court yesterday in Washington with his daughter, Susan, for the Watergate trial.