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PRESIDENTIAL CAMPAIGN ACTIVITIES OF 1972

SENATE RESOLUTION 60

HEARINGS

BEFORE THE

SELECT COMMITTEE ON PRESIDENTIAL CAMPAIGN ACTIVITIES

OF THE

UNITED STATES SENATE

NINETY-THIRD CONGRESS

FIRST SESSION

WATERGATE AND RELATED ACTIVITIES

Phase I: Watergate Investigation

WASHINGTON, D.C., JULY 11, 12, 13, 16, AND 17, 1973

Book 5



Printed for the use of the
Select Committee on Presidential Campaign Activities

AUTHENTICATED
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(Established by S. Res. 60, 93d Congress, 1st Session)

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PRESIDENTIAL CAMPAIGN ACTIVITIES OF 1972
PHASE I: WATERGATE INVESTIGATION

WEDNESDAY, JULY 11, 1973

U.S. SENATE,
SELECT COMMITTEE ON
PRESIDENTIAL CAMPAIGN ACTIVITIES,
Washington, D.C.

The Select Committee met, pursuant to recess, at 10:05 a.m., in room 318, Russell Senate Office Building, Senator Sam J. Ervin, Jr. (chairman), presiding.

Present: Senators Ervin, Talmadge, Inouye, Montoya, Baker, Gurney, and Weicker.

Also present: Samuel Dash, chief counsel and staff director; Fred D. Thompson, minority counsel; Rufus L. Edmisten, deputy chief counsel; Arthur S. Miller, chief consultant; Jed Johnson, consultant; David M. Dorsen, James Hamilton, and Terry F. Lenzner, assistant chief counsels; R. Phillip Haire, Marc Lackritz, William T. Mayton, Ronald D. Rotunda, and Barry Schochet, assistant majority counsels; Eugene Boyce, hearings record counsel; Donald G. Sanders, deputy minority counsel; Howard S. Liebengood, H. William Shure, and Robert Silverstein, assistant minority counsels; Pauline O. Dement, research assistant; Eiler Ravnholt, office of Senator Inouye; Robert Baca, office of Senator Montoya; Ron McMahan, assistant to Senator Baker; A. Searle Field, assistant to Senator Weicker; John Walz, publications clerk.

Senator ERVIN. The committee will come to order.

On June 29, the committee received a letter* from Congressman Garry Brown regarding John Dean's testimony linking the House Banking and Currency Committee action with what he testified were White House coverup activities. The Congressman also said that he was preparing a sworn statement to submit to this committee. We have received that statement with attachments, and it will be marked as an exhibit and printed in full for the record.

[The document referred to was marked exhibit No. 75A**.]

Senator ERVIN. Senator Inouye.

Senator INOUYE. Thank you very much, Mr. Chairman.

Mr. Mitchell, throughout these many days witnesses and you have testified as to hundreds of meetings; meetings held along the George Washington Parkway; meetings held in hotel rooms. I believe there are three meetings of special significance. One meeting of January 27; another of February 4, and the third, March 30, all occurring prior to the June 17 break-in. Witnesses have testified that at the first of these meetings criminal activities were discussed, to wit: The kidnaping of

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*Printed as exhibit 69 in Book 4.
**See p. 2181.

leaders of dissident groups and hiding them away in Mexico; the leasing of a yacht and fitting the facility with special photographic and eavesdropping equipment and servicing this yacht with prostitutes to entice leaders of the opposition, and placing them in compromising positions; and the breaking and entering to photograph documents and engaging in the electronic surveillance, and I gather that at the first meeting you had, in addition to the Attorney General of the United States, Mr. Magruder, the deputy chairman of the Committee To Re-Elect the President, the counsel for the President of the United States, Mr. John Dean, and Mr. Liddy, the counsel to the Committee To Re-Elect the President, and yesterday, when asked about the price tag your response was "Oh, just a million dollars."

At the close of that first meeting you testified that you told Mr. Liddy to "take that stuff out and burn it." At the second meeting on February 4, this was also in the office of the Attorney General, in addition to the Attorney General, Mr. Magruder, Mr. Liddy, and Mr. Dean were in attendance, and at this time we had a scaled down plan costing about half a million dollars and at the close of this meeting Mr. Dean was quoted to have said: "We should not be discussing this in the Attorney General's office."

Would I be translating your statement "take that stuff out and burn it," to mean get rid of this incriminating evidence?

TESTIMONY OF JOHN N. MITCHELL, ACCOMPANIED BY WILLIAM G. HUNDLEY, PLATO C. CACHERIS, AND MARVIN SEGAL, COUNSELS—Resumed

Mr. MITCHELL. Not only that, Senator, to get rid of the incriminating evidence, but also to abandon any concept that any such activity would be part of the reelection campaign of the President.

Senator INOUYE. Did you advise the participants that they were essentially participating in conspiracy to commit a crime?

Mr. MITCHELL. Not at that time; no sir, I did not.

Senator INOUYE. I ask this because just about that time your office, with much publicity and great vigor, had pursued the indictment of American citizens who had allegedly discussed the kidnaping of Dr. Kissinger. Is there any difference between the discussion of kidnaping and a discussion of these criminal activities in your office?

Mr. MITCHELL. Senator, I think you have stopped very far short in connection with the activities of the indictment that you referred to. There were overt actions in connection with that as well as discussions.

Senator INOUYE. Was there any overt action in this case? There were three meetings—charts that cost a small fortune.

Mr. MITCHELL. Those were not the type of overt acts that were involved in connection with the indictments that you have referred to.

Senator INOUYE. Why did you not, as the Attorney General of the United States, advise the President of these meetings?

Mr. MITCHELL. For the very simple reason that I presumed, and had every reason to believe, that these matters were over and done with—were through—and that was the end of them. The President of the United States has many other things to concern himself with other than the type of factors that were involved in these meetings and many other meetings.

Senator INOUYE. Weren't you concerned when they persisted?

Mr. MITCHELL. I am not sure I understand your question, Senator.

Senator INOUYE. You had a meeting on the 27th of January, February 4, and March 30; didn't you consider that this was nothing frivolous?

Mr. MITCHELL. Well, to my mind the matter had not been approved; it was not going to be approved; and that was the end of it. There are many, many things that happen in connection with political campaigns that you do not go and advise the President with respect to. The obligation rests upon those that are conducting a campaign and not the President to follow each and every one of the details.

Senator INOUYE. In your colloquy with Senator Talmadge you indicated that the election of the President was so important that you did not wish to advise the President of the White House horror stories because he might blow the lid off, and thereby endanger the election.

Mr. MITCHELL. I think that is a reasonable summary of it. I don't think I used the words "blow the lid off" but that he would take very, very strong action that would put the——

Senator INOUYE. He would lower the boom on people.

Mr. MITCHELL. That, I think, was my phrase, and I am sure that was—would have been the case.

Senator INOUYE. Why did you not advise the President in November or December 1972 or January?

Mr. MITCHELL. That, in my opinion, was: The election was over; there was going to be a housecleaning; the matter would have taken care of itself at that particular time.

Senator INOUYE. As one who was aware of the facts, didn't you think that as the President's confidant it was an obligation on your part to advise the President?

Mr. MITCHELL. Well, there are different types of obligations, Senator, and I think in my particular case I have always looked upon it as my obligation being that which was in the interests of the President, and I did not believe or feel at that particular time that it was necessary that he be so advised that these matters come out to the detriment of his second term. It was my full belief that he was going to take care of the reorientation of the White House and the matter would be taken care of by itself.

Senator INOUYE. I am certain, Mr. Mitchell, you have heard of the famous memo prepared by Mr. Buzhardt?

Mr. MITCHELL. The one that the Senator read?

Senator INOUYE. Yes, sir.

Mr. MITCHELL. I have a slight knowledge of it. [Laughter.]

Senator INOUYE. In this memo, Mr. Buzhardt suggested that, based upon the information made available to your successor, Mr. Kleindienst, he stated in late July 1972 that: "It did not appear that any White House people or any high ranking committee people were involved in the preparation of planning or discussion of the break-in."

The White House memo goes on to note that, "History fails to record that at that moment Dean corrected the Attorney General's erroneous impression by pointing out that Mitchell, Magruder, and Dean had all been involved in planning of operations of which Watergate was the obvious derivative or that Strachan had knowledge of the fruits of this kind of operation or that all of them were suborning perjury and otherwise seeking to conceal the facts."

The memo goes on to fix Dean with the principal blame for, and I quote: "The political and constitutional crisis that Watergate now epitomizes."

Such blame as a senior and as a man whose counsel and advice the President of the United States sought with much greater frequency and respect would seem to share in at least equal proportion, and that memo goes on to say:

> It would have been embarrassing to the President if the true facts had been known shortly after June 17 but it is the kind of embarrassment that an immensely popular President could have easily weathered. The political problem had been magnified a thousandfold because the truth is coming to light so belatedly because of insinuations that the White House was a party to the coverup and, above all, because the White House was led to say things about Watergate that have been since found to have been untrue.

Do you still maintain that you served your President and your Nation well by the course you pursued?

Mr. MITCHELL. Senator, I don't know whether you are adopting Mr. Buzhardt's premises or not. I certainly do not adopt them. Furthermore, as I listened to your reading of that particular paragraph it relates solely to Watergate. My reasons—my motives—had to do with an entirely different subject matter and that had to do with the White House horror stories, not the Watergate.

Senator INOUYE. Mr. Mitchell, if the reelection of President Nixon was so important that you were willing to engage in activities which have been well described as being irregular to insure his reelection, I think a question lies in many minds at this time. To what length are you now willing to go to deceive in an effort to avoid further implication of the President in the activities under investigation by this panel? More specifically, are you willing to lie to protect the President?

Mr. MITCHELL. Senator, there is one great thing about the answer that I can give to that question to you. I do not have to make that choice because, to my knowledge, the President was not knowledgeable, certainly about the Watergate, or certainly knowledgeable about anything that had to do with the coverup, if that is the phrase that we are using. So I do not have to make that choice.

Senator INOUYE. In your testimony, Mr. Mitchell, you have suggested that it would not be fair—that is the word you have used—fair to the President if the facts relating to Watergate and the White House horrors had been brought to his attention and to the attention of the American people during the election campaign. Have you ever considered whether it was fair to the members of the opposition party or fair to the American people to conspire to keep them from the true facts of this matter?

Mr. MITCHELL. Yes; I am sure that that subject matter has crossed my mind many, many times. But I do not believe now, I did not believe then, that the President should be charged with the transgressions of others. And it is just as simple as that.

Senator INOUYE. What was wrong with telling the people of the United States the facts involved as you knew them as Attorney General?

Mr. MITCHELL. As Attorney General?

Senator INOUYE. Or as the chairman of the Committee To Re-Elect the President?

Mr. MITCHELL. The campaign director?

Senator INOUYE. Yes.

Mr. MITCHELL. It was a fact that, as you know—are well aware of, Senator, that these matters are imputed, of course, to the highest authority regardless of where they arise. And it was my opinion that he would be improperly associated with these activities.

Senator INOUYE. I am reminded that as Attorney General, like all public officials, you were required to take an oath of office to uphold the Constitution of the United States. And I am reminded by telegrams that I have been receiving that this is a Government of laws and not of men. Did you feel that the President was above the laws of the land?

Mr. MITCHELL. The President is never above the laws of the land and to my knowledge, he has faithfully executed the laws of the land.

Senator INOUYE. Did you not think that in your discussion of the laws of the land and the upholding of the Constitution, you had an obligation to advise the President of these irregularities?

Mr. MITCHELL. At what time and what timeframe are you talking about, Senator?

Senator INOUYE. The meeting of January 27; the meetings of February 4 and March 30.

Mr. MITCHELL. Well, of course, March 30, I was not in public office. With respect to the prior ones, the discussions did not go to the point where I thought it was of a requisite nature that anybody be advised of them because of the actions that I took with respect to them.

Senator INOUYE. In your discussion with Mr. Dash, you said the following, speaking of the President, and I believe that this is rather important:

> Mr. MITCHELL. What I am saying is that I think I know the individual, I know his reaction to things, and I have a very strong feeling that during the period of time in which I was in association with him and did talk to him on the telephone, that I just do not believe that he had that information or had that knowledge. Otherwise, I think the type of conversations we had would have brought it out.
>
> Mr. DASH. Generally, is it fair to say that much of your opinion that you express is based on your faith in the President and your knowledge of the man, rather than any specific statement the President made to you or that you made to the President?
>
> Mr. MITCHELL. Well, I subscribe to the first two. I do have faith in the President and I do think I have knowledge of the man and I do think there are enough discussions in that area, in the general area, to the point where I think the general subject matter would have come out if the President had had knowledge.

This is very important, because based upon your knowledge of the President, and as a judge of men and men's character, you are suggesting to this committee and to the people of the United States that the President was not aware of the break-in and of the coverup that followed. In your position as Attorney General, like all of us in public office, you are called upon to hire people or to get yourself involved in the process of hiring people. I note that you have hired or were involved in the process of hiring very important men—Jeb Magruder, John Dean, Frederick LaRue, Mr. Mardian, Mr. G. Gordon Liddy, and Major General Turner. I note that there is one thing in common with all of these men: They have all been involved in the commission of a crime. Would you say that you are a good judge of character, sir? [Laughter.]

Mr. MITCHELL. If the Senator wants to go back over that list, I will discuss them item by item.

No. 1, with respect to Mr. Dean, I did not hire him; Mr. Kleindienst did, as the Deputy Attorney General. I would have fully subscribed to his hiring him at that particular time. As Mr. Dean has testified, I advised him to stay in the Justice Department, not to go to the White House.

With respect to Mr. Liddy, if you would take and look at his record and background to the date upon which his hiring was discussed with me by Mr. Dean, he had an impeccable record.

With respect to General Turner, he probably had the finest record with respect to his activities to the date of his hiring as the chief marshal that anybody could possibly have. He had more citations, he was better known for his activities in connection with demonstrations and sabotage. We were de-politicizing the marshal's service. Here was a man with an impeccable Army record.

Have I missed somebody?

Senator INOUYE. Mr. Magruder.

Mr. MITCHELL. Mr. Magruder, of course, was recommended from the White House and perfectly acceptable to me at that particular time.

So that if you look at the background of these individuals to the time that they came into the picture so far as I was concerned, they all had impeccable reords.

Senator INOUYE. And you did not at any time note any flaw in them?

Mr. MITCHELL. I was not aware of any, of course.

Senator INOUYE. Throughout your testimony, you have responded to questions by using the word "hindsight," that by "hindsight" you may have done otherwise.

What advice would you give to your successor so that he will not repeat some of the errors you have made, which you admit by hindsight?

Mr. MITCHELL. Well, needless to say, Senator, I haven't really given a great deal of thought as to that particular subject matter, but there is one item that keeps coming to the fore all of the time, and I presume you are talking about a political campaign. There is one thought that keeps coming to the fore all the time in my mind and it particularly relates to what happened in the campaign for the reelection of the President. The campaign is a most unique operation. It builds up in a very short time to a crescendo and then, of course, it is terminated, and the organization and its activities are abolished. I would think that the one thing that has stuck in my mind very clearly, is that instead of having one individual as a campaign director, that can't keep his hands on the pulse of everything that is going on, that there ought to be much clearer lines of authority and responsibility so that it is compartmentalized to the point where you can keep your hands on things and that you can have somebody in charge of a particular segment of it and that those people do have a greater responsibility instead of bucking everything up to the top, whether it be by option memos or whatever it is. Because you are dealing with people; you are dealing in a highly charged, emotional area. And to me, that is one thing that I can think of right off the bat that should be done in connection with political campaigns.

Senator INOUYE. As the former chief law officer of the United States, would you care to recommend to this committee any legislation to prevent the recurrence of some of the irregularities that occurred in the 1972 Presidential election?

Mr. MITCHELL. Senator, I would be delighted to do that, but I would like to give it more thought and a little bit more study. I have noticed that one of the committees of the Senate is already hacking away at the election law in areas that deserve consideration, which were one of the problems, problem areas that we had to consider. I think this is something that needs a great deal of thought and can't be expressed at a time like this, when other matters are on the table. But I would be delighted to provide you with my thoughts on the subject matter.

Senator INOUYE. As director of the campaign on March 1—I believe that is the date you assumed the position?

Mr. MITCHELL. No, sir, it was not. The date that I formally assumed the responsibilities as campaign director was April 9.

Senator INOUYE. April 9. On that date were you concerned about the nomination of Richard Nixon?

Mr. MITCHELL. I think you always have to have a concern, Senator, regardless of the fact that you have an incumbency. You still had two opponents; one on the—shall we say on the spectrum of the left, and one on the spectrum of the right. You have a long way to go between them and the nomination, and I think you always have to have a concern.

Senator INOUYE. My final question, sir, and that is the general question of executive privilege. As a former Attorney General of the United States, could you advise this committee as to your thoughts on executive privilege?

Mr. MITCHELL. Well, my position has been, and I must admit in some of the appearances before the Judiciary Committee that the chairman and I have not always agreed, that the President has very wide range of powers in this particular field. I believe there is also testimony in this record coming from Mr. Dean to the effect that I was out in front recommending that the President not invoke it in connection with the hearings that this committee has undertaken. I felt the President was being ill served by the thought that he would invoke executive privilege with respect to this committee, even though he might have the constitutional power to do so.

Senator INOUYE. To be more specific, it has been reported in the press that Mr. Ehrlichman, when asked a question: "Did you notify the President as to the Watergate break-in?" his response was "executive privilege." Do you think that executive privilege goes that far?

Mr. MITCHELL. If I understand you that Mr. Ehrlichman was asked a question about the subject matter?

Senator INOUYE. As to whether he advised the President of the United States as to the Watergate break-in and his response was, "I do not wish to discuss this matter because of executive privilege."

Mr. MITCHELL. Senator, in my understanding of executive privilege it is not Mr. Ehrlichman that can invoke it. It is—the President is the only one who can invoke the area of executive privilege.

Senator INOUYE. As the chief law officer of the United States do you see a distinction between the activities of the President of the United States and a person running for reelection to the Presidency of the United States?

Mr. MITCHELL. Well, it depends on the area, of course, in which we are——

Senator INOUYE. Let us assume we have papers, Presidential papers, papers involving the Presidency of the United States and papers

involving efforts to reelect this person. Should all of these papers be bunched into one category of Presidential papers?

Mr. MITCHELL. Well, it depends entirely on the nature of the contents of the papers, and if they are the President's papers, and I have testified before the Senate Judiciary Committee on my opinion with respect to this, the President has absolute power of executive privilege; that is power extended to that area.

Now, if we are talking about papers that do not involve the President—they are collateral to him or staff papers—that is an entirely different subject matter.

Senator INOUYE. What if these papers recommend or suggest the commission of crimes?

Mr. MITCHELL. What papers are we talking about, Senator?

Senator INOUYE. Papers that are now in the White House.

Mr. MITCHELL. Papers that went to the President?

Senator INOUYE. Memos that were prepared by staff members addressed to the President of the United States.

Mr. MITCHELL. That recommended commissions of crimes?

Senator INOUYE. Yes, sir.

Mr. MITCHELL. I would doubt that such papers would exist; but if they are talking about staff papers, I think it is an entirely different matter with respect to—what we are talking about is Presidential executive privilege.

Senator INOUYE. Would you consider the involvement of the CIA in domestic affairs as being within the laws of the United States?

Mr. MITCHELL. Well, that is a very, very broad question, Senator, that cannot——

Senator INOUYE. I am certain you are aware of the so-called Dean papers?

Mr. MITCHELL. There are so many Dean papers that I think we ought to be a little more specific.

Senator INOUYE. These are the memorandums describing the formation of an extra legal intelligence organization in which you were involved.

Mr. MITCHELL. Now, are you talking about what we discussed yesterday as the Huston papers?

Senator INOUYE. Yes, sir.

Mr. MITCHELL. Not the Dean papers as such.

Senator INOUYE. We would call them Dean papers because he collected all of these papers.

Mr. MITCHELL. I just want to be sure we are talking about the same documents.

Senator INOUYE. The Huston papers; yes, sir.

Mr. MITCHELL. Senator, there has been a necessity in this country from the time that the FBI and the CIA were created, in my opinion, that there be liaison and coordination among those agencies as well as others in this Government. It does not necessarily imply that the CIA have an operative action or an operative base within the United States—which is prohibited by statute—but if we are to get the benefit out of the intelligence that the CIA has, and the FBI has, and the DIA has, and all the rest of the agencies, we just have to have communication among those agencies and, as I said yesterday, even more important, an evaluation of the intelligence that they do provide

because there has been too long a practice in this country for one of these agencies to have information about intelligence matters that get into the file in the operative agencies that can carry out a mission to prohibit some of these things just do not have that information, and I think a good example, without knowing the facts, is the recent assassination of the member of the Israeli Embassy here in the District of Columbia. Now, obviously, the greatest amount of intelligence that could possibly come with respect to that matter would be the CIA, and if the CIA were knowledgeable with respect to the individuals that might perpetrate such a crime they certainly have to pass it on to the FBI and the Washington police in order that proper action can be taken.

I use this as a hypothetical case without any specific knowledge.

Senator INOUYE. But did not the Huston papers describe something else besides coordination?

Mr. MITCHELL. Oh, yes; very much so.

Senator INOUYE. Did they not describe the activities of the DIA and CIA in surveilling citizens, dissident groups, Black Panthers, the Weathermen? We are not talking about foreign enemies.

Mr. MITCHELL. Well, Senator, as I testified yesterday, I did not study the Huston plan. It was discussed with me, and I saw some of the notes from my recollection where Director Hoover objected to it. To the extent that it involved the items that you are talking about, in my opinion, is one of the reasons that it was turned down and not implemented. But I am saying that, and we started this discussion on the basis of CIA and its activities within the country, it has no operational activities and should not have, that is not what it was created for, but there is no rhyme or reason in the world why the intelligence that they have should not be passed on and imparted to the law enforcement or investigative agencies in this country that do have operational responsibilities.

Senator INOUYE. Mr. Mitchell, getting back to the Presidential papers, if this committee should decide to issue a subpena to get these papers, what do you think should be the response of the White House?

Mr. MITCHELL. Well, I am afraid you are going to have to ask Mr. Buzhardt that; he seems to be making most of the decisions over there. I have no opinion on the subject matter.

Senator INOUYE. As a former chief law officer, what are your thoughts, sir?

Mr. MITCHELL. I am sorry, Senator. Was that question which you put to me as a former chief? It would depend entirely on the nature of the papers, as we discussed before. If they are matters of Presidential communications I think there is an absolute privilege. If they get into collateral areas where the President is not involved, I think that is an entirely different subject matter.

Senator INOUYE. Once again to the Huston papers, you have indicated that your knowledge is limited to a discussion of it but according to testimony you had approved it. Did you approve the Huston plan?

Mr. MITCHELL. No, sir, that is absolutely incorrect. If I may recount what I think the record shows, and certainly what is my recollection, is that with respect to the Huston papers there were conferences held under the aegis of, I presume, Mr. Huston from the White House, among the heads of the intelligence-gathering agencies, the CIA, the

FBI, and the DIA, which resulted in a memorandum that provided for activities with respect to domestic subversives, of course, as well as national security, and involved such things as surreptitious entry of places, mail covers, et cetera. I was not part of that committee. I had no knowledge of it until it was brought to my attention by the Director of the FBI. It was then that the matter was discussed with me and it was then or shortly thereafter that the concept was terminated.

Senator INOUYE. Were you aware that the President of the United States approved the Huston plan?

Mr. MITCHELL. No, sir, I testified yesterday I was not.

Senator INOUYE. Is it not strange that the Attorney General, as a participant in the discussions, that you were not aware of this?

Mr. MITCHELL. As a participant in the discussions? I was not a participant in the discussions with respect to the plan. I was a participant in discussions when Mr. Hoover and, I believe, Mr. DeLoach came to me with their concerns about the matter. I was not a participant in the discussions that led to the formulation of the plan.

Senator INOUYE. But you advised the President of the United States as to your misgivings and reservations?

Mr. MITCHELL. It is my very strong recollection that I advised Mr. Haldeman and the President after it was brought to my attention by Mr. DeLoach and Mr. Hoover.

Senator INOUYE. What is your relationship with Mr. Kalmbach, sir? Do you know him well?

Mr. MITCHELL. Well, I can't say I know him well. I have known Mr. Kalmbach since 1968 and have seen him infrequently over that period of time. I knew him, of course, in connection with the 1968 campaign. Our contacts between 1968 and 1970 or 1971 have been very infrequent; probably more social than anything else. And, of course, I knew him during the 1971–72 campaign, when he was a fundraiser.

Senator INOUYE. Did you have any relationship with him during the month of June, more specifically, 18, 19, and 20, of 1972?

Mr. MITCHELL. Yes; I had a very, very close relationship with Mr. Kalmbach during that particular period of time, because it was during that particular period when I was talking to him daily or perhaps twice a day, because he was kind enough—he along with his wife and the secretaries in his office—to be of great assistance to my wife, who was then out in Newport, and I am sure you know the rest of the story.

Senator INOUYE. Mr. Mitchell, I believe in response to a press inquiry relating to Mr. McCord, your answer was something to the effect that Mr. McCord has a private business and he had several clients and your committee was one of the clients. Isn't it true that you were personally acquainted with Mr. McCord?

Mr. MITCHELL. Well, Senator, you are asking two questions. The press statement that you are talking about was the press statement that I put out when we first found out about the break-in, the burglarization of the Democratic National Committee, where Mr. McCord was involved. Everything in it was actually true.

I had one meeting on April 5 with Mr. McCord—is the only time that I have ever met with the gentleman and talked to him. And that meeting was for the purpose of briefing me as I was coming into my law office, which was in the same building as the Committee To Re-

Elect the President, briefing me on the security measures that were being established and to be established in connection with that facility in 1701 Pennsylvania Avenue. That is the only meeting that I have ever had with Mr. McCord in my life.

The other times that I have seen Mr. McCord were casual passages, when he was in the lobby of 1701, and I think at one time, he was in the hallway of the apartment where we live. That is the extent of my contacts with Mr. McCord.

Senator INOUYE. Was Mr. McCord in charge of providing security for your personal apartment?

Mr. MITCHELL. No; I don't believe that it could be classified as such. I learned at a later date that Mr. McCord did an electronic sweep of the apartment, in what timeframe I do not know. But there was nobody providing security for the apartment as such.

Senator INOUYE. Was he in charge of the security of your person and the person of your wife?

Mr. MITCHELL. Not personally. Mr. McCord, with the assistance and help of other individuals, provided people that traveled with my wife and myself when we traveled as security personnel. Mr. McCord, to my knowledge, never traveled with my wife, and I know he never traveled with me.

Senator INOUYE. It has been testified that Mr. McCord occasionally picked up your daughter at school and brought her back to the Watergate apartment.

Mr. MITCHELL. This could conceivably have happened, and I don't know the facts, for a very, very limited period of time, because when we left the Justice Department, I immediately made arrangements to have off-duty marshals take care of the transportation of my daughter and I have, of course, the statement and bills to show it. So that if this were the case, if Mr. McCord did this, it was for a period of 1 or 2 or whatever days there were in this interim period before these off-duty marshals picked up the task and carried it out.

Senator INOUYE. My final question, sir, and this goes back to my first question: Why did you not advise the President of these irregularities after the election? I believe your response was that you were confident that the White House would take care of it.

Mr. MITCHELL. I was quite confident that the White House would take care of the problem, or at least the individuals there, to the point that it would not happen again, that the change of personnel, which was announced, the reduction of the staff, the people that were moving out of the White House that had been participants in these activities, that there was no reason, in my opinion, to cast a pall over the second term of the Presidency with respect to these matters.

Senator INOUYE. Weren't you concerned when some of the major participants were not being tossed out?

Mr. MITCHELL. Yes, sir, I was.

Senator INOUYE. Why didn't you tell the President then?

Mr. MITCHELL. I felt that the majority of them had been removed and I would have thought that the lessons had been learned.

Senator INOUYE. Mr. Magruder was not removed, Mr. Dean was not removed.

Mr. MITCHELL. Mr. Magruder was not placed into the White House. Mr. Dean, in my opinion, was not the perpetrator of the White House

horrors. To my knowledge, I don't believe Mr. Dean had any hand in it whatsoever.

Senator INOUYE. Was he not a participant?

Mr. MITCHELL. Mr. Dean?

Senator INOUYE. Yes, sir.

Mr. MITCHELL. In the White House horrors that we have talked about?

Senator INOUYE. Yes, sir.

Mr. MITCHELL. To my knowledge he was not.

Senator INOUYE. Was he a participant in the coverup of the Watergate?

Mr. MITCHELL. I believe Mr. Dean was very knowledgeable of the subject matter and participated to the extent that he has testified to.

Senator INOUYE. Didn't you think that you had an obligation to——

Mr. MITCHELL. Senator, if I can add an addendum to that, Mr. Dean was at that time looking for other employment and was, hopefully, going to be able to get out of the White House.

Senator INOUYE. If Mr. Dean was not the perpetrator, who was the perpetrator of the White House horror stories?

Mr. MITCHELL. Well, I believe that the best answers to your question will be those who testify to it and the ones that have testified to it. I read in the newspaper of the affidavits that have been filed in connection with the Ellsberg case and the discussions with respect to the Diem papers, the statements that the individuals have made with respect to the Dita Beard matter, et cetera. I think that my knowledge is that of one who has received it from some of those that were involved. But I can't give you the chapter and verse as to who were the total number of individuals that were involved in each of these activities.

Senator INOUYE. When did you first learn of the White House horrors?

Mr. MITCHELL. Well, as I testified yesterday, the first story that I got with respect to them was the debriefing of the briefing that Mr. Liddy gave to Mr. Mardian and Mr. LaRue and, subsequent to that time, Mr. Dean imparted a great deal of the knowledge in other areas to me that Mr. Liddy had not provided Mardian or LaRue.

Senator INOUYE. Did the President know of the White House horrors at that time?

Mr. MITCHELL. In my opinion, no. If he had, in my opinion, I think he would have taken some pretty strong action.

Senator INOUYE. Why did you not tell the President?

Mr. MITCHELL. I think that is the same question that we have answered three times this morning, Senator. We are now talking about the end of June; we are talking about the election; we are talking about the campaign.

Senator INOUYE. We are not talking about Watergate; we are talking about the other horror stories.

Mr. MITCHELL. That is exactly correct. Those are the ones that I am talking about, which to me were a great deal more damaging to the election than Watergate. Watergate was already out. Watergate was the issue. It was the subject of a suit by the Democratic National Committee. It was constantly in the newspapers. The White House horror stories were not out. They were not under discussion. And these were

the things that would have more impact upon the election, in my opinion, than the Watergate matter.

Senator INOUYE. Did you think it was the obligation on the part of the President's two closest aides to have advised the President of these horrors—Mr. Haldeman and Mr. Ehrlichman?

Mr. MITCHELL. Well, I am afraid I am going to have to let them talk for themselves, Senator. I don't want to judge what another man should or should not have done.

Senator INOUYE. In your discussions with Mr. Haldeman or Mr. Ehrlichman, did they ever tell you that they advised the President of these horrors?

Mr. MITCHELL. No, sir; they did not.

Senator INOUYE. Did they ever advise you that the President was informed as to the break-in and the coverup that followed?

Mr. MITCHELL. That the President was advised of the break-in? Obviously, he was advised of the break-in. Everybody was that read the newspapers.

Now, the second part about it, with respect to the coverup? No, they have never advised me that he was informed of that part of the subject.

Senator INOUYE. Was the President concerned about the fact that checks issued by your committee had found their way into the hands of those who had broken into the Watergate office of the Democratic National Committee?

Mr. MITCHELL. I would presume that he would be; but I have never discussed the subject matter with him, so I can't give you a firsthand, personal report on it.

Senator INOUYE. If these things had been out in the press, didn't you think it was your obligation to fill the President in with the details?

Mr. MITCHELL. Now, which things are we talking about?

Senator INOUYE. The Watergate. You just said that the press had covered it adequately.

Mr. MITCHELL. I did not believe, and to this day, I believe that I was right in not involving the President in any of these subject matters, because obviously, he would have had to take, as I have testified before, very strong action, which would have been to the great detriment of the campaign that was being run on his behalf.

Senator INOUYE. And, in your mind, the campaign was of the utmost importance, the election outcome?

Mr. MITCHELL. The reelection of the President, this particular President, was uppermost in my mind without question.

Senator INOUYE. And it is your feeling that everything should be done to protect this present administration from further damage?

Mr. MITCHELL. I don't get the thrust of your question, Senator. Are you talking as of now, as of this date?

Senator INOUYE. Yes, sir.

Mr. MITCHELL. I think that the current time in the affairs of men are to the point where these stories are now out, they should be fully explored. I think those who are involved should be fully identified, and I think that the appropriate action should be taken because as of this particular time there is no rhyme or reason why the circumstances should try to revert back to what they were prior to the election or even prior to the time that the stories came forth in whatever manner they came forth. I think, however, that great care should be taken to ascer-

tain who was involved and how they were involved instead of just lumping it into a catch phrase of Watergate or coverup or things like that. I think it is time that the individual activities be properly parceled out.

Senator INOUYE. You have said on several occasions that if the President had been notified he would have lowered the boom and would have taken drastic steps, and you have also suggested that you know the man very well. What would the President have done if you had notified him of the Watergate and the coverup?

Mr. MITCHELL. I am sure that he would have—here again, Senator, you are talking about Watergate?

Senator INOUYE. The coverup.

Mr. MITCHELL. Is that what you are talking about?

Senator INOUYE. And the coverup.

Mr. MITCHELL. We have to get, I think, more specific in order to discuss these matters in the proper context. Are we talking about what we have now discussed for the last 2 days, the White House horror stories. Are we talking about the Watergate break-in or we talking about——

Senator INOUYE. Let's say the whole package.

Mr. MITCHELL. I would say that the President would have brought in the appropriate governmental officials from the investigative side and from those who were the prosecutors and laid it all out to them and said "Here it is, take it in the proper process of law."

Senator INOUYE. He would have brought the FBI in?

Mr. MITCHELL. That is the investigative agency that acts on behalf of the Federal Government; yes, sir. And, of course, the important thing is to get the facts and make sure of your facts before you go to the prosecutorial aspect of any activity.

Senator INOUYE. What would the President have done if he found out that his choice for the directorship had destroyed evidence?

Mr. MITCHELL. Well, I am sure he would have done what he has done since and that is made sure he was replaced very rapidly by somebody who was not so involved.

Senator INOUYE. Would he have fired Mr. Magruder? Would he have fired Mr. Dean?

Mr. MITCHELL. I would feel quite certain that would be the case.

Senator INOUYE. And yet these men were not fired after the election.

Mr. MITCHELL. They were not fired because the President was not aware of any of the activities that they were involved in. After all, with respect to Mr. Dean, the President was unaware of his activities at that time after the election, in my opinion; and second, as far as Mr. Magruder is concerned, that was such a lower echelon that I am sure that the President was not particularly involved in his continuance on the Inaugural Committee or whatever governmental job he went to.

Senator INOUYE. With all the headlines and all of the lead articles, the front page articles, appearing in the Post, the Times, and other national newspapers, isn't it strange that the President was never concerned to call in the investigatory arm of the Federal Government to investigate the alleged irregularities being carried out by members of his staff?

Mr. MITCHELL. Senator——

Senator INOUYE. In these articles names were named.

Mr. MITCHELL. Senator, the investigative arm of the Federal Government, as I think you described it, the FBI, had been investigating this case from June 1972, and I am sure their investigation has continued all the way through.

Senator INOUYE. Do you think they did a good job?

Mr. MITCHELL. I am not privy to what they did or didn't do. I have heard statements made with respect to the number of investigations, the man-hours, and so forth. I don't know what they did or didn't do.

Senator INOUYE. You have indicated that Mr. Magruder was low on the totem pole, from the lower echelon, the fact that he was deputy director of the campaign and had authority to spend unlimited funds; didn't that make him very important?

Mr. MITCHELL. Senator, we are changing courses here now. He was talking about his governmental position the last time. With respect to his activities in the campaign obviously he was quite important.

Senator INOUYE. This is absolutely my last question. [Laughter.]

I believe that all of us would maintain that we are men of honesty, men of truth, and men of integrity. You have indicated that you have great faith in the President and that his administration is of utmost importance, to what extent would you go to protect the good name of the President?

Mr. MITCHELL. Senator, I think I answered that same question in another form previously. Fortunately, I don't have to make that determination. I think the good name of the President is going to be protected by the facts and by the President himself and that I won't have to be a party to any circumstances that relate to that.

Senator INOUYE. And it is your testimony that those who have preceded you, suggesting that the President had prior knowledge or involved in these activities are totally false?

Mr. MITCHELL. It is my testimony, as I answered similar questions yesterday on a number of occasions, that I have no reason personally to believe through anything that I have ever heard or said or seen done that the President had prior knowledge with respect to these matters, and I have a very strong feeling from my discussions with the President over the period of time, and this is a feeling, obviously it has to be, that I don't know what he knows or what others may have told him, but I have a very strong feeling that he does not, or did not, I should say, have prior knowledge with respect to the matter of the break-in or what has become generally referred to as the coverup.

Senator INOUYE. This is your feeling, sir?

Mr. MITCHELL. It is my feeling. I would point out that so far as I, my personal dealing with the President during this period of time, my discussions with him, there is nothing that has ever occurred which would give me any such indication.

Senator INOUYE. I thank you very much, sir. Thank you, Mr. Chairman.

Senator ERVIN. Senator Baker.

Senator BAKER. Thank you, Mr. Chairman.

Mr. Mitchell, your testimony has been significant in many respects. It has given us new insight into important new material. It has also created apparent conflicts with the testimony of other witnesses. I refer particularly, of course, to the testimony of Mr. Magruder; in some in-

stances to the testimony of Mr. Dean; in some minor respects to the testimony of Mr. Stans, and others. And I know that the function of the law of evidence or testimony taken in a situation is to try to reconcile apparent conflicts, if that is possible, before concluding that any witnesses have sworn falsely, let alone trying to establish where the truth lies, if reconciliation is impossible.

I intend to proceed on the assumption that I have proceeded with every other witness, that what you have sworn to is the truth until the contrary is made to appear, if it is made to appear, and on the basis and the assumption that what you have told us is the truth I would like to put certain questions that I believe are material and relevant to this inquiry, and important.

Would you tell me, Mr. Mitchell, what is your perception of the institution of the Presidency?

Mr. MITCHELL. Is that part of the purpose of this committee, to ascertain from me the perception of the Presidency?

Senator BAKER. I think it is, Mr. Mitchell; because I think your perception, or the perception of anyone who worked with and for the President, of the institution itself has some bearing on the decision-making processes that are undertaken. I think it has some bearing, for instance, on the question of why you did not tell the President of these facts, and I know you have indicated that you have answered those questions a number of times before, but I would like to approach it from another standpoint, that is: What is your perception of the Presidency and, modified still further, what is your perception of your responsibility to the Presidency, both as the Attorney General of the United States, as a friend of the President, and as a private citizen—what is your perception of the obligations of the Presidency and your obligations to it?

Mr. MITCHELL. Well, Senator, I could, of course, go on for hours as to the perception that I have of the Presidency and what it stands for but I think our Constitution and statutes outline that very clearly as the Chief Executive Officer of this country. I think that perhaps what you would like to get to is my thought of my responsibility to the Presidency.

Senator BAKER. That is right.

I would like to know your perception of the Presidency. I am rather fully aware of the constitutional description of the office, the separation of powers, of the derivative doctrines of executive privilege, of the stated constitutional requirement of the President, the obligations of the Presidency, and the statutory mandates that are given to that occupant from time to time. But what I am interested in is your perception of that institution.

Mr. MITCHELL. Well, of the Presidency?

Senator BAKER. Of the institution. [Laughter.]

Mr. MITCHELL. Of the Presidency.

Senator BAKER. Of the institution of the Presidency. Let me give you a few examples to see if it will help any. [Laughter.] Is the President——

Mr. MITCHELL. Senator, I could go on for days on perception of the Presidency.

Senator BAKER. I am forebearing and willing, as a matter of fact, and we may have to do it that way but it is important—it is important

enough at least from my standpoint, to have insight not only into your perception of the institution and your relationship to it but also your insight into what may have been the President's perception of that office.

Now, let me give you an example or so. Is the Presidency so shrouded in mystique, is there such an aura of magnificence about the Presidency, is there such an awesome responsibility for a multitude of problems and undertakings of this Nation that the Presidency in some instances must be spared the detail, must be spared the difficulty of situations which in more ordinary circumstances might be considered by some at least to be frank, open. declarations of criminal offense? Is the Presidency to be protected in that way? Is the splendor of the isolation so great that the President must be protected and if so, in what cases?

Mr. MITCHELL. Senator, we can talk to the specifics of this particular case, the Presidency, in my concept of it and the way I have watched it function is that obviously the President cannot deal with all of the mundane problems that go on from day to day. He has to deal with the greater problems in the area.

Now, to get to the point where I come in, and that is it is my opinion and my concern with respect to this particular Presidency, that he should not have been involved in connection with these matters that bore directly upon his election, and he should have been protected from the knowledge of them.

Senator BAKER. Why?

Mr. MITCHELL. In the interest of his reelection.

Senator BAKER. Why is that not a Presidential grade decision? Why, of all decisions that might be made by the man, the candidate for President of the United States, why should he not be permitted to make that decision? What is it that arrogates that authority to someone else other than the President, to take a material step that will significantly affect not only his election prospects and chances but his Presidency, if he is reelected?

Mr. MITCHELL. Because of the consequences that would obviously flow from it.

Senator BAKER. Why should he not make that decision?

Mr. MITCHELL. If he were to make the decision there would be no alternative. He would have a choice of being involved in what you all referred to as a coverup or he would be involved in the disclosures which would affect his reelection.

Senator BAKER. Mr. Mitchell, does that not imply distrust of the decisionmaking ability of the man who occupied the office at the time—that you spare him the responsibility to make such a fantastically important decision?

Mr. MITCHELL. Quite the contrary, and I do not refer to it as a fantastically important decision. Of course, in retrospect, it has been, and perhaps the best thing maybe would have been to do that. But it is not a question of distrust of the President, it is a question of recognition that if he were advised of the situation, that he would take these actions which would be deleterious to his campaign.

Senator BAKER. Then, what is your perception of the Presidency that leads you to believe that he ought to be spared the difficulty of making a monumental decision?

Mr. MITCHELL. The very simple point, Senator, that it was an election year in which, if the facts were known to the President, that his course would have been obvious and it would have impeded his potential for reelection. Now, I am not saying today any more than I said yesterday that this was the right decision. I am telling you the basis upon which the decision was made.

Senator BAKER. I understand that. I have a full appreciation of the explanation you have given for why you made the decision. But I am trying to probe into your perception of the Presidency, your relationship to it, your knowledge of the man, that led you to make a decision for him.

Mr. MITCHELL. I think I have put that very simply in the last few sentences that I have stated.

Senator BAKER. I do not think I quite understand, at least——

Mr. MITCHELL. Let me review it again. Knowing the current President, knowing his respect for the Presidency, that there would be no options, no decisionmaking on his part. He would have unloaded, as I think I said yesterday, on all of the White House horror stories and this, in my opinion, would have impeded and had a direct effect, an adverse effect, on his reelection.

Senator BAKER. Is there any other important decision that you can think of that the President ought to be spared from making? Give me another example of another situation where the Attorney General of the United States, or the chairman of the Committee To Re-Elect the President, or administrative staff or anyone else, should decide in order to spare him the lack of options, as you have described it—what else besides that would come to mind?

Mr. MITCHELL. In what category?

Senator BAKER. In any category.

Mr. MITCHELL. One that he should be spared or one that he should be advised of?

Senator BAKER. No; one that he should be spared. For the moment, I am going to pursue your theorem that this matter would have limited the President's options if you had told him about it.

Mr. MITCHELL. It would have eliminated his options, not limited them.

Senator BAKER. Tell me another one that would be similar, another one that you would not tell the President about; another consequential decision that you would not tell the President about to avoid eliminating his options.

Mr. MITCHELL. I think as your hearings go on, you will find out about other ones, in connection with the staging of demonstrations up here in the Capitol and some of the other activities that were undertaken by some of the people who were involved in this campaign, that obviously he would have to condemn if they were known to him.

Senator BAKER. Is not what you are telling us, Mr. Mitchell, that in certain cases, in order to preserve a range of political options, that the President should be denied access to the information on which to make a legal and valid judgment as to the propriety of those actions? And if you say "Yes" to that, is it not true that that theorem has a significant diminishing effect on the powers of the Presidency as described in the Constitution?

Do you not, in fact, by that, arrogate unto yourself a Presidential decision?

Mr. MITCHELL. Senator, I think the answer is "Yes" in all of those particular areas, because obviously, the basis of information has to be with the President before he can make his judgments on the subject matter.

Senator BAKER. What is the constitutional basis for arrogating unto yourself or anyone else a constitutional level—I mean, a Presidential-level decision?

Mr. MITCHELL. I have not found one in the Constitution, Senator.

Senator BAKER. Then, what authority is there?

Mr. MITCHELL. What authority—there is a matter of judgment you make in connection with these areas.

Senator BAKER. There are many judgments; some of them legal, some of them illegal.

Mr. MITCHELL. Some of them in hindsight are quite improper, obviously.

Senator BAKER. How do we protect against the necessity of viewing the world in hindsight?

Mr. MITCHELL. In doing what to the world?

Senator BAKER. In looking at the world in hindsight. How do we go about the business of legislating against such occurrences in the future? How do we go about making sure that Presidential-level decisions, decisions of tremendous importance, are in fact made by the President and not by someone else?

Mr. MITCHELL. Senator, this happens every day in this Capital, where the President does not have information about a particular subject matter.

Senator BAKER. Surely it does not happen every day with respect to an illegal entry into the Democratic National Committee or efforts by principal White House staff, allegedly, to cover up those activities, or suborning perjury or conspiracy. Surely those do not happen every day.

Mr. MITCHELL. No, but there are many, many circumstances that probably have a greater effect on this country that happen every day within the departments that the President is not aware of so that he does not have the facility to make the decisions that are——

Senator BAKER. Then, your answer to me implies—and I am not prepared to agree with it—but it implies a defect in the institution of the Presidency; that is, the institution itself is not capable of dealing with first-magnitude questions. And I really am not prepared to believe that.

Mr. MITCHELL. I am not prepared to believe it or agree with it, either. I am telling you that the Presidency is perfectly capable of dealing with them if he has the information.

Senator BAKER. If someone else takes on themselves the decisionmaking authority on important issues and spares him; is that what you say?

Mr. MITCHELL. This is frequently done, as you know. Not in the particular circumstances that you have just described, but it is done from day to day throughout the Government and always has been.

Senator BAKER. Let us talk about the man for the moment. The President of the United States is a man that you have spoken to for a long time and known intimately and that I have known for a long time, less intimately but for a long time. What is there in your perception of the man that would contribute or did contribute to your decision not to tell him about this? I am not speaking now of the institution but rather of the man.

Mr. MITCHELL. I have described that circumstance and answered that question, Senator, a number of times here in the last 2 days, and I will answer it again the same way. I know the man very well, just as you do, and as I say, he would have lowered the boom on the whole category of the White House horrors and that this would have then, of course, spread across the whole White House and, of course, the derivative effect would have been upon the President and would have affected his election.

Senator BAKER. I am rather inclined to think you are right. I think he would have done that.

Mr. MITCHELL. I believe that——

Senator BAKER. But I rather think that your hindsight is remarkable; that you at that time, when you yourself, according to your testimony, were completely free from any involvement in the so-called White House horrors, in the break-in incident on June 17, 1972, and certainly free of any allegations in connection with the coverup, the payoff, and the like. At that point in time, in mid-June 1972, you made a decision not to tell the President because you were afraid he would fire those involved. Even if you do not think of it from any circumstance except how it affected you, did that not——

Mr. MITCHELL. Senator, I am quite well aware of that. I am well aware of that. But it is not just a question of firing something—somebody. It is a question of the unraveling of some of these activities that existed over there.

Senator BAKER. How could you promote the unraveling, how could you promote the ventilation of these circumstances, the exposure to light of justice of these matters by not telling him?

Mr. MITCHELL. That is a contradiction, Senator.

Senator BAKER. No; it isn't.

Mr. MITCHELL. You couldn't promote them without telling him, because once you have told him, you and I have agreed that he would take the action that would unravel them.

Senator BAKER. Then you start from the premise that it was better not to unravel them and I start from the premise that it would have been better to unravel them. Now, is that the basis, is that the perception that led you to decide not to tell the President the facts?

Mr. MITCHELL. Exactly. At that period of time, that was a decision that was made. In hindsight, it might have been entirely correct. But it was a decision that was made.

Senator BAKER. It was—aren't you dead sure in your mind that that was a mistake, not telling the President?

Mr. MITCHELL. Senator, I am not certain that that is the case, because we were talking about the weeks of June in 1972, where I still believe that the most important thing to this country was the reelection of Richard Nixon. And I was not about to countenance anything that would stand in the way of that reelection.

Senator BAKER. Anything at all?

Mr. MITCHELL. Well. [Laughter.] We can get to some points where I am sure that——

Senator BAKER. Where?

Mr. MITCHELL. I am sure if it had to involve treason and other high crimes and misdemeanors that were directly related to the office, that there would be a very definite breaking point.

Senator BAKER. Wouldn't it have been infinitely better, and aren't you certain of this, Mr. Mitchell—in hindsight—wouldn't it have been infinitely better to line up everybody on the south lawn of the White House and have the President find out on June 17, 1972, what in the world happened?

Mr. MITCHELL. Now, are you talking about what, Senator?

Senator BAKER. I am talking about the break-in of the Democratic National Committee headquarters at the Watergate complex at 2 in the morning of June 17, 1972.

Mr. MITCHELL. That was not the concern, Senator, and I hope I have made it clear to this committee that it was not the break-in at the Watergate that was the concern. What we are referring to is the White House horror stories.

Senator BAKER. Are you talking about the Huston papers?

Mr. MITCHELL. No; I am talking about the Ellsberg matter, the Diem papers, the Dita Beard matter, the stories of surreptitious and unauthorized wiretapping, the bombing of the Brookings Institute, et cetera.

Senator BAKER. We must move forward to June 22, when you received your briefing from those involved on what happened at the Watergate.

Mr. MITCHELL. That is right.

Senator BAKER. At that moment, in retrospect, aren't you certain now that the country would have been better served and the President would have been better served by calling to account every single person in the administration who even allegedly had anything to do with it and to express to the President personally what happened?

Mr. MITCHELL. Now, you are talking about not only the Watergate but these other activities that we have just gotten through with?

Mr. BAKER. I am speaking of everything that occurred from January 20, 1969, to June 22, 1972.

Mr. MITCHELL. Senator, if I could have been assured at that time that the President would have been reelected, I would agree with you wholeheartedly.

Senator BAKER. You understand, I am sure, what an enormous premium, then, you put on success? I suppose all politicians put a great premium on success. But do you care to weigh that any further and tell me that the concealment from the President of facts such as you have described as the Watergate horrors, the break-in——

Mr. MITCHELL. No, the White House.

Senator BAKER. The White House horrors and the break-in to the Watergate on June 17, that all of those things were inferior in importance to the ultimate reelection of the President?

Mr. MITCHELL. I had no doubt about it at that time and I have no doubt about it now.

Senator BAKER. What would the President have to have done before his reelection was not as important as the event? Or what would someone have had to have done other than the President?

Mr. MITCHELL. Well, Senator, I am sure you are well aware that the President was not knowledgeable of the—or involved in that and this would have been a derivative ruboff on many of something that was, would have been absolutely unfair and unjustified.

Senator BAKER. Isn't it unfair that he is now undergoing the hostility and the suspicion of the Nation in this respect with the allegations of coverup, with the lingering suspicion about what he knew? Isn't that greatly, isn't that far more unfair?

Mr. MITCHELL. That is a statement that I am not prepared to accept, Senator. I do not believe the Nation feels that way and I do not believe that anybody has come to the point where they have one shred of evidence that he was knowledgeable of the break-in or the coverup.

Senator BAKER. I think you and I are talking about two different things.

Mr. MITCHELL. Obviously, because we generally get along fine.

Senator BAKER. Well, we still do get along fine and I am delighted that I have this opportunity to probe into the great mentality of a great man.

And I think one thing that I might say in that respect that may shed some light on that situation is a remark you made in Gatlinburg, Tenn., when you spoke to the Tennessee Bar Association at my request; you graciously accepted that invitation. I introduced you at the reception to some of my friends who are attorneys in Tennessee. I said, Mr. Mitchell, as you know, was once President Nixon's law partner. And our distinguished witness said, no, Mr. Nixon was my law partner.

Now, Mr. Mitchell, I have no quarrel with you. I welcome this opportunity to find out where the threshold is, where the crossover point is on the importance of an event versus the responsibility to tell the President.

Now, what I spoke of a moment ago was not evidence of the President's involvement. I have imposed on myself a discipline that I will not comment on the importance, the relevance, or the competence of the testimony of any witness until all of the testimony is taken. And I am not going to do that with respect to the President, either. But what I am talking about is suspicion. What I asked you is whether or not the decision to expose all of this to the President for a Presidential decision, would not it have been infinitely better than to undergo the suspicion, the blemish, the uncertainty in the minds of the American people that does exist—not proof; I think the American people are remarkably forebearing in this respect—but the suspicion. Would not it have been infinitely better to do that in June of 1972?

Mr. MITCHELL. In the Monday morning quarterback field in what has developed into the circumstances that exist today, I don't doubt for a moment that you are probably absolutely correct, and I believe so.

Senator BAKER. Of course, the responsibility of this committee is not to fix blame.

Mr. MITCHELL. That's right.

Senator BAKER. We have no defendants. We are not trying to establish the guilt or innocence of anyone. We are trying to prevent this in the future by legislative relief. So that statement by you is most help-

ful. That is, in hindsight, you are certain, are you not, that it would have been better to permit a President to make a Presidential grade decision in June of 1972?

Mr. MITCHELL. I don't think there is any question about that based upon what has developed out of this, Senator, and how it has developed to the point we are today is another question that has to be examined.

Senator BAKER. Entirely different, separate and aside. It has to do with guilt and innocence, it has to do with circumstances, it has to do with involvement or noninvolvement. But for our purposes, as a senatorial committee, our future is to find the ways to avoid this in the future—our responsibility is to find ways to avoid this in the future and that is why I keep pressing for your hindsight, whether or not you are convinced, and I am happy you are convinced.

Mr. MITCHELL. Well, there is no question about the developments that have taken place since the weeks of June of 1972 to July of 1973. I don't think there is any question about it at all, that it might even have been better, Senator, as you say, take them out on the White House lawn; it would have been simpler to have shot them all and that would have been less of a problem than has developed in the meantime.

Senator BAKER. It might have been.

Mr. MITCHELL. Yes, I agree.

Senator BAKER. Mr. Mitchell, on another subject—and I thank you for your replies in that respect, for fear it would appear that I am advocating the commission of a felony.

Mr. MITCHELL. Senator, I am delighted that you at least joined in the delightful thought regardless of whether or not you countenanced it.

Senator BAKER. I thank you for that.

On another matter, this committee has the hope of providing to the Senate of the United States and to the people of the United States what I have referred to as a definitive statement on Watergate; that is, we aspire to have every fact and detail and every circumstance that is humanly possible to develop, and to bring order and coherence to it and to write a report that will stand as an important document in the political history of the Nation. That is not meant to sound vain. That is obviously the challenge that the Senate placed before us when they created this committee.

One of the things that we are delighted for is that, I gather partly on account of your advice, and other circumstances, we are not now confronted with the inability to gain the testimony of present or past White House officials and Cabinet officers. The doctrine of executive privilege has not been invoked. It very possibly could have been invoked, but we have greatly enlarged the access of this committee to important information because the doctrines of executive privilege and attorney-client privilege have not been invoked.

We have another problem, however, and that is to know something of the President's perception of the unique facts and circumstances that only he, or only he and one or two others, may know about and in that respect, as you know, we have a letter from the President to the committee indicating that he will not appear before the committee and I think he has the constitutional authority not to appear before the

committee. But I was taken by a statement you made yesterday morning on page 3268 of the record when Mr. Dash asked you:

> Actually when did the President make the decision to ask you to direct this campaign in the 1972 campaign?
>
> Mr. MITCHELL. I do not know as I can answer that question, Mr. Dash. I think the President would have to answer it.

Now, if I could invite your attention to two or three matters I would like to ask you to advise us on how we can have access to that information, without doing violence to the fundamental doctrines of separation of powers, of executive privilege, of the institution of the Presidency or anything else. I refer to the conversation in September that Mr. Dean spoke of in which he, the President, and Mr. Haldeman were present and from which Mr. Dean inferred, and he very candidly says he is not certain, but he inferred, that the President knew of the coverup.

Now we know, we can have Mr. Haldeman's testimony, as we shall, but what comment can you give me on how we can complete the record in that respect, how we might gain access, as a distinguished lawyer and a former Attorney General, and a confidant of the President, how can we gain access to the full content of that conversation and the perception of all the people involved.

How can we do that? It is not significant, I hope, that at that point the lights went out. [Laughter.]

Mr. MITCHELL. Apparently, Mr. Vice Chairman, the chairman's Nicodemus has come around and wants somebody to whisper something in his ear.

Senator BAKER. I remember when I was a teenager that my father used to come in and turn down the thermostat to run off my friends. [Laughter.]

So maybe someone has turned out the lights to stop that answer. But would you try to proceed, please, sir?

Mr. MITCHELL. I am sure, Mr. Vice Chairman, you are as well aware as I am as to the difficulty of recollection of what happens at meetings regardless of their importance or significance. which have happened for months and sometimes years back. I would believe and hope that after your hearings are over that I think the President will respond to the salient points of the hearings of this committee, and I am sure that that meeting will probably be one of them.

Now, I am not advising the President on the subject matter, I am not discussing it with him but I would have a very strong feeling, knowing the President as I do, that he will respond to that subject.

Senator BAKER. Do you think he should?

Mr. MITCHELL. I believe that he will.

Senator BAKER. That is not quite what I asked you; do you think that he should?

Mr. MITCHELL. I believe that he will, Senator. I am not making——

Senator BAKER. I am not sure it would help to ask again so I won't.

Mr. MITCHELL. No, three strikes and you are out.

Senator BAKER. No, I am not out, I am tired. But if I were to ask you one other question in that respect, if I were to say that I know of no way that this committee could or should try to compel the President to appear and give testimony, I think the most fundamental tenet of the doctrine of separation of powers probably prohibits that, but

if I assume that to be true, and I believe it to be true, and if I still continue to have the desire to complete this record, this definitive statement on Watergate, with the President's perception and knowledge, particularly of specific events, such as I have alluded to, I finally come to the conclusion that a statement by the President, while welcome, would not be complete, and I have been groping for some way to try to circumnavigate the rocks and shoals of separations of powers, separation of powers, and executive privilege.

My staff brought to my attention a precedent established in 1919 when the Senate Foreign Relations Committee asked President Woodrow Wilson to appear in connection with ratification of the Treaty of Versailles and President Wilson, as I recall, did not even decline to appear. Rather instead he invited the Foreign Relations Committee to the White House and they went, and they had a conversation with President Wilson in rather good detail. That was made a part of the official record of that committee and published as a committee document.

Now, that, in 1919, at least, appeared to solve the executive privilege-separation of powers problem for President Wilson, and for the Senate Foreign Relations Committee.

Can you or would you care to comment on that as a possible alternative or suggest any other alternative for gaining this information and preserving the precedents that the President has referred to?

Mr. MITCHELL. Well, Senator, I hope that you all are invited down to the White House, hopefully under the circumstances that you desire.

Senator BAKER. With safe conduct?

Mr. MITCHELL. With safe conduct. [Laughter.]

I understand you do have your protective forces up here that can get you in and out all right—I do hope that somewhere along the line that you will be there under the appropriate circumstances but it would be brash on my part to make a suggestion as to how the President should handle this question of separation of powers.

Senator BAKER. Well, it is no more brash for you to say it, probably less brash than it is for me to say it but I genuinely do value your advice in that respect and I would like to have any suggestion you have. But do any other thoughts or ideas come to mind on how we can gain access to this information and perception of the President and still try to avoid an institutional confrontation between the Congress and the President on these doctrines?

Mr. MITCHELL. Yes, Senator. There is one that very much comes to my mind that you and the chairman go down and discuss it with him, and I am sure that you may find some mutual grounds upon which to resolve this problem.

Senator BAKER. Thank you. Mr. Chairman.

Senator ERVIN. Senator Montoya.

Senator MONTOYA. Mr. Mitchell, you have had a long, lasting friendship with the President; have you not?

Mr. MITCHELL. Well, it is not long and I hope it is lasting.

Senator MONTOYA. I believe you stated that you met the President the first time in 1966. Is that about correct?

Mr. MITCHELL. Well, I had met the President before that but it was in the area of 1966 when I got to see more of him and spent more time with him.

Senator MONTOYA. And at that time you had your own law firm and he was associated with another law firm in New York?

Mr. MITCHELL. That is correct, Senator.

Senator MONTOYA. And what kind of association did you start out with him in New York while he was a member of one law firm and you were a member of another?

Mr. MITCHELL. Well, it basically had to do with legal matters where the two firms were mutually involved and which led to social occasions and lunches and discussions and things of that matter.

Senator MONTOYA. How often would you say you socialized with him between the time that you first knew him as a partner in this law firm and the time that the two law firms merged and you became closer to each other?

Mr. MITCHELL. The question is socializing?

Senator MONTOYA. Yes.

Mr. MITCHELL. Oh, I would say it was relatively infrequent.

Senator MONTOYA. But did you get to know him on a very personal basis?

Mr. MITCHELL. Well, Senator, I believe that the best answer I can give you in connection with that is as I got to know him as an individual, we had wide-ranging discussions of many subject matters. And, of course, as our firms were merged and we practiced law together, the knowledge of the individual and our contacts, of course, increased.

Senator MONTOYA. When were your firms merged?

Mr. MITCHELL. Officially as of January 1, 1967, if I recall correctly.

Senator MONTOYA. And did your contacts with the then private citizen Nixon continue and on a more frequent basis?

Mr. MITCHELL. Yes, sir. As a matter of fact, our offices adjoined each other so that we saw each other quite frequently and spent more time together.

Senator MONTOYA. Did you and your families socialize with each other frequently?

Mr. MITCHELL. From time to time; yes. I would not say frequently, but from time to time.

Senator MONTOYA. And then subsequent to the merger of the firms, I believe you became his campaign manager in 1968?

Mr. MITCHELL. Subsequent to the merger of the firms?

Senator MONTOYA. Yes.

What was your association with the President during that campaign? Did you see him frequently, did you visit with him frequently, did you accompany him in the campaign?

Mr. MITCHELL. Senator, I saw him when he was in New York. He, of course, was out on the campaign trail. I did not accompany him very often. I did infrequently but basically I stayed behind and ran the store.

Senator MONTOYA. How would you characterize your association with the President at that time and in the subsequent years? Would you say that you were a very close friend of his, that you were a social friend of his, that you had been a business partner in a most satisfactory manner with him, and that later you became his confi-

dant and counselor as Attorney General of the United States. Would you say that all these characterizations are correct?

Mr. MITCHELL. I would put it on the basis that we got along pretty well; yes, sir.

Senator MONTOYA. Yes.

Now, let us go into Mr. Dean a little bit. Now, Mr. Dean was very complimentary of you in his testimony, and gave you great credit for starting him out in the Department of Justice or at least developing with him a father-son relationship. Now what do you think of Mr. Dean?

Mr. MITCHELL. Well, Senator, John Dean had been a very, very competent lawyer working in the Office of the Attorney General—Deputy Attorney General in the Justice Department in dealing with congressional relationships, there is no question about it. When he went to the White House, of course, my relationship with him was on an entirely different basis and it got to be less frequent. I think that Mr. Dean is a perfectly competent lawyer.

Senator MONTOYA. Was he working under you when he worked in congressional relations at the Department of Justice?

Mr. MITCHELL. Well, since I was the Attorney General, theoretically everybody worked under me.

Senator MONTOYA. I mean, directly under you.

Mr. MITCHELL. Not directly under me, he was working directly under, the organizational chart the Deputy Attorney General.

Senator MONTOYA. And what kind of service did he render in that capacity?

Mr. MITCHELL. Well, Mr. Dean, as the legislative liaison representative of the Justice Department carried on just the same functions that we are talking about, that he was a liaison with the Congress in connection with our legislation and our congressional hearings and all of these other matters. Mr. Dean took on one other function that was, as he testified, and that is my recollection, it was delegated to him by Mr. Kleindienst, and that was to negotiate with the demonstrators concerning the permits in the Washington area here.

Senator MONTOYA. And during the time that he performed services for the Department of Justice would you say that Mr. Dean followed orders very strictly or very obediently, and carried them out as his superiors would want him to carry them out?

Mr. MITCHELL. Well, of course, Senator, he was working directly under the Deputy but, to my knowledge, that I have not heard of any occasion when he did not carry out orders. I cannot be more specific than that.

Senator MONTOYA. Then, he went over to the White House, and, of course, you observed him as he worked out of the White House and worked as liaison when the White House and the CRP, the Committee To Re-Elect the President, you observed him for many months, did you not?

Mr. MITCHELL. Yes, sir. I would not say that he was the liaison between the White House and the committee but he started out performing substantial legal functions in connection with the origin and initiation of the committee, and certainly I saw Mr. Dean from time to time during that time and, of course, I saw more of him as we got into the civil litigation and other problems after June 17.

Senator MONTOYA. Well, would you say that he was the type of a man that would act similarly at the White House as he did in the Department of Justice, carrying out orders as he was given those orders?

Mr. MITCHELL. Well, I would presume that if he had done so at the Department of Justice that he would continue to do so in his capacity at the White House.

Senator MONTOYA. Now, going to the creation of or going back to the Internal Security Division of the Department of Justice, there has been testimony adduced here, Mr. Mitchell, by several witnesses that the reports of the Internal Security Division were made available to the Committee To Re-Elect the President. Are you aware that those reports were made available?

Mr. MITCHELL. I was aware, Senator, that there was intelligence being made available to the Committee To Re-Elect the President, the Republican National Committee, and I had always assumed the Democrats and my knowledge of the subject matter is limited to the area in which the decision was considered and made with respect as to whether the convention should be held in San Diego or transferred to Miami and it seems to me we were getting intelligence from all over the Government with respect to the potential importance of the demonstrators and the potential for riots and physical violence in a particular area.

Senator MONTOYA. What about other intelligence reports on, say, individuals, be they potential threats at the convention or not or outside of that sphere?

Mr. MITCHELL. I do not recall, Senator, and I doubt that they existed, that there was ever an intelligence report that came out of Government that had to do with any individual as far as politics or his political position is concerned, at least, I was not aware of any.

Senator MONTOYA. Did you give any specific instructions that these reports should be made available to the Committee To Re-Elect the President?

Mr. MITCHELL. Now, are you talking about reports out of some part of the Internal Security Division of Justice?

Senator MONTOYA. Right.

Mr. MITCHELL. No, sir. I, of course, had left the Justice Department by the 1st of March, and so, to my knowledge there was not even discussion of such activity until after that.

Senator MONTOYA. Well, in other words, the reports were made available to the Committee To Re-Elect the President in the limited fashion that you have indicated after you left the Department of Justice?

Mr. MITCHELL. That is my understanding of it; yes.

Senator MONTOYA. Did you ever find out who the source of authority was for this transmission of reports?

Mr. MITCHELL. No, sir; I never made such inquiry and, as I have said before, I presume that it related entirely to the potential for violence, and that it was probably going to both parties. I do recall that, and I think it happened when I was at the Department of Justice, that the law enforcement assistance administration, for instance, had provided assistance to the police establishment in Miami for both the Democrats and the Republicans in connection with the holding of their convention and I am sure they had may meetings on the subject matter.

Senator MONTOYA. Did you ever authorize the transmission or even inspection of FBI reports in the Department of Justice?

Mr. MITCHELL. Authorize their transmission and inspection by whom, sir?

Senator MONTOYA. The transmission of FBI reports to the CRP or the inspection of FBI reports at the Department of Justice.

Mr. MITCHELL. No, sir.

Senator MONTOYA. Do you know of anyone who did?

Mr. MITCHELL. No, sir; I do not.

Senator MONTOYA. Do you know whether or not these reports were received at the Committee To Re-Elect the President?

Mr. MITCHELL. I have no knowledge of any such procedure.

Senator MONTOYA. This has been testified to that effect heretofore.

Mr. MITCHELL. Senator, are we to make perfectly clear we are talking about FBI reports?

Senator MONTOYA. Yes.

Mr. MITCHELL. Well, then, my answers that I have given you stand. I was not aware that anybody testified that FBI reports were being received by the Committee To Re-Elect the President.

Senator MONTOYA. Now, let us go back to the meetings that you had at the Department of Justice with respect to the Liddy plan on January 27. To put the matter in proper focus, it is my understanding that you met Mr. Liddy on or about November 1971 when Mr. Dean brought him to you and introduced him to you, is that correct?

Mr. MITCHELL. Yes, sir; November 24.

Senator MONTOYA. Then, subsequent to this, and to wit, on January 27, you, Mr. Liddy, Mr. Magruder, and Mr. Dean met in your Department of Justice office, where the original Liddy intelligence operation unfolded in charts?

Mr. MITCHELL. That is correct, sir.

Senator MONTOYA. Now, how long did you spend at this meeting?

Mr. MITCHELL. The meeting, according to the recollection that I have, which comes mainly from my log, was 1 hour or less and there were other—there was another subject matter discussed, which, of course, was the upcoming election law.

Senator MONTOYA. Now, what was specifically discussed? Will you please relate the dialog that occurred there in the discussion of the Liddy intelligence-gathering plan?

Mr. MITCHELL. Well, Senator, I could not possibly relate a dialog that took place that long ago. But I can tell you that the format of it was that Mr. Liddy unfolded his program and everybody just sat with their mouths open while he discussed it and then it was terminated and that was the basis of it. There was not any dialog with respect to the discussion of it other than to shut it off and tell him to go burn it.

Senator MONTOYA. Then, was there any discussion or statement made—was there any discussion there or any statement made to the effect that he should go back and scale the plan down——

Mr. MITCHELL. No.

Senator MONTOYA [continuing]. Because the $1 million budget that it encompassed was excessive?

Mr. MITCHELL. No; Senator, the discussion, as I recall it, was to the effect that that is not what the individuals that were participating in that meeting—certainly, Mr. Dean and myself—had in mind. What we had in mind was going back to information-gathering and taking care of security against demonstrators rather than the contents of that particular proposal.

Senator MONTOYA. All right. What kind of information-gathering did you have in mind?

Mr. MITCHELL. The gathering of all types of information that would be available to the campaign, beneficial to it, that would be done, of course, within appropriate means. That is the way it has always been done in political campaigns.

Senator MONTOYA. Did this include getting information from the other side if you could get it?

Mr. MITCHELL. There is no question about it.

Senator MONTOYA. Now, let us go to the February 4 meeting. The same subjects came back to your office. Is that correct?

Mr. MITCHELL. You mean the same individuals came back?

Senator MONTOYA. Yes.

Mr. MITCHELL. Yes, sir.

Senator MONTOYA. Mr. Liddy, Mr. Dean, and Mr. Magruder came back.

Mr. MITCHELL. Yes, sir.

Senator MONTOYA. And what transpired then with respect to the so-called Liddy plan?

Mr. MITCHELL. Well, with respect to the so-called Liddy plan, and this was a much shorter meeting—I think of some 20 minutes at the most—with the so-called Liddy plan, when it was discussed, it was turned off again because it had the same concept of electronic surveillance and the other facets that were involved.

Senator MONTOYA. Now, tell us how he explained that plan at that meeting.

Mr. MITCHELL. Well, I am not sure that my recollection is that good, Senator. The basis of it was that they would have the capacity for electronic surveillance with respect to whatever targets were to be used in connection with the subject matter.

Senator MONTOYA. Was it a reduced plan?

Mr. MITCHELL. It was—oh, yes; very much so. He had cutoff all of the horror aspects of it and it had been reduced down basically to the electronic surveillance.

Senator MONTOYA. So by this time, you knew Mr. Liddy very well as to what he could do.

Mr. MITCHELL. Well, I knew Mr. Liddy as to what he was proposing that might be done. I could not say that I would know Mr. Liddy very well upon these three meetings.

Senator MONTOYA. Well, did he not impress you in unveiling this plan twice, scaling it down, did he not impress you as a man who really knew how to gather intelligence?

Mr. MITCHELL. He impressed me as an individual who had some ideas about gathering intelligence that did not fit in with mine.

Senator MONTOYA. It is my understanding that at the second unveiling on February 4 that Mr. Magruder, Mr. Dean, and you all disapproved his plan. Is that correct?

Mr. MITCHELL. Yes, sir, it most assuredly is.

Senator MONTOYA. And there is testimony in the record to that effect on the part of Mr. Dean and the part of Mr. Magruder, there was no question about the plans on both occasions being disapproved and they agreeing with you, Mr. Mitchell.

Mr. MITCHELL. Yes, sir, that is correct.

Senator MONTOYA. Now, then, you went to Key Biscayne on your vacation after you had left the Department of Justice. And while you were there on March 30, you had a meeting at the home where you were staying and present at that meeting in Key Biscayne was Mr. LaRue and Mr. Magruder. That is correct, is it not?

Mr. MITCHELL. Yes, sir, for the particular meeting you are talking about, Mr. Harry Flemming was down on the previous day also, at a meeting we had down there.

Senator MONTOYA. And during the course of that meeting, Mr. Magruder had brought in, as your deputy at the CRP, some decision papers which required your approval or your passing on them. That is correct, isn't it?

Mr. MITCHELL. Well, let me put it this way, Senator. At that time, I had not officially been associated with the Committee To Re-Elect the President. Undoubtedly, he had position papers that he wanted to discuss with me, and as I understand it, as I recall, there were quite a few of them.

Senator MONTOYA. Well, as I understand it from his testimony, he brought about 20 different papers that required decision by you.

Mr. MITCHELL. I would not deny that there were 20 papers about different subject matters because I was being brought up to speed about what was happening on the campaign. And as I say, with respect to whether or not they were decisions by me or whether discussions or consultation or approval, I was not officially at the committee at that time. But I am sure the papers were brought for the purpose of discussing them with me and getting my reaction to them.

Senator MONTOYA. And you did have some meetings with respect to policy at the committee with Mr. Magruder and Mr. LaRue?

Mr. MITCHELL. Yes, sir.

Senator MONTOYA. Now, one of these papers was a sheet 8½ by 10 dealing with the third version of the Liddy plan and scaled down to $250,000. Is that correct?

Mr. MITCHELL. That is substantially correct, Senator, that is correct.

Senator MONTOYA. And what was your decision with respect to this?

Now, before I ask that question—strike that question.

I understand from testimony heretofore adduced that there were three copies of this particular plan. One was retained by Mr. Magruder and the other two copies were used in the deliberations at Key Biscayne. Would you say that is correct?

Mr. MITCHELL. I have no recollection of it. I recall there being one copy there, Senator.

Senator MONTOYA. Did you make any notations on any of these papers?

Mr. MITCHELL. I don't recall whether I made any notations on any of the particular papers. I can assure you that I made no notations on what you are referring to as the third Liddy plan.

Senator MONTOYA. Now, did you approve the Liddy plan?

Mr. MITCHELL. At Key Biscayne?

Senator MONTOYA. Yes.

Mr. MITCHELL. I have never approved a Liddy plan as we are discussing it at any time, and certainly I didn't approve it at Key Biscayne.

Senator MONTOYA. Did you approve any budgetary request of $250,000?

Mr. MITCHELL. No sir, that was part and parcel of the same item that was presented at that particular time and there was no approval of any part of that subject matter at that time.

Senator MONTOYA. Is your recollection very definite on that, or are you saying this because you do not remember exactly what transpired?

Mr. MITCHELL. No, I have a very, very strong recollection of it, Senator. To think that the same concept would come back again the third time, after the decisions and the way the decisions were made in connection with the first two, there is no question in my mind that my recollection on this subject matter is very strong.

Senator MONTOYA. Then according to testimony adduced here; Mr. Magruder was supposed to have called Mr. Reisner in Washington asking Mr. Reisner to call Mr. Liddy that the plan had been approved and to have Liddy call Mr. Magruder back. Are you aware of any of those conversations?

Mr. MITCHELL. No sir, I am not, except insofar as they have been testified to before this committee.

Senator MONTOYA. Well, you do agree that there is testimony on the part of Mr. Reisner and Mr. Magruder that that occurred, those conversations occurred?

Mr. MITCHELL. I am aware of the testimony that was given with respect to it.

Senator MONTOYA. And are you also aware that Mr. Liddy in turn informed Mr. McCord that the plan had been approved on or about that time?

Mr. MITCHELL. I am not that familiar with Mr.—I presume it came out of Mr. McCord's testimony and I am not that familiar with it.

Senator MONTOYA. Well, the reason I mention this background, Mr. Mitchell, is because here we have three individuals who have offered testimony here—namely, Mr. Magruder, Mr. Reisner, and Mr. McCord—confirming that the plan had been approved. This is contra to what you are stating before this committee and that is why I asked you whether your recollection might have been a little hazy about this approval.

Mr. MITCHELL. No, I have no trouble whatsoever with respect to this subject matter, Senator.

Senator MONTOYA. So in effect, you are saying that they are wrong and you are right.

Mr. MITCHELL. What I am saying is that I did not approve that plan on March 30, if that was the date, at that meeting at Key Biscayne or at any other subsequent time.

Senator MONTOYA. All right. Let us go now to the implementation of that plan. When you now became the director of the CRP, during your incumbency as director, you had periodic meetings with respect to the budget, at which meetings you had the finance committee, you had Mr. Magruder, you had Mr. LaRue, and yourself approving the expenditures for the conduct of the particular campaign. That is correct, isn't it?

Mr. MITCHELL. Yes, Senator, but the budget committee also, of course, had Mr. Stans and Mr. Sloan and Mr. Nunn on it and Mr. Malek eventually became part of that budget group.

Senator MONTOYA. I believe Mr. Stans testified that he would go in there as the chairman of the finance committee and attend these budget hearings, but actually, that the policy for expenditures was set out by your division and your direction. Was that about right?

Mr. MITCHELL. Well, the meetings really revolved around, in the last analysis, how much money Mr. Stans could raise and then we would make determinations as to how much would be spent in what particular area. But, of course, Mr. Stans also had his input, would object to the fact that I didn't need x dollars for television and direct mail would overlap it, et cetera, et cetera. But the actual purposes for which the moneys were expended within the general categories were contained, of course, in the budget.

Senator MONTOYA. And who prepared that budget? Was that prepared under your direction, was it approved before it was submitted or discussed before the finance committee?

Mr. MITCHELL. No, the budget evolved out of the budget committee meetings.

Senator MONTOYA. All right.

Now, I believe your testimony has been that you did not approve any specific disbursement with respect to any cash that was given to Mr. Liddy in the implementation of the so-called Liddy surveillance or intelligence-gathering plan?

Mr. MITCHELL. That is correct, and I think that is also Mr. Stans' testimony relating to the same conversation.

Senator MONTOYA. Yes, Mr. Stans so testified that he did not discuss any specific figures. That is correct.

Now, isn't it odd, Mr. Mitchell, that $250,000 went out of that treasury and you do not know what went—what it went for when the word around there was between Mr. Magruder, between Mr. Stans and Mr. Sloan that this cash was being disbursed to Mr. Liddy?

Mr. MITCHELL. Well, Senator, I don't know what the $250,000 figure comes from or where it comes from, but I believe there was an expenditure by Mr. Liddy before I arrived on the scene, as testified to by Mr. Stans, of some $125,000. And as I recall, Mr. Sloan's testimony with respect to the total that was turned over to Liddy was $199,000. So we are talking about a difference between $125,000 and $199,000.

Senator MONTOYA. Then when you arrived on the scene, you were told about this figure of $125,000. Were you also told what that figure and that expenditure represented?

Mr. MITCHELL. I was not told of the $125,000, Senator. As a matter of fact, as I testified yesterday, when the post-Watergate investigation came along, it was very, very difficult to get the information out of the individuals involved and we had the colloquy between Sloan and Magruder, Magruder saying it was $50,000 that had been given to Liddy and Sloan saying, no, it was much, much more. We had to finally resolve the question by getting Mr. Stans. So if I couldn't get the information post-Watergate without getting it from Mr. Stans, I sure in hell didn't get it voluntarily when I came aboard in April.

Senator MONTOYA. Well, what did you mean when you stated that you were aware of the $125,000 figure having already been expended?

Mr. MITCHELL. I was aware that Mr.—in what context are you putting this?

Senator MONTOYA. With respect to the disbursements to Mr. Liddy.

Mr. MITCHELL. I was aware of the fact that there was an information-gathering, intelligence-gathering activity that Mr. Liddy was carrying on. The $125,000, the first time I ever saw it, was when Mr. Stans testified here before this committee.

Senator MONTOYA. Well, give me the specifics of the intelligence gathering that Mr. Liddy was gathering at that time when you were so informed?

Mr. MITCHELL. At the time that I was informed?

Senator MONTOYA. Yes.

Mr. MITCHELL. Well, I would have to start back, Senator, to the time when Dean brought Liddy over to the office on November 24 to talk about the position where he was going to get intelligence. This would be part of his activity, to get information relating to which might be useful in the campaign. There has been testimony here, and I vividly recall the fact that Liddy went to San Diego and did a survey of the then gathering storm with respect to the elements that were going to congregate in San Diego to oppose the holding of a peaceful convention. There was the Democratic National Committee kickback story that was investigated by Liddy at a later date, a number of such items, none of which were of great consequence to me except possibly the San Diego convention site problem.

Senator MONTOYA. Were you aware that Mr. Hunt was working with him?

Mr. MITCHELL. No; I had never heard that Mr. Hunt was working with him until after the 17th of June.

Senator MONTOYA. Mr. Sloan has indicated here, and so has Mr. Magruder, that you knew and had given authority for the disbursement of this money to Mr. Liddy, and their testimony is in—is contra to what you have stated here today. There we have another instance of two witnesses who have testified here who indicate contrary to what you have testified to here today.

Mr. MITCHELL. Senator, I am not cognizant of what Mr. Sloan has testified to in this hearing.

Senator MONTOYA. I am just bringing this into proper focus, I am not trying to dispute the rectitude of what you are saying. I am just bringing this into proper focus for the record.

Now, then, we go into the June 17 date when you were in California. I believe on that date quite a few of you engaged in some kind of political activity in California, and you were staying at the Beverley Hills Hotel, is that correct?

Mr. MITCHELL. I believe it was the Beverley Hills Hotel. There was, there were a group of us out there and I think we were all staying at the same hotel.

Senator MONTOYA. And on the morning you were advised as to what had happened here in Washington.

Mr. MITCHELL. It was, I believe it was morning or noontime out there, Senator, yes.

Senator MONTOYA. And you immediately convoked a conference, after having breakfast, at which you met with the different individuals to try to prepare a reaction report to the so-called bugging at the Watergate or break-in at the Watergate?

Mr. MITCHELL. Well, Senator, it was not at breakfast, and it was at a place other than the hotel we were staying at. I believe they call it the Airport Marina or something to that effect, where the political activities were taking place. I was to have a press conference after two or three meetings and a luncheon, and so forth, and convocations, as you call them, were held for the purpose of trying to tell me what had happened and to what response I could possibly have at a press conference in connection with the facts as they then existed.

Senator MONTOYA. Who did you receive the information from preliminary to making the press statement there in Los Angeles?

Mr. MITCHELL. Well, I would believe by that time that Mr. Mardian and Mr. Magruder would have talked to people back in Washington. I am not certain if there was anybody else, whether Mr. LaRue did or not, but I would believe that Mr. Mardian and Mr. Magruder would have talked to them and possibly also Mr. Clifford Miller, I am not certain.

Senator MONTOYA. Who did they call here in Washington, and why did they call at the time?

Mr. MITCHELL. I am not certain that I can answer either part of that question, Senator. They obviously were calling back to get information and, of course, as it has since been testified, they called the public information office of the Committee for the Re-Election of the President and, I gather, other people.

Senator MONTOYA. I believe this is the statement you made in Los Angeles and I will quote from it:

"In a statement issued in Los Angeles"—this is from the Washington Post, June 19 and I quote:

> In a statement issued in Los Angeles, Mitchell said "McCord and the other four men arrested in Democratic headquarters Saturday were not operating either in our behalf or with our consent in the alleged bugging attempt."

And this is a continuation of the quotation:

> Referring to the alleged attempt to bug the opposition's headquarters, Mitchell said "There is no place in our campaign or in the electoral process for this type of activity and we will not permit it nor condone it."

Now, is that an accurate statement?

Mr. MITCHELL. It is a very accurate statement, Senator.

Senator MONTOYA. Now, what did you do in order not to condone it?

Mr. MITCHELL. What did I do in order not to condone it?

Senator MONTOYA. Did you try after you got back to Washington to find out who the individuals that might be responsible for this were?

Mr. MITCHELL. Yes; I did, Senator. As I discussed yesterday, we took and discussed it on the way back on the plane, Mr. Mardian, Mr. LaRue—Mr. Mardian was put in charge of the investigation, and we brought lawyers into the picture as soon as it became evident that we were going to have a civil litigation, and asked them also to investigate it and to interrogate the parties involved.

Senator MONTOYA. Well, did you bring lawyers into the picture to represent those who were involved or to try to extract information, sufficient information, from them, so that you could be able to pin culpability on those who were responsible?

Mr. MITCHELL. They were brought in for both purposes.

Senator MONTOYA. And what culpability did you uncover as a result of this legal representation?

Mr. MITCHELL. Well, obviously, we uncovered the culpability of Mr. Liddy, at least, so far as his refusal to talk to the Federal Bureau of Investigation, and from then on the question got to be quite hazy as to where the culpability ran from there.

Senator MONTOYA. All right; what did you do after you determined the culpability of Mr. Liddy? Did you talk to any prosecuting attorney or any law officer and inform him of Mr. Liddy's complicity in this affair?

Mr. MITCHELL. I do not believe, Senator, that—I am sure I did not, I did not know what the people who were conducting the investigation did.

Senator MONTOYA. Then, on September 2, 1972, from the Washington Post, and I quote the Washington Post as follows:

> Mitchell, following his 20-minute appearance in the office of Edward Bennett Williams, the Democrats' attorney, told reporters outside that he was in no way involved in the Watergate incident. Although the questioning under oath did not get to the point of the Watergate break-in said the former Attorney General, "I can swear now that I had no advance knowledge."

That is still your testimony, is it not, Mr. Mitchell?

Mr. MITCHELL. Yes, sir; that is my testimony.

Senator MONTOYA. Then on September 6, 1972, the Washington Post story is as follows:

"Mitchell told reporters yesterday that the Watergate incident was a ridiculous caper, that the news media had blown it all out of proportion."

Do you still agree with that statement?

Mr. MITCHELL. Yes, sir, I do.

Senator MONTOYA. Do you think that the Watergate incident was a ridiculous caper?

Mr. MITCHELL. I want to make sure that we are talking about the same thing, and I am talking about the break-in and entering into the Democratic National Committee. I think it was perfectly ridiculous that it was done, it served no purpose, it was in nobody's interest, and, of course, it should never have happened, and it shouldn't be condoned under any circumstances.

Senator MONTOYA. Well, do you believe, that the news media has blown this affair all out of proportion?

Mr. MITCHELL. Yes, sir, I do. In connection with the single act of the break-in and entering, I still believe it has been blown out of proportion.

When you get to the total story that has now become known as Watergate—that is referred to as Watergate—I think that is an entirely different subject matter than the subject matter that I was talking about in September of 1972.

Senator MONTOYA. Well, aren't those just ramifications from the trunk of that tree?

Mr. MITCHELL. No, I think it goes far beyond that, Senator.

Senator MONTOYA. Now, on April 21, 1973, another story in the Washington Post, and I quote, "The former Attorney General, who also served as campaign director for Nixon, reportedly told the grand jury that he knew that Magruder would not have moved ahead inde-

pendently with plans for the bugging unless he had received permission from higher authority."

Would you still say that?

Mr. MITCHELL. I didn't say it then in those terms, Senator; I think my comment on that particular occasion was that I didn't know who might have been the final authority with respect to it and there was conjecture as to whether or not Mr. Magruder would have moved ahead on his own.

Senator MONTOYA. Well, knowing Mr. Magruder as you did, and having heard what the Washington Post attributed to you, what is your testimony today?

Mr. MITCHELL. With respect to what, Senator?

Senator MONTOYA. Would you say that Mr. Magruder, as I have stated, in quoting you, would you say that Magruder would not have moved ahead independently with plans for the bugging unless he had received permission from higher authority?

Mr. MITCHELL. My testimony today is the same as it was yesterday. To this day I do not know as to who was the final authority or who in concert moved this program into its activity.

Senator MONTOYA. No, but with respect to Mr. Magruder, do you stick by that statement that he was the kind of a man that would not move except with permission from some higher authority?

Mr. MITCHELL. Now you are talking about something the Washington Post said?

Senator MONTOYA. Yes.

Mr. MITCHELL. And I think yesterday I found out that I shouldn't always rely on the Washington Post through Senator Talmadge's questioning.

Senator MONTOYA. Would you——

Mr. MITCHELL. With respect to that story which you just read, I say that it was my recollection that I did not specifically make that statement. It was made in the context of I did not know where the final push or shove or approval came from.

Now, with respect to your specific question on Mr. Magruder, I do not know whether he in concert or with others may have moved ahead on it. I would feel that Mr. Magruder would not have done so unless there was compulsion coming from some other area.

Senator MONTOYA. Do you have any speculation as to where that compulsion might have come from?

Mr. MITCHELL. I tried to answer that question yesterday, Senator, and I believe that the record that has been made by Mr. Magruder and certainly Mr. Dean's testimony has better insight on it than I have at this time.

Senator MONTOYA. Well, then, would you say that Mr. Dean's testimony is correct in the assumptions that he made with respect to this particular subject?

Mr. MITCHELL. Now, whose testimony?

Senator MONTOYA. Mr. Dean's.

Mr. MITCHELL. Well, Mr. Dean, as I recall his testimony, covered a great many areas of hearsay about what people had told him with respect to this subject matter.

Senator MONTOYA. Then after Watergate you appeared at your apartment on June 19, and you had a meeting there with some of the

people. Now, present at that meeting were Mr. Mardian, Mr. LaRue, Mr. Dean, Mr. Magruder, and yourself. You recall that meeting, do you not?

Mr. MITCHELL. Yes, sir; oh, I do.

Senator MONTOYA. And did you request at that meeting of Mr. Dean to check and see if the White House embarrassment could be prevented?

Mr. MITCHELL. No, sir. To the best of my recollection that was not discussed at that meeting. As a matter of fact, as of that time frame of the 19th of June I was unfamiliar with the White House horror stories.

Senator MONTOYA. Did you at this particular meeting discuss anything with respect to the Gemstone file?

Mr. MITCHELL. To the best of my recollection there was no discussion of that subject matter whatsoever.

Senator MONTOYA. Are you saying that to the best—are you saying this, in light of your recollection and not as a positive statement?

Mr. MITCHELL. Well, I am saying, Senator, that there was no discussion of the Gemstone file because I hadn't heard of it at that particular time. There was no discussion of wiretap logs or matters of those subjects that took place certainly not in my presence there.

Senator MONTOYA. Well, did you discuss any particular file at that meeting?

Mr. MITCHELL. To my recollection we did not discuss anything except to get a briefing from the people who were in Washington, Mardian, LaRue, and Mitchell, just having come back from the west coast, as to what the current circumstances were and as to how it would be handled with respect to the responses that were actually required to the charges that the Democrats were making out of their committee.

Senator MONTOYA. Now, am I correct in saying that before Mr. Dean got there and these other people that they had already talked to Mr. Liddy about the particular involvement of the CRP?

Mr. MITCHELL. I think the record will show that Mr. Dean had talked to Mr. Liddy on that day, the 19th, and I think his testimony will also show that he did not discuss any of his activities or any of his meetings on the 19th at that meeting at the apartment that night.

Senator MONTOYA. Now, on June 22 you had another meeting, is that correct, not at your apartment but somewhere else?

Mr. MITCHELL. I am sure I had quite a number of meetings on June 22, Senator, I will take and check my log here and we will get to the one that you are talking about.

Senator MONTOYA. Well, there is a question here, and it arose from your testimony yesterday that you were not sure whether the subsequent meeting was on the 21st or 22d, and I am referring to that particular meeting.

Mr. MITCHELL. Well now, which meeting of the 22d are you talking about, Senator?

Senator MONTOYA. Did you have a meeting at the White House on the 22d?

Mr. MITCHELL. I had a meeting at the White House every morning at 8:15 a.m.

Senator MONTOYA. Did you discuss anything relating to the Watergate incident with any individuals at the White House?

Mr. MITCHELL. To the best of my recollection the type of meeting that was held at 8:15 a.m. every morning, there was certainly no discussion of any of the details of the Watergate matter. It was a staff meeting that was held every morning at the White House under these circumstances where you had all of the top staff people from Dr. Kissinger all the way through to the congressional liaison people.

Senator MONTOYA. And did you, during your subsequent visits to the White House, engage in any conversations with Mr. Ehrlichman or Mr. Haldeman about the course of the investigation as it was being conducted by the lawyers for the CRP and others with respect to Watergate?

Mr. MITCHELL. Oh, I am sure that somewhere, sometime along the way, that these discussions were held. I can't pinpoint any particular meeting. We were more heavily engaged in the matters of the campaign than we were discussing the particular aspects of the Watergate investigation.

Senator MONTOYA. Did you discuss the testimony before the grand jury on the part of Mr. Magruder or the testimony that might, that was going to be presented by Mr. Dean with anyone at the White House?

Mr. MITCHELL. The testimony that was going to be presented by Mr. Dean?

Senator MONTOYA. Yes; before the prosecutors and the testimony that was going to be presented by Mr. Magruder before the grand jury?

Mr. MITCHELL. No; to the best of my recollection, Senator, those discussions were not held with anybody at the White House. They were held with Mr. Dean and the lawyers and other people at the committee and not the White House.

Senator MONTOYA. Can you tell this committee whether or not Mr. Haldeman or Mr. Ehrlichman knew anything about the so-called activities trying to cover up the White House involvement with respect to the Watergate?

Mr. MITCHELL. Well, the White House involvement in what respect, Senator? White House involvement in connection with the Watergate?

Senator MONTOYA. Yes.

Mr. MITCHELL. Well, I do not know as there has been any testimony to the effect that the people in the White House were involved in the Watergate.

Senator MONTOYA. Well, with respect to the coverup?

Mr. MITCHELL. Well, eventually along the road, there was discussion in connection with the fact that there was no volunteering or coming forward and that there was a design not to have the stories coming out that had to do with the White House horror activities. There is no question about that.

Senator MONTOYA. Now, let us go into what you stated a few moments ago, that you were clearly motivated by a sincere desire to see the President reelected and that is why you failed to tell him all you knew about Watergate at that time. Now, that is a correct statement, is it not?

Mr. MITCHELL. Yes, sir, if you will add to the Watergate the other activities that we have been talking about.

Senator MONTOYA. Well, I believe you stated on cross-examination a few minutes ago by Mr. Inouye, Senator Inouye, that your sole concern was that the White House horrors should not be disclosed and that is why you did not tell the President about this situation. Is that correct?

Mr. MITCHELL. That is correct, Senator.

Senator MONTOYA. Now, did it ever occur to you that you could separate Watergate from the White House horrors?

Senator ERVIN. Senator, I assume that you are not going to be through with your interrogation right soon and I believe we have a vote. So, we will take a recess until 2 o'clock.

[Whereupon, at 12:30 p.m., the hearing was recessed, to reconvene at 2 p.m., this same day.]

AFTERNOON SESSION, WEDNESDAY, JULY 11, 1973

Senator ERVIN. The committee will come to order.

Senator MONTOYA. Are you ready, Mr. Chairman?

Senator ERVIN. Yes.

Senator MONTOYA. Mr. Mitchell, just briefly, I think it has been established here that you reviewed the Liddy plan three different times, two in Washington, when you were at the Department of Justice and once at Key Biscayne. Is that correct?

Mr. MITCHELL. I would differ with the word "review," Senator. I would put it on the basis that it was presented to me.

Senator MONTOYA. All right.

Mr. MITCHELL. One occasion, of course, was less detailed than the other and, of course, on the third occasion practically no discussion of it.

Senator MONTOYA. Then, later on when, after June 17, it was divulged that some people at the CRP might have been involved in the break-in, you made a statement saying that the CRP was in no way involved "and I had no advance knowledge."

Now, did you mean to say that you had no specific knowledge or did you mean to say that you were not aware of the Liddy plan at that time?

Mr. MITCHELL. No, Senator, that was entirely related to the event of the break-in of the Democratic National Committee.

Senator MONTOYA. All right. Now, after the June 17 affair, you had several meetings with the President and you indicated that you did not want to divulge to the President what you had ascertained now for the reason that you did not want to impair his chances of reelection. Now, after the election, did you think about this, and did you think of the advisability of advising the President after the election because no longer was your motivation in order at the time?

Mr. MITCHELL. Yes, sir. As I have previously testified, I did consider and in retrospect probably should have gone ahead with it at that particular time.

Senator MONTOYA. Why did you not do it?

Mr. MITCHELL. I am not certain that I can give you rationalization for it other than the fact that there was, of course, the fond hope that

there would be changes in the White House personnel, and that the individuals certainly were not going to pursue the type of activities that they had in the past, and that the President would not be burdened with the knowledge that these things had taken place in his White House.

Senator MONTOYA. On October 5, 1972, the President made this statement, made it to the American people, and I quote from the Presidential documents:

> I wanted every lead carried out to the end because I wanted to be sure that no member of the White House staff and no man or woman in a position of major responsibility in the Committee for the Re-Election had anything to do with this kind of reprehensible activity.

I presume you read that statement, I presume you were aware of it. Did not this trigger in your mind the possibility that you might have reversed your determination not to tell the President before the election?

Mr. MITCHELL. Did you say that was October 5?

Senator MONTOYA. October 5, 1972.

Mr. MITCHELL. Well, that, of course was before the election and I do not recall any particular thought that I had on the subject matter at that time, Senator.

Senator MONTOYA. Well, you were fully aware that the President was making public statements indicating that he was trying to get to the bottom of all this, were you not?

Mr. MITCHELL. Yes, sir; I was aware of that. And I am sure he was using the proper departments of Government to do so.

Senator MONTOYA. And in spite of this you did not come forward and tell him what you knew about Watergate?

Mr. MITCHELL. That is correct, Senator.

Senator MONTOYA. And your concern being that you did not want to trigger off any action that might impair the President's reelection, and that is why you did not advise him before the election, did it not occur to you that your desire to insulate the President against disclosure by you of the exact details of Watergate was not exclusive because there were others close to the President who might have done the same thing?

Mr. MITCHELL. I am sure there were others who were close to the President that might have had the same thoughts and the same opportunities. I do not know what their subjective thoughts were.

Senator MONTOYA. What I am suggesting is that the possibility existed at that time that if you did not tell the President, that Mr. Ehrlichman, Mr. Haldeman, or Mr. Dean might do this, did you insure against that thing happening?

Mr. MITCHELL. No, sir. We had no discussions along the lines that you are inferring with respect to the subject matter.

Senator MONTOYA. Well, if your interest was so profound in trying to trigger off any Presidential action that might endanger his chances of reelection, why did you not go to people close to the President to make sure that they would not tell the President about the details involving Watergate?

Mr. MITCHELL. I believe that they are capable of making their decisions on their own. I obviously made mine and I presume that they made theirs independently.

Senator MONTOYA. We have a situation here before the committee and I will close with this, Mr. Mitchell, we have a situation of whether or not the Liddy plan was approved. Was any part of the plan approved by you?

Mr. MITCHELL. No, sir, none whatsoever.

Senator MONTOYA. Did you disapprove of the Liddy plan at Key Biscayne?

Mr. MITCHELL. Yes, sir, I did.

Senator MONTOYA. Completely, did you disapprove it all three times?

Mr. MITCHELL. Yes, sir.

Senator MONTOYA. All right. That is all, Mr. Chairman.

Senator ERVIN. Mr. Mitchell, on yesterday when Senator Talmadge asked you concerning your political activities in respect to the Committee To Re-Elect the President while you were still serving as Attorney General you pointed out that it was not illegal for you to do that.

Mr. MITCHELL. Yes, sir, that is correct, Mr. Chairman.

Senator ERVIN. Yes.

Now, I think we might meditate just a minute on what St. Paul said. He said "All things are lawful unto me but some things are not expedient."

Don't you think it is rather inexpedient for the chief law enforcemen officer of the United States to be engaging in, directly or indirectly in, managing political activities?

Mr. MITCHELL. I do, Senator.

Senator ERVIN. Yes. I was in hopes that that was what you were going to do because when you appeared before the Judiciary Committee on your nomination back on January 14, 1969, you and I had this little colloquy.

Mr. MITCHELL. I remember it very well, Senator.

Senator ERVIN. Yes.

Senator ERVIN. Mr. Mitchell, until comparatively recent years it has been customary for Presidents to appoint the Postmaster General his chief political adviser and agitator. Unfortunately, during recent years this role has been largely taken away from the Postmaster General and given to and exercised by the Attorney General. To my mind there is something incompatible with marrying the function of the chief political adviser and chief agitator with that of prosecutor of crimes against the Government.

Now, I would just like to know whether you think that the primary function and objective of the Attorney General should be giving political advice or doing political agitating before congressional committees or enforcing Federal law and acting as an adviser to the President in his Cabinet in legal matters rather than political.

Mr. MITCHELL. Senator, I would hope that my activities in a political nature and of a political nature have ended with the campaign.

I might say that this was my first entry into a political campaign, and I trust it will be my last. From the termination of the campaign and henceforward my duties and functions will be related to the Justice Department, and as the legal and not the political adviser of the President.

Senator ERVIN. Thank you, sir. I commend your answer.

Senator ERVIN. I am very sorry that you didn't carry out the purpose you announced on that occasion.

Mr. MITCHELL. Mr. Chairman, that would have been my fondest wish. Unfortunately, it is very, very difficult to turn down a request by the President of the United States.

Senator ERVIN. Now, don't you think that what we have been investigating here indicates the desirability of the Congress giving serious consideration to divorcing the Department of Justice from political matters?

Mr. MITCHELL. I would perhaps even go further and suggest that you divorce all of the departments from political matters. I think it would be a very constructive move.

Senator ERVIN. Now here we had a criminal prosecution in which the prosecutors held office at the pleasure of the President, and the tracks from the burglary in the Watergate led directly into the Committee To Re-Elect the President, and it turns out that the lawyers who are defending the seven men indicted in the criminal action were paid, either directly or indirectly, by the Committee To Re-Elect the President or Presidential aides in the White House, and that is a condition which is not calculated to accomplish justice, in my opinion. Of course you were out of the Department of Justice at that time.

Now, twice while you were still Attorney General of the United States and the chief law enforcement officer of the United States, and the chief legal adviser to the President of the United States, meetings were held in your office in the Department of Justice in which such matters were discussed as proposals to bug the opposition political party and to burglarize the headquarters of the opposition party and to employ prostitutes to induce members of the opposition party to disclose secrets, weren't they?

Mr. MITCHELL. They were so discussed and, of course, disapproved.

Senator ERVIN. But the burglary and the bugging was discussed in the second?

Mr. MITCHELL. That is correct.

Senator ERVIN. Then on the third occasion; namely on the 30th of March, Mr. Magruder, who was your deputy director of the committee, visited Key Biscayne where you were and discussed these matters, at least the bugging and the break-in, a third time with you, didn't he?

Mr. MITCHELL. I wouldn't use the term "discussed." They were presented——

Senator ERVIN. They were presented to you?

Mr. MITCHELL. That is correct, sir.

Senator ERVIN. And you say you declined to approve them?

Mr. MITCHELL. That was my testimony.

Senator ERVIN. And you declined to do that on three occasions?

Mr. MITCHELL. That is correct, sir.

Senator ERVIN. Can you explain to me why it was, after you declined on the first occasion, that you had a second discussion on the matter and after you declined on the second occasion, that you had a third discussion of the matter or presentation of the matter?

Mr. MITCHELL. I cannot for the life of me understand as to why this matter was constantly brought back, except for the point that somebody obviously was very interested in the subject matter.

Senator ERVIN. Wouldn't the evidence justify the inference that you did not communicate your disapproval in such an emphatic enough manner to prevent the bugging and the break-in?

Mr. MITCHELL. No, I think the testimony of Mr. Dean and my testimony of yesterday and today is quite to the contrary. In fact, this

was not the type of concept that was envisioned. It was quite different.

Senator ERVIN. Well, Mr. Dean was not the man that was in charge of your committee when you were absent, was he?

Mr. MITCHELL. No, I am not saying that. I am making reference to the fact as to the manner in which these items were disapproved.

Senator ERVIN. And the man who was in charge of your committee when you were absent was Mr. Magruder, wasn't he?

Mr. MITCHELL. That is correct.

Senator ERVIN. And didn't you find out shortly after the 17th day of June that Magruder had financed the burglaries?

Mr. MITCHELL. Yes, sir, that was in the week following the break-in.

Senator ERVIN. In other words, it appeared very shortly that five burglars had been caught in the Watergate and that one of them was Mr. McCord, an employee of your committee?

Mr. MITCHELL. That is correct, sir.

Senator ERVIN. And it also appeared that four of the burglars at that very time had in their pockets money which came from your committee.

Mr. MITCHELL. That was eventually established, yes, sir.

Senator ERVIN. Very shortly thereafter, wasn't it?

Mr. MITCHELL. I believe the week following the break-in.

Senator ERVIN. Yes, sir.

I am informed there is a vote on, so we will have to go and vote.

[Recess.]

Senator ERVIN. Now, very shortly after you found out about the things I inquired of you, you also found that Liddy, who had been general counsel to the Finance Committee To Re-Elect the President, and another employee of your committee, E. Howard Hunt, had been arrested for complicity in the break-in.

Mr. MITCHELL. Senator, may I point out that to the best of my knowledge, Mr. Hunt was never an employee of either one of the committees. Mr. McCord——

Senator ERVIN. Mr. Hunt was employed in the White House, was he not?

Mr. MITCHELL. I have learned that since; yes.

Senator ERVIN. Well, you found out sometime in the summer, did you not, that Mr. Hunt had been sent over to the committee by Mr. Colson?

Mr. MITCHELL. Yes, sir.

Senator ERVIN. And you found out about the same time that Mr. Hunt had been implicated in the burglary of the office of the psychiatrist of Ellsberg?

Mr. MITCHELL. Yes, sir.

Senator ERVIN. And you found out, therefore, that Hunt, a burglar, had been retained on the White House payroll from September 1971 until the break-in.

Mr. MITCHELL. Well, I was not aware of the periods, but I did learn that he had been a consultant to the White House.

Senator ERVIN. And then, after you came back from California, you talked to Mr. Robert Mardian, and Mr. Fred LaRue, and Mr. Dean, and Mr. Magruder about these matters.

Mr. MITCHELL. That is correct, sir.

Senator ERVIN. And from your conversation with these men, you realized that Magruder had participated in the break-in and that he and Dean were engaged in what has been called the coverup?

Mr. MITCHELL. If I can answer just slightly different, Mr. Chairman, we did learn that Magruder had obviously been providing the funds that were used in connection with the activities of the group that did break in.

Senator ERVIN. And did you not find out that Dean and Magruder were trying to conceal these events?

Mr. MITCHELL. Well, this came quite a bit later down the pike but we did obviously learn that this was the case.

Senator ERVIN. About how long afterward?

Mr. MITCHELL. I would believe that it would probably have been the middle of July or some time thereafter.

Senator ERVIN. And you also found that money which had been contributed for the reelection of President Nixon had found its way into the bank account of Barker, one of the burglars at the Watergate?

Mr. MITCHELL. Yes, sir; that came forward quite early.

Senator ERVIN. And then, first, you talked to LaRue and Mardian and they both knew about these events. You could tell that from the conversations they had with you, did you not?

Mr. MITCHELL. They told me, repeated what Mr. Liddy had told them; yes, sir.

Senator ERVIN. And that was that he had participated, had instigated this burglary at the instance of Magruder?

Mr. MITCHELL. That is the basis of their representation to me as to what Liddy had said.

Senator ERVIN. Yes; and from that, your conversation with Robert Mardian and Fred LaRue, you learned that they had been apprised of that fact?

Mr. MITCHELL. That is correct.

Senator ERVIN. You also were informed by Magruder that he, Magruder, was prepared to commit perjury when it went before the grand jury in August rather than to reveal what he knew about these matters?

Mr. MITCHELL. That was correct, sir.

Senator ERVIN. Now, did you agree that that was the proper course of action to take?

Mr. MITCHELL. It was a very expedient one, Senator. At that time in the campaign, so close to the election, we certainly were not volunteering any information.

Senator ERVIN. Well, did you advise Mr. Magruder that perjury was a felony and he ought not to commit perjury when he proposed to you that he commit perjury?

Mr. MITCHELL. I am sure Mr. Magruder was well aware of it.

Senator ERVIN. Yes. Well, did Mr. Mardian and Mr. LaRue ever talk to you about the Magruder proposal to commit perjury?

Mr. MITCHELL. They were present on an occasion or more in which Mr. Magruder stated what he was going to testify to.

Senator ERVIN. Did you ever have any conversation with Mr. Haldeman about these matters?

Mr. MITCHELL. Not until much later on, Senator.

Senator ERVIN. How much later on?

Mr. MITCHELL. This year.

Senator ERVIN. You mean you never had any conversation with Mr. Haldeman until 1973?

Mr. MITCHELL. About the subject matter that you are referring to with respect to——

Senator ERVIN. Well, what about Mr. Ehrlichman?

Mr. MITCHELL. I had no such conversations with Mr. Ehrlichman.

Senator ERVIN. Did you have any information at the time of these other White House horrors, as you call them, about Mr. Ehrlichman trying to enlist the aid of the CIA to suppress investigation of the Mexican checks by the FBI?

Mr. MITCHELL. No, sir, I did not learn of that until a more recent date here, when it had been made public.

Senator ERVIN. You knew about all these other things, however, before the indictments were returned in September against the seven original defendants?

Mr. MITCHELL. When you say all of the other things, you mean the items that we have just discussed here?

Senator ERVIN. Yes.

Mr. MITCHELL. Yes, sir, I did.

Senator ERVIN. And you were aware of the fact that sometime about early September or late August that the President made a statement to the American people to the effect that nobody presently employed in the White House had anything to do with any of these matters?

Mr. MITCHELL. As I recall the statement, Senator, and I am not sure that I can recall it specifically, I believe the statement was to the effect that there was nobody in the White House that was involved in the breaking and entering of the Watergate.

Senator ERVIN. Then the President's statement, as you construed it, didn't indicate that the President was saying that nobody in the White House knew anything about the coverup?

Mr. MITCHELL. Well, I believe the statement referred to involvement. I could be wrong, because I don't remember the contents of it, but I believe that was the case.

Senator ERVIN. Well, I think you stated that Mr. Strachan was liaison between Haldeman in the White House and the Committee To Re-Elect the President?

Mr. MITCHELL. I think you can broaden that, Senator, to the fact that he was liaison between the White House and the Committee To Re-Elect the President.

Senator ERVIN. Yes. And did you not learn that he had been advised by Mr. Dean and Mr. Magruder as to what was going on in the Committee To Re-Elect the President at these times?

Mr. MITCHELL. Well, Mr. Strachan was constantly being advised as to what was going on in connection with the matters at the Committee To Re-Elect the President. In fact, he attended meetings from time to time of the committee.

Senator ERVIN. And he attended for the purpose of advising the people at the White House as to what the committee was doing, didn't he?

Mr. MITCHELL. I presume that was his purpose.

Senator ERVIN. That was his sole function, was it not?

Mr. MITCHELL. I don't know what he did at the White House, but it was the sole function of his relationship with the committee.

Senator ERVIN. Now, as I understand your testimony, you talked to the President twice about Watergate, the first time in June 1972, and the second time on March 22, 1973.

Mr. MITCHELL. When we talked about Watergate, Senator, those were two occasions upon which they were discussed. I also testified yesterday that in some of the political meetings that were had, the general subject matter was discussed as to how the President should approach it with respect to a type of Warren Commission or special prosecutors and other such items. These were in large groups.

Senator ERVIN. Well, you had a conversation with the President about Watergate in June 1972, didn't you? I believe it was June 20.

Mr. MITCHELL. The 20th of June, a short telephone conversation, that is correct.

Senator ERVIN. And you apologized to the President for Watergate?

Mr. MITCHELL. I apologized to the President for not keeping track of the personnel in the committee to the extent that the Watergate matter could have happened.

Now, this is the 20th of June before I had learned of a lot of other circumstances.

Senator ERVIN. Well, you had learned enough by the 20th of June to feel that the Committee To Re-Elect the President, or at least some officials of it, were implicated in the Watergate break-in, didn't you?

Mr. MITCHELL. With respect to McCord, yes, and this is the basis for my apology.

Senator ERVIN. Well, didn't the President ask you what you meant by your apologizing?

Mr. MITCHELL. I think I made it quite clear to him that I hadn't exercised sufficient control over the activities of all of the people in the committee.

Senator ERVIN. Didn't the President ask you then what you knew about Watergate and why you were apologizing?

Mr. MITCHELL. I think I told him what I knew about Watergate at that particular time, which was very, very little.

Senator ERVIN. Well, he could have learned about McCord by reading the newspaper, couldn't he?

Mr. MITCHELL. Obviously. That is where I learned about it.

Senator ERVIN. And every day the newspapers and the other media of communication, from that time on until the present, were carrying new revelations about Watergate, weren't they?

Mr. MITCHELL. From time to time, that was a correct statement; yes, sir.

Senator ERVIN. Now, when did you learn that Colson had allegedly sought to persuade Caulfield to bomb the Brookings Institute?

Mr. MITCHELL. Oh, it was sometime during one of the conversations that I had had with Mr. Dean along the way.

Senator ERVIN. When did you first learn about the operations of Segretti?

Mr. MITCHELL. When I read about them in the newspapers.

Senator ERVIN. When was that?

Mr. MITCHELL. Sometime in the fall of 1972.

Senator ERVIN. You hadn't learned about that until September?

Mr. MITCHELL. No, sir, I had not heard of Mr. Segretti.

Senator ERVIN. When did Secretary Stans tell you that he had furnished $75,000 to assist in paying the counsel fees for the counsel for the seven Watergate defendants?

Mr. MITCHELL. The same time he told it to this committee. I saw it on television, that was my first knowledge of it.

Senator ERVIN. You had no knowledge of that before?

Mr. MITCHELL. No, sir.

Senator ERVIN. Well, did Mr. Dean come to New York and talk to you about the demands of some of the defendants for money?

Mr. MITCHELL. Yes; he did later in the year. I believe the occasion had to be in November or perhaps even later than that.

Senator ERVIN. Didn't you hear anything about the fact that these defendants were demanding money for counsel fees and for support during the summer of 1972?

Mr. MITCHELL. I did not, as I have testified here yesterday, Mr. Chairman, the Mardian-Liddy discussions—Mardian-LaRue discussions with Liddy, the matter that was mentioned as to whether or not the committee could provide money for the bail for the individuals and that was turned over by the committee. Apparently the activities of raising money for support and counsel fees continued on and it wasn't later until sometime in the late summer or fall that I heard about the activities.

Senator ERVIN. You did hear about—you were given to understand that either the committee or Mr. Kalmbach were furnishing the money to pay counsel fees and support to the families of the seven Watergate people?

Mr. MITCHELL. Yes, sir, I heard that as I say later on after the time frame.

Senator ERVIN. And later you were informed that there was some doubt as to whether McCord would stand fast in silence, weren't you?

Mr. MITCHELL. I was so advised, yes, sir.

Senator ERVIN. Yes. And you were asked to see what you could do about that, weren't you?

Mr. MITCHELL. About what, Senator?

Senator ERVIN. To see what McCord was going to do.

Mr. MITCHELL. I am not quite sure, Mr. Chairman, that I get the thrust of your question.

Senator ERVIN. Well, who told you about the fear that McCord might not remain silent?

Mr. MITCHELL. I believe it was Mr. Dean.

Senator ERVIN. When was that?

Mr. MITCHELL. Sometime after the first of the year, I would believe.

Senator ERVIN. Now, you mentioned the fact that there had been some talk from somebody that came to you to the effect that Hunt said he would not take a promise of immunity from anybody except Colson. When was that?

Mr. MITCHELL. That was sometime directly after the first of the year also, I believe preceding the trial. Mr. Dean related that conversation and it had to do with the fact that Mr. Hunt's interest in Executive clemency would only be accepted from Mr. Colson.

Senator ERVIN. Now, as I recall, you testified after you had moved to New York that you came down to Washington and was here on March 22 and had attended a meeting where the President and Dean and perhaps Ehrlichman and Haldeman were present.

Mr. MITCHELL. Yes, sir, that is correct.

Senator ERVIN. And you discussed this committee?

Mr. MITCHELL. Yes, sir.

Senator ERVIN. And the President was adhering at that time to the notion that he could invoke executive privilege and keep any of his present or former White House aides from testifying before the committee. Isn't that so?

Mr. MITCHELL. I believe that the fact that that impression had been put out from the White House was one of the reasons for the meeting. Obviously, of course, the President could waive it any time he wanted to and that was one of the subject matters that was discussed at the meeting of March 22.

Senator ERVIN. Didn't you advise him not to invoke any such claim of executive privilege?

Mr. MITCHELL. I had told the President, and I presume it was by way of advice, if he thought it was appropriate to accept it, and this is, of course, in the time frame of the Gray hearings, where this subject matter became very lively, in which I suggested that I thought that his only problem, his only public problem, with respect to these matters was the fact that he was indicating that he would invoke executive privilege with respect to the staff and the White House and I thought this was something he should not do because it was putting him in a very poor light.

Senator ERVIN. Don't you agree with me that any person, whether it is the President or a Senator or a hod carrier or anybody else, who gives the impression to the public that he is withholding information within his power is putting himself in a bad light?

Mr. MITCHELL. Did we start off with the Senators and then——

Senator ERVIN. I came——

Mr. MITCHELL. Hod carriers?

Senator ERVIN. I started up with the President and came down by gradations. [Laughter.]

Mr. MITCHELL. Well, Mr. Chairman, if we will leave out the President, I will certainly agree with you wholeheartedly. I think the President has a separate question with respect to the separation of powers.

Senator ERVIN. I was discussing psychology. From a psychological standpoint, don't you think that the President who withholds information or papers about a matter that is being investigated runs the risk of having many Americans draw an inference that the reason he withholds them is because he realizes they would be unfavorable to him?

Mr. MITCHELL. I think they may but I am sure that there is not always that simple question or other factors involved that have to be weighed and you have, frequently you have, two risks that have to be weighed and certainly it is the case in this area.

Senator ERVIN. Do you accept the concept that executive privilege entitles the President to deny a court or a congressional committee the testimony of his former or present aides about everything?

Mr. MITCHELL. It depends entirely upon the area, Mr. Chairman.

Senator ERVIN. Yes.

Mr. MITCHELL. And, of course, if they are conversations or direct communications with the President and particularly with respect to certain subject matters, I think that he has that power.

Senator ERVIN. Well, let me state my concept of executive privilege and see if we agree or disagree. I think a President is entitled to have kept secret confidential communications had between him and an aide or that he had among his aides which were had for the purposes of assisting the President to perform in a lawful manner one of his constitutional or legal duties.

Mr. MITCHELL. Senator, I agree with that concept.

Senator ERVIN. Yes. And I think also that is the full scope and effect of executive privilege. Since there is nothing in the Constitution requiring the President to run for reelection, I don't think that executive privilege covers any political activities whatsoever. They are not official and have no relation to his office. Do you take the position that the President is entitled to keep political secrets from the Congress or political activities under executive privilege?

Mr. MITCHELL. Not under the outline that you have provided.

Senator ERVIN. I also take the position that executive privilege does not entitle a President to have kept secret information concerning criminal activities of his aides or anybody else because there is nothing in the Constitution that authorizes or makes it the official duty of a President to have anything to do with criminal activities.

Mr. MITCHELL. I would agree.

Senator ERVIN. Yes. So, I cannot see if any aide has any information about criminal activities or if any papers in the White House that constitute reports from—to any White House official about criminal activities, that they are privileged in any way whatsoever.

Mr. MITCHELL. I would have to qualify that with respect to certain areas that might involve national security, and if we will leave that out I will agree with you.

Senator ERVIN. Well, national security is defined in the Executive order as comprising only two fields: First is national defense and the other is our relations with foreign countries. I don't think there is anything else that falls in the field of national security, according to the definition in the Executive order which was signed by President Nixon, and I think that is also clear that the acts of Congress make it very clear what national defense is.

Mr. MITCHELL. I quite agree with you.

Senator ERVIN. Yes.

Mr. MITCHELL. I made the exception and you have very properly, I think, defined it.

Senator ERVIN. Yes, well, I thank you. I am going to read you something that—you managed President Nixon's campaign in 1968 as well as in 1972, didn't you?

Mr. MITCHELL. Well, I managed it for a while in 1972 and for most of the time in 1968.

Senator ERVIN. Now, in his campaign in 1968 Nixon appealed to voters for their support in these words:

> America is in trouble today not because her people have failed but because her leaders have failed. Let us begin by committing ourselves to the truth, to see it like it is, and to tell it like it is, to find the truth, to speak the truth, and to live the truth.

Now, do you have any reason to think that between that time and 1972 that President Nixon has changed his position, his fidelity to the truth?

Mr. MITCHELL. I have no doubt whatsoever that his fidelity to the truth is the same as it was in 1968.

Senator ERVIN. And yet, he said that the way to save America in 1968 was "to find the truth, to speak the truth, and to live the truth."

And yet, when 1972 came and these White House horrors became known to you, you did not take the advice that President Nixon gave us all in 1968, did you?

Mr. MITCHELL. Not under that particular guideline, I assure you.

Senator ERVIN. In other words, not only was it true in your case, but it was true in the case of Mr. Mardian, Mr. LaRue, Mr. Magruder, Mr. Dean, and Mr. Ehrlichman, was it not?

Mr. MITCHELL. Well, I cannot characterize those gentlemen and their activities.

Senator ERVIN. Well you know that Mr. Dean knew about the Watergate affair to some extent, that Mr. Mardian knew about the Watergate affair to some extent, that Mr. LaRue knew about the Watergate affair to some extent, and that Mr. Magruder knew about it to some extent and that none of them made any public statement disclosing what they knew.

Mr. MITCHELL. With the use of the words "to some extent," I will agree with your statement, sir.

Senator ERVIN. Yes. Now, you have told us that you talked to the President on many occasions, either in person or by phone between June 17, 1972, and March 22, 1973. Is that not right?

Mr. MITCHELL. There were considerable number of occasions; most of them, of course, were in group meetings.

Senator ERVIN. Did you at any time tell the President anything you knew about the White House horrors?

Mr. MITCHELL. No, sir, I did not.

Senator ERVIN. Did the President at any time ask you what you knew about Watergate?

Mr. MITCHELL. Not after that first discussion that we had on the telephone, I believe it was on June 20.

Senator ERVIN. Well, if the cat hadn't any more curiosity than that it would still be enjoying its nine lives, all of them.

Mr. MITCHELL. Well, I hope the President enjoys eight more of them.

Senator ERVIN. We will take a little recess.

[Recess.]

Senator ERVIN. Mr. Mitchell, as I understand your testimony, you knew that Magruder was subpenaed to go before the grand jury some time about August?

Mr. MITCHELL. I knew that Magruder made an appearance before the grand jury in August, yes, sir.

Senator ERVIN. And he had told you that he was prepared to commit perjury rather than reveal the truth?

Mr. MITCHELL. That is correct.

Senator ERVIN. And am I doing you an injustice to ask you whether or not you preferred for Magruder to commit perjury rather than to reveal the truth?

Mr. MITCHELL. I do not think any of your questions, Senator, could possibly be an injustice. The preference, obviously, was that the matter not be disclosed.

Senator ERVIN. Now, you state that you kept silent concerning the things you knew because you considered the reelection of President Nixon of such extreme importance.

Mr. MITCHELL. That is correct, sir.

Senator ERVIN. Do you know anything about any plans to use the money that had been contributed for the reelection of President Nixon in 1968 or 1972 to sabotage the campaigns of the other Democratic candidates?

Mr. MITCHELL. I have—I do not know what your word "sabotage" means, Mr. Chairman. I do know that there were activities that were carried out that I have learned of subsequently. They are all second- and third-hand information.

Senator ERVIN. Now, I want to talk to you just a little bit about the Presidency. I do not consider—you and I may disagree on this, but I do not consider the occupant of the Office of the President, as important as that Office is, to be a sacrosanct person, occupying a position above the law and above all other Americans.

Mr. MITCHELL. If you wish a response to that——

Senator ERVIN. I would be glad to have your comment on it.

Mr. MITCHELL. My comment would be that the Presidency obviously has to be held in the highest regard, respect, and obviously, he is not above the law, nor is any other citizen.

Senator ERVIN. Well, why should a President be immune from subpena or from voluntarily appearing before a congressional committee investigating a matter of the importance of this matter?

Mr. MITCHELL. Senator, I am out of the business of giving legal advice, at least for the time being, and I do not think I can comment on that subject.

Senator ERVIN. Well, the only thing I have seen definitely on that point is the opinion of Chief Justice Marshall in the *Aaron Burr* case in which he ordered a subpena duces tecum to be issued to Thomas Jefferson to come to the Circuit Court in Richmond and present some letters he had received from General Wilkinson. So far as I know, that case has never been overruled or disputed by any court.

Now, I wonder if your statement ought not to be changed a little bit. You say that you did not want President Nixon to find out about the White House horrors. Is it not the fact that you did not want the American people to find out about it.

Mr. MITCHELL. Well, I think that is one and the same, because as I testified before, if the President had found out about it, obviously, he would have pursued his responsibilities in that area very vigorously.

Senator ERVIN. And you were afraid to tell the President—well, I won't say afraid, but you preferred not to tell the President and didn't tell the President because you didn't want the President to do what you called lowering the boom?

Mr. MITCHELL. That is exactly correct.

Senator ERVIN. And if he had lowered the boom, the thing would have been exposed?

Mr. MITCHELL. I don't think there is any doubt about it.

Senator ERVIN. And the American people would have learned about it?

Mr. MITCHELL. They would have learned about it.

Senator ERVIN. And it might have affected the votes of the American people?

Mr. MITCHELL. It is quite conceivable—I don't expect to an extent that some of us might believe. I think that is a matter for debate, but it certainly could very well have affected the outcome.

Senator ERVIN. Well, I have a higher opinion of the American people than that. I think if the President had lowered the boom, if you had told the President and the President had lowered the boom and come out in the performance of his constitutional duties to take care that the laws be faithfully executed, I think he would have made his election more sure than ever.

Mr. MITCHELL. Well, except for one circumstance, Senator. And that is, of course, they impute the wrongdoings of the lowest individual in the White House, of course, right to the top. This is where the problem always seems to arise.

Senator ERVIN. Now, don't you think that there is danger of people doing that if the President persists in his determination not to come before this committee?

Mr. MITCHELL. I am not sure I understand your question, Mr. Chairman.

Senator ERVIN. Well, the President announced about Friday—I think is the day—that he would not appear before this committee and that he would not allow this committee to have access to what he called Presidential papers, which seem to cover all of the papers in the White House or in the executive branch of the Government. I don't know exactly what he meant by that.

Mr. MITCHELL. I am sure I don't, either, Mr. Chairman.

Senator ERVIN. But isn't it a rule of evidence that when a person refuses to produce evidence within his power to produce that an inference may be drawn that the reason he does not produce it is because he knows it to be unfavorable to him?

Mr. MITCHELL. This I believe is a rule of evidence in the courts of law. When you are dealing with the separation of powers involving the President, I think it has to be looked at perhaps in a different light.

Senator ERVIN. Well, isn't that a rule that applies just as much to the search for truth as it does in courts of law? It is a rule of logic, it seems to me.

Mr. MITCHELL. I would agree with you with respect to the search for truth. There is no question about it. But as I say, there is another factor involved here and that has to do with the separation of powers.

Senator ERVIN. Well, I don't believe there is anything in the Constitution that says the powers of the Presidency should be separated from truth. At least, I have never seen it.

Mr. MITCHELL. I would have thought that the Founding Fathers who wrote the Constitution might have left that out by design.

Senator ERVIN. Well, I don't think it ever occurred to them that a President wouldn't be willing to do just exactly like President Nixon said we ought to all do, and that is to seek the truth, to find the truth, to speak the truth, and live the truth.

I was somewhat intrigued by the question that Senator Montoya asked you.

Now, it is your explanation that you were afraid that the revelation of the White House horrors prior to November 6 might have some

disastrous effect on the election. But when the seventh came, that danger was past and why didn't you tell the President, knowing that one of his chief duties under the Constitution is to take care that the laws be fatihfully executed, on the day after the election, or sometime after, about what you knew about this?

Mr. MITCHELL. I would repeat what I said previously, Senator, that it wasn't my responsibility to do so. There were other people involved. They were changing the guard, so to speak, at the White House, and the fond hope was that the Presidency would not be hurt by the activities of others that were carried on in the White House.

Senator ERVIN. And was it your found hope at that time that the truth would never overtake anybody other than the seven people in the original case?

Mr. MITCHELL. Well, it was my fond hope that whatever came out of it would not mar the Presidency?

Senator ERVIN. Well, it was another President named George Washington who had an adviser named Alexander Hamilton, and Alexander Hamilton laid down two precepts. One was:

> But you must by all means avoid the imputation of evading an inquiry and protecting a favorite.

Is it conceivable that you are trying to protect the President? Or was it conceivable that you were trying to protect the President?

Mr. MITCHELL. Protect the Presidency, not from the fact that he was involved, but the fact that the derivative activities of those in the White House might cast a cloud upon the President.

Senator ERVIN. And Hamilton also stated:

> It was my duty to state facts to the President.

You don't feel like it was your duty to state facts to the President?

Mr. MITCHELL. Under certain circumstances, there is no question about that.

Senator ERVIN. Well, in respect to the Watergate horrors, you never felt any compulsion, either before or after election day, to advise the President of what you knew?

Mr. MITCHELL. In retrospect, Mr. Chairman, after the election was over, I probably should have done so. I didn't, and it probably was a mistake.

Senator ERVIN. Well, as a matter of ethics, don't you think you should have advised him about these matters just as soon as you learned about them?

Mr. MITCHELL. Well, that is a much more difficult question, because as I have said before, many times here in the last 2 days, I had the feeling that it would affect his reelection and I thought that that was paramount.

Senator ERVIN. Now, did you—you state that you never told the President about Watergate except the matter that you mentioned on the 21st of June, and he never asked you anything about the Watergate. You do not know what information the President might have gotten about this matter from other sources, do you?

Mr. MITCHELL. No, I have no information on that, Mr. Chairman.

Senator ERVIN. Mr. Mitchell, I want to thank you. You have been extremely patient with me and you have been extremely patient with the committee.

Mr. MITCHELL. I appreciate that, Mr. Chairman.

Senator ERVIN. Senator Weicker.

Senator WEICKER. Mr. Mitchell, I am going to repeat a question that was asked of you this morning by Senator Inouye and I would like to have an answer to it. Senator Inouye asked you "To what lengths you now are willing to go to deceive in an effort to avoid further implication of the President in the activities under investigation by this panel? More specifically"——

Mr. MITCHELL. Senator, I cannot hear you, I am sorry.

Senator WEICKER. Senator Inouye's question to you this morning, Mr. Mitchell, was "To what lengths are you now willing to go to deceive in an effort to avoid further implication of the President in the activities under investigation by this panel? More specifically, are you willing to lie to protect the President", to which question you responded "Senator, there is one great thing about the answer that I can give to that question to you. I do not have to make that choice because to my knowledge, the President was not knowledgeable certainly about the Watergate or certainly knowledgeable about anything that had to do with the coverup if that is the phrase that we are using, so I do not have to make that choice."

Now, Mr. Mitchell, I am going to ask you the same question. I do not consider that an answer to Senator Inouye's question, and so I will repeat his question, also my question: Would you lie at the present time to protect the President?

Mr. MITCHELL. Well, I can—I should answer it the same way I did this morning, Senator, but I will add to it that if you are putting a hypothetical question to me the answer would be no, that I would not here under oath, and I am answering a hypothetical question so far as any knowledge is concerned.

Senator WEICKER. Now, on September 5, 1972, in the deposition in the case of *Lawrence O'Brien* v. *James McCord*, when you were asked the following question by Edward Bennett Williams, you were asked "Was there any discussion at which you were present or about which you heard when you were campaign director concerning having any form of surveillance on the Democratic National Committee headquarters," and your answer at that time on September 5, 1972, was: "No, sir, I can't imagine a less productive activity than that."

Mr. MITCHELL. That is correct, and I stand on the answer that I gave this morning that refers to the activities of the security group the question was asked with respect to.

Senator WEICKER. Of course, even by September 5, 1972, you had been informed by Mr. LaRue and Mr. Mardian on June 21 as to what had occurred, had you not?

Mr. MITCHELL. Yes, but this question, of course, was pre the June 17 event, as I recall the question, and of the whole line of questioning.

Senator WEICKER. The question was asked you, Mr. Mitchell, on September 5, 1972.

Mr. MITCHELL. I am well aware of the date of it, Senator, but I am talking about the context in which the question was asked.

Senator WEICKER. In other words, you felt that you answered that question truthfully?

Mr. MITCHELL. I did.

Senator WEICKER. On March 29, 1973, you made the statement in a CRP press release "I deeply resent the slanderous and false statements about me concerning the Watergate matter reported as being based on hearsay and leaked out of the Ervin Committee. I have previously denied any prior knowledge of or involvement in the Watergate affair and again reaffirm such denials."

Mr. MITCHELL. And I have so testified here in the last 2 days.

Senator WEICKER. And again, this was said on March 29, 1973, even though you have also testified before this committee of the meetings of January 27 and February 4 and then the meeting with Messrs. Mardian and LaRue on the 21st of June and you still make this statement on March 29, 1973?

Mr. MITCHELL. And that statement does not contradict the fact as I have so testified here.

Senator WEICKER. Now, you have testified that on June 21, 1972, you were briefed by Messrs. Mardian and LaRue concerning the statement Liddy had given them the day before. Why did you fail to mention your knowledge of this information when you were interviewed by the staff of this committee on May 10 of this year and, in fact, you only gave the information to the staff on July 9 after it came to your attention that the committee had met with Messrs. LaRue and Mardian and had this information in their ken. Why did you wait, in other words, until July 9 to indicate your knowledge of a meeting which you had called between yourself, Mardian and LaRue?

Mr. MITCHELL. Senator, I did not call that meeting, and I am not sure it was held on the 21st or the 22d. Mardian and LaRue came in to brief me on the subject matter and, as I recall, my meeting with the staff up here, whatever date it was, I was being responsive to the questions that they were asking me.

Senator WEICKER. Well, you were asked specifically what you knew of the coverup and you denied any knowledge except that you had heard that payments were being made to the defendants which you agreed to in fear of revealing Plumbers activities.

Mr. HUNDLEY. Excuse me, Senator, I was present with Mr. Mitchell on that occasion, and I remember very well it was the day that an action had been taken up in New York involving Mr. Mitchell, and the whole interview was very courteous, very brief and very general only attended by staff members, and to the very best of my recollection, every question that was asked was answered and answered truthfully and it was made very clear at that meeting that they really regretted the circumstances of the timing of the interview and that we would come back for more detailed and substantial interviews, which we did.

Senator WEICKER. All right. Let's start at the beginning here, if we can, in going over the testimony that has been presented by you, and do some probing. I must confess, Mr. Mitchell, that as I have sat here and listened to your testimony the only difficulty I find with it is that it sometimes is difficult to realize that we have sitting before the committee not some administrative assistant to some deputy campaign director but we have the campaign director sitting before this committee, and indeed we don't have some Deputy Assistant Attorney General sitting before the committee, we have the Attorney General of the United States sitting before the committee.

Now, on the 27th of January, 1972, Gordon Liddy presented a plan in your office, in the office of the Attorney General of the United States, and that plan, complete with visual aids, included elaborate charts of electronic surveillance and breaking and entering and prostitution and kidnaping and mugging. Now you have indicated that in hindsight you probably should have thrown him out of the office.

Mr. MITCHELL. Out of the window.

Senator WEICKER. Maybe even out of the window, in hindsight.

The life of every American is or to a great degree, his liberty, protection of all of his rights, sits in the hands of the Attorney General of the United States, and do you mean to tell me that you sat there through that meeting and, in fact, actually had the same man come back into your office for a second meeting without in any way alerting appropriate authorities, in this particular case, the President of the United States?

Mr. MITCHELL. That is exactly what happened, Senator. And, as I say, in hindsight it was a grievous error.

Senator WEICKER. Grievous error when, that you didn't notify him right away or you didn't notify him at all?

Mr. MITCHELL. I think both. I don't think it would have been necessary to notify the President with respect to the meetings in the Justice Department. I think they should have been handled differently on a different level.

Senator WEICKER. You mean after listening to what we would both agree are outlandish plans, that you were neither moved to great anger in your capacity as Attorney General of the United States, which certainly everything that he proposed runs contrary to what you are supposed to stand for at that moment?

Mr. MITCHELL. I was moved to considerable anger. That is the reason that the plans were turned down and he was told to go and burn them and forget about such things.

Senator WEICKER. Well, obviously you didn't make much of a point to the man since he was back in your office on February 4; isn't that correct?

Mr. MITCHELL. He should have understood, got the message.

Senator WEICKER. Yes, but I mean he came back into your office, he was back into your office on February 4?

Mr. MITCHELL. Yes, with an entirely different concept, not the concept, one that would be approved but an entirely different concept.

Senator WEICKER. Economy plan.

Mr. MITCHELL. I would not put it as an economy plan, I would put it on the basis that it was considerably changed but he still hadn't gotten the message as to what the interest of the committee was or should have been.

Senator WEICKER. Well, the fact is, forget, for 1 minute, politics, let's just talk about your position as Attorney General of the United States. I find it inconceivable, unless there seems to be at least some willingness to share a portion of the mentality that you didn't go ahead and have the fellow arrested for even suggesting this to the Attorney General of the United States.

Mr. MITCHELL. Senator, I doubt if you can get people arrested for suggesting such things but, as I said——

Senator WEICKER. For suggesting illegal acts to the Attorney General of the United States, I think that is probably grounds for arrest.

Mr. MITCHELL. Do you really, Senator?

Senator WEICKER. I do, I do.

Mr. MITCHELL. I would have some doubts. I don't know what part of title 18 would cover that but that is not the point that I am sure you are trying to get at. The point is that I think I made it eminently clear that those acts were not in accord with the concept that we had for the purpose of gathering information of intelligence and to secure the campaign against harmful demonstrators. That was the concept of the plan that was discussed, and if you recognize Mr. Dean's testimony it was so stated at one of those meetings that that was the the concept in which we were interested.

Senator WEICKER. Well now, it is true that the elements of the plan contained considerably more than just actions against demonstrators.

Mr. MITCHELL. There is no question but that the plans presented did, but it was not the intention that the activities of Mr. Liddy and the gathering of information intelligence and the protection of the campaign against demonstrators was the concept in which we were looking forward to and which we understood would be the case.

Senator WEICKER. Now, since your sensibilities as Attorney General were not overly offended in this matter what about your sensibilities as the shortly-to-be-appointed director of the President's campaign effort. Here is a man who is standing before you as the chief counsel of his reelection effort, I mean it didn't occur to you to call up the President and say, "I have got some pinwheel in my office here that is going to be the counsel to your reelection campaign and I think I ought to warn you—I think I ought to warn you—you have got a lot of trouble on your hands."

In other words, in a political sense, it didn't occur to you to go ahead and warn anybody to get this fellow off the boat, if you will.

Mr. MITCHELL. Senator, it never occurred to me that anybody would carry out such activities particularly without any authorization to do so.

Senator WEICKER. Did it ever occur to you that anybody would present such a thing, Mr. Mitchell?

Mr. MITCHELL. It was pretty hard to conceive but I do not know why it was done or who was the author or the sponsors of it. The fact of the matter is that it was turned down and turned down very hard and terminated on that very day on which it was presented.

Senator WEICKER. Well, in any event, he still had sufficient standing before the Attorney General and the then-to-be director of the campaign so that he was back in your office on February 4, with, admittedly, a scaled-down plan. But let us get back to the 27th of January 1972. At 11:15 in the morning, you go through this presentation, which both of us would describe as incredible. At 2:30 that afternoon, you talked to the President of the United States, and no mention is made at all of what had transpired in the office of the Attorney General that morning?

Mr. MITCHELL. Absolutely, Senator. I do not know how often you get to talk to the President of the United States, but he is the one that normally initiates the conversation and the subject matters that are discussed.

Senator WEICKER. But no conversation, as incredible—I have never heard, and I am sure that you had never heard of such a plan in all your career in politics. Certainly, I have never heard of such a plan. So this is not just something that stands just over the line, if you will. This is fantasy, this is unbelievable. And this man is holding a responsible position in the Committee To Re-Elect the President. You have the option of talking to the President hours after this idiot is in your office, and you say nothing. It that right?

Mr. MITCHELL. That is correct.

Senator WEICKER. Now, you stated in your testimony yesterday if you have the transcript there——

Mr. MITCHELL. No, sir, I do not, but we will be glad to listen to it.

Senator WEICKER. In any way that the committee can be helpful to you, I do not want to catch you on something. I want you to have the words before you.

You stated in your testimony yesterday that Mr. Magruder was wrong when he said you "were focusing on the Democrats and Mr. O'Brien because of Mr. O'Brien's vocal activities in the ITT case."

What I would like to do is to refresh your memory. Specifically, you stated—this is in relation to the February 4 meeting:

> Mr. MITCHELL. It did, but there again, there are faulty recollections with what was discussed at that meeting, what the concept of it was. I violently disagreed with Mr. Magruder's testimony to the point that the Democratic National Committee was discussed at a target for electronic surveillance for the reasons that he gave, number 1, with respect to the Democratic back story. We are talking now about the 4th of February.
>
> Mr. DASH. Yes, I know, Mr. O'Brien's the reason for centering in on Mr. O'Brien, I believe.
>
> Mr. MITCHELL. That is correct, and, of course, the newspaperman did not have his column that Magruder referred to until the 23rd of February. He said we were focusing on the Democrats and Mr. O'Brien, because Mr. O'Brien's vocal activities in connection with the ITT case, and Mr. Anderson did not publish his column until the 29th of February, and so that what I am pointing out is that this meeting was a relatively short meeting and it was rejected again because of the fact that it had these factors involved. But these targets were not discussed.

Do you want to stand, Mr. Mitchell, with that statement that this was the first knowledge that you had of the Anderson column, when it was published?

Mr. MITCHELL. That I had the—the first knowledge that I had of the Anderson column?

Senator WEICKER. That is right. In other words, the implication is that it was not until the Anderson colunm on February 28 that you became significantly concerned with Mr. O'Brien's effectiveness with the ITT story; in other words, 24 or 25 days after the February 4 meeting.

Mr. MITCHELL. Well, Mr. O'Brien had written a letter that had received practically no publicity whatsoever, and it was not until the Anderson column about the Dita Beard memorandum was published on the 29th that this received any publicity or any concern.

Senator WEICKER. In other words, you had received a letter from Mr. O'Brien, actually back in December, December of 1971——

Mr. MITCHELL. I am not sure whether I received it or somebody else did, but it had no concern as far as the tough political picture was involved. The concern arose after the publication of the December 28 column by Mr. Anderson.

Senator WEICKER. But in fact, there was a concern with Dita Beard, with the ITT matter, as early as February 4. But your concern was not precipitated by the Anderson column, is that correct?

Mr. MITCHELL. I am not quite sure that I got your double concern, Senator.

Senator WEICKER. Let me be very specific. You have already indicated that you had received the letter.

Mr. MITCHELL. What I am saying is it became a matter of public controversy at the time that the Jack Anderson column was published February 29 and it was not of great moment before then.

Senator WEICKER. Well, let us examine that for a minute. On February 4, 1972, is it fair to say that the ITT matter was a potential concern?

Mr. MITCHELL. Not so far as I can recall or not so far as I would assess it under the circumstances which you have just related.

Senator WEICKER. Well, do you recall that there had been newspaper articles back in 1971 relative to ITT, relative to the Dita Beard memorandum—not the memorandum but the subject matter of it?

Mr. MITCHELL. Yes; I recall that the ITT matter was constantly in the newspapers. But I am talking about the circumstances that arose which had received the great notoriety after the publication of the Anderson column.

Senator WEICKER. And it is true that you had received an earlier letter from Mr. O'Brien on the matter?

Mr. MITCHELL. I am not sure whether I received it or whether the President received it or who received it. I knew that there was such a letter, but there was not very much attention paid to it at the particular time and it certainly did not receive a great deal of public clamor.

Senator WEICKER. Had Mr. Anderson's office contacted you relative to the Dita Beard memorandum prior to its publication in the press?

Mr. MITCHELL. I believe, if my memory is correct, that they called the public information office in the Justice Department the day they were to publish it or the day before.

Senator WEICKER. Specifically, on February 25.

Mr. MITCHELL. It could have been that far back, but I would doubt it. Or at least, that is not my recollection. It could be.

Senator WEICKER. Then, on February 29, Dita Beard was spirited off to Denver by Mr. Gordon Liddy, is that correct?

Mr. MITCHELL. I do not know what date it was. This was one of the matters that Mr. Mardian and Mr. LaRue told me that Mr. Liddy had told them. But what the dates are, I am not aware of it and was not aware of it at the time.

Senator WEICKER. You were not involved with the plans to spirit Dita Beard off to Denver by Mr. Gordon Liddy?

Mr. MITCHELL. No; I can assure you that that is the case.

Senator WEICKER. Who was in charge of that operation?

Mr. MITCHELL. I do not know. You will have to ask the parties that were involved in it. The only information I had on it came through the Mardian-LaRue discussion with Mr. Liddy, who stated that he had been involved in it.

Senator WEICKER. Now, Mr. LaRue states that on March 30, 1972, when Mr. Magruder presented the Liddy plan to you in Mr. LaRue's presence, that rather than rejecting it, you merely told Mr. Magruder

that it did not have to be decided at that time. Is there any way that you can relate to Mr. LaRue's testimony as to what occurred at that moment in time?

Mr. MITCHELL. No; my recollection is very distinctly as to what I testified on yesterday, that the matter was rejected and it was rejected on the basis that I was tired of hearing of these things and did not want to hear about them again.

Senator WEICKER. All right. Now, let's move to your meeting with Mr. Liddy on June 15, 1972, 2 days before the break-in. What time of day did you usually leave the office when you were Attorney General or campaign director?

Mr. MITCHELL. It ranged all the way from 6 to 9.

Senator WEICKER. Well, in the first 5 months of 1972, your logs show no appointments after 6 p.m. Does that seem to correspond with your recollection?

Mr. MITCHELL. No, it—after 6 p.m.?

Senator WEICKER. That is right.

Mr. MITCHELL. Well, I haven't been through them to ascertain that, but it was not unusual for me to work on until 7 or 8 o'clock, sometimes 9 o'clock at night.

Senator WEICKER. Well, there is no record of it, certainly that I have in my possession, and the pattern of ending at 6 o'clock or before continued into June, with one exception. On the 15th of June, you had a 6:40 p.m. appointment, an appointment with a man who, as it turns out, it would have been well not to have been seen coming to and from your office, G. Gordon Liddy. This after hours appointment happened only once in all the time, at least as to the logs we had, that you were Attorney General or campaign director in 1972 prior to June 17.

Mr. MITCHELL. Senator, are you aware of the purpose and contents of that meeting?

Senator WEICKER. I am going to get—my question is simply do you maintain that this meeting was not arranged because you were aware you were meeting with a man whose association could embarrass you?

Mr. MITCHELL. That is not the case at all, Senator. Do you want the facts as to how the meeting was structured?

Senator WEICKER. Yes; I would like to have the fact as to how the meeting was structured and the contents——

Mr. MITCHELL. It is very simple. Mr. Liddy had written a letter to the Washington Post, which was subsequently published, at the request of Mr. Stans responding to some charges that were made by somebody on the staff of the General Accounting Office about the failure of the finance committee—the failure of the finance committee to comply with certain provisions of the Corrupt Practices Act. The letter was brought to Mr. Shumway, who was in charge of public information at the Committee for the Re-Election of the President. Mr. Shumway said that he did not want that letter published without my approval, so Mr. Shumway brought Mr. Liddy into my office.

We looked at the letter and I gave the approval to its publication and that was the total sum of that meeting. And that is the only time that I saw or talked to Mr. Liddy from the second day of February—the fourth day of February.

Senator WEICKER. In other words, there is no particular significance in the fact that this meeting was held after hours? I see nothing in

the content of the meeting as to why it could not have been held at any other time of day. But on this particular day, this meeting was held after hours, totally contrary to the patterns of——

Mr. MITCHELL. It is not contrary to the pattern necessarily, Senator. The fact that appointments aren't made after 6 o'clock, although I am sure that there must be some in here, the fact that appointments aren't made after that hour may be because people aren't available. But I certainly was working at the committee and also at the Justice Department for long times after 6 o'clock.

Senator WEICKER. Now, let's get to Mr. Dean's role in relationship to you. According to your logs, you did not meet with John Dean for more than a month before the Watergate break-in. Now, do you recall anything that would contradict that record?

Mr. MITCHELL. I haven't checked my logs to that, Senator.

Senator WEICKER. On June 19, after you returned from California, you met with Mr. Dean and others in your apartment, is that correct?

Mr. MITCHELL. That is correct, sir.

Senator WEICKER. According to your logs you then met with Mr. Dean on June 20 twice, June 22, June 23, June 24. June 25 is a Sunday and there are no logs for the 26th, 27th, and 28th. But you met again on the 29th and the 30th. In other words, here is a man that you scheduled no appointments with for a period as long as a month and following June 17, you met every day except for holidays and trips out of town. Is that substantially correct, Mr. Mitchell?

Mr. MITCHELL. I would believe that is the case, and I would believe that you would find that also, after the trips out of town and into the fall, there were continued and constant meetings with Mr. Dean dealing with the civil litigation, with many of the facets that were involved in connection with the problems that the Watergate presented.

Senator WEICKER. Well, let's stay to these meetings right after the 17th of June, starting with June 19. Was the discussion during the course of these meetings Watergate?

Mr. MITCHELL. On June 19?

Senator WEICKER. June 19.

Mr. MITCHELL. That was the one at the Department. There most assuredly was a discussion of Watergate, because that was the purpose of the meeting. We had just returned from California and we were being brought up to date as to what the information was on the subject matter and how we would handle it with respect to a response to the charges that the Democrats were making about it.

Senator WEICKER. All right. You met twice on June 20.

Mr. MITCHELL. I am sure that the same subject matters were covered.

Senator WEICKER. June 22?

Mr. MITCHELL. Senator, obviously, I can't tell you what was discussed at each of these meetings, but I am sure that in connection with most of the meetings that I had with John Dean during this period of time, it dealt with the Watergate.

Senator WEICKER. Well, I imagine—well, that is fair enough, then. I just want to establish the fact that there was no relationship here, certainly not on a regular basis, until after the Watergate, at which time there was a continuing relationship between yourself and Mr. Dean. You have answered my question, that the principal discussions centered around the Watergate.

Is that right?

Mr. MITCHELL. That is correct, sir.

Senator WEICKER. Now as far as Mr. LaRue is concerned, again, is it not true that you had close contact with him during this particular period of time?

Mr. MITCHELL. Yes, I had very close contact with him, because, of course, he was involved in the political campaign as well as assisting Mr. Mardian in connection with the investigation of what went on in relationship to Watergate.

Senator WEICKER. And Mr. Mardian? He was the one that had been selected?

Mr. MITCHELL. That is correct.

Senator WEICKER. So, your relationships here insofar as Watergate is concerned, can we say that they really center around John Dean, Bob Mardian, and Fred LaRue?

Mr. MITCHELL. Basically, that is the case. And, of course, at a later date, sometime in the second week of April, the lawyers that were retained by the committee in connection with the civil litigation.

Senator WEICKER. All right, and outside of the litigation aspect of it, Mardian, LaRue, and Dean. Is there anybody that you would add to that group as being the group that you were in consultation with relative to Watergate?

Mr. MITCHELL. I would have to add in the counsel, because they were the ones that were interrogating the people in the committee. They were handling the civil litigation, the depositions that were about to be taken or were being taken in connection with it. And then, of course, you will find meetings there in which some of the people that you have mentioned have added to them Mr. Cliff Miller, Mr. Van Shumway, Mr. Powell Moore, Mr. Richard Moore, in which we were working on the responses to the charges that the Democrats were making from day to day in a public relations point of view.

Senator WEICKER. Now, on June 19, Mr. Magruder has testified and Mr. LaRue has stated that Mr. Mitchell, that you instructed Magruder to destroy the Gemstone files, to in fact, have a bonfire with them.

Now, you deny this having ever occurred. Can you give me any reason why these two men would lie about this fact?

Mr. MITCHELL. Well, I don't know whether they have lied about it or whether there was a difference of opinion.

As you know, Mr. Dean has also testified that there was no such discussion at the meeting. And I would point out, as I say, again that as of that particular time, I didn't have any knowledge that there was such a thing as a Gemstone file.

Senator WEICKER. Did you suggest that any documents be destroyed, not necessarily Gemstone?

Mr. MITCHELL. To the best of my recollection——

Senator WEICKER. At the June 19 meeting at your apartment did you suggest that any documents be destroyed, not necessarily Gemstone or not necessarily documents that relate to electronic surveillance?

Mr. MITCHELL. To the best of my recollection when I was there there was no such discussion of the destruction of any documents. That was not the type of a meeting we were having.

Senator WEICKER. What was the type of meeting you were having?

Mr. MITCHELL. Just the one I have described earlier it had to do with we being brought up to date, having just gotten off an airplane from California being advised as to what the current circumstance was and what was to be the response of this committee, the Committee for the Re-Election of the President.

Senator WEICKER. Did you instruct at that meeting Mr. Mardian and Mr. LaRue to go and see Mr. Liddy the next day?

Mr. MITCHELL. No, I don't, to my recollection. I would point out that Mr. Mardian and Mr. LaRue and I had been on an airplane for 5 hours that day, and I am not certain whether I did anything more than ask Mr. Mardian or instruct Mr. Mardian to get on top of this matter, to see what had happened and to find out what and who, if anybody else in the committee, were involved in it and that is what he undertook.

Senator WEICKER. Well, they did interview Liddy the next day.

Mr. MITCHELL. I am not sure whether it was the next day or the day after but it was in that time frame.

Senator WEICKER. All right. Then let's move to June 20 and let's go to your calendar. 8:15 a.m., White House meeting; 10:32 am., Magruder meeting, LaRue meeting, Mardian meeting.

Mr. MITCHELL. That is all the same meeting, Senator.

Senator WEICKER. Magruder, LaRue, and Mardian?

Mr. MITCHELL. That is correct, sir.

Senator WEICKER. 1:40, Mardian meeting. 2:05, Magruder meeting, Timmons meeting. 4:15, Stans meeting. 4:50, Magruder meeting, Daley meeting.

Mr. MITCHELL. That is Pete Daley who was the head of the media operation.

Senator WEICKER. Right. 5:30, Magruder, Sedam, LaRue, Mardian. Now at any of these meetings with Magruder, LaRue, Mardian, or LaRue and Mardian or with any one of the individuals did you receive a report on Mr. Liddy's activities?

Mr. MITCHELL. I tell you, Senator, that I recall having received the report in a meeting with LaRue and Mardian alone and that these meetings do not seem to fit into that circumstance. I think that probably the later period in time, which was probably on Wednesday, the 21st where I noticed that there is a meeting in which only LaRue and Mardian participated. I believe that that would probably be more likely the meeting in which they described to me of their conversation with Mr. Liddy.

Senator WEICKER. All right, and that meeting, according to your log probably took place somewhere between 5:30 and 6 o'clock in the evening; is that correct?

Mr. MITCHELL. It says in my log it is from 3:20 to 4 o'clock.

Senator WEICKER. On the log of Tuesday, the 20th of June——

Mr. MITCHELL. No, I am talking about the 21st of June.

Senator WEICKER. I am talking about the 20th, I started off this questioning in relating to the 20th of June.

Mr. MITCHELL. Oh, I see on, another page here there is a meeting at 6 o'clock that involves Fred LaRue and Bob Mardian so it could have been either one of those days.

Senator WEICKER. Well, in this one it is on Tuesday, and at the bottom it shows on the log, your log, Magruder, Sedam, LaRue, and Mardian except within the large parentheses—do we have June 20 up there—within the large parentheses it includes all four, Magruder and Sedam have a small parentheses as if they had a meeting and then also Mr. LaRue and Mr. Mardian had a meeting alone.

Mr. MITCHELL. Are we still on June 20?

Senator WEICKER. That is right.

Mr. MITCHELL. It says in this log, which is a photostatic copy of the original "5:30, at 5:30 I saw Sedam and Magruder and at 6 o'clock LaRue and Mardian joined the above."

So, that LaRue and Mardian came into a meeting that was already in existence.

Senator WEICKER. Well, now, what is missing at this point from your log, Mr. Mitchell, anything?

Let's assume what you have just told me to be correct, what is missing from your log?

Mr. MITCHELL. I haven't the faintest idea what you are making reference to.

Senator WEICKER. Well, the appointments are in your log and you now have indicated to me at 6 o'clock you have Magruder, Sedam, LaRue, and Mardian with you and not in your logs but from the White House logs is a phone call from the President lasting from 6 o'clock to 6:12.

Mr. MITCHELL. That might very well be the case.

Senator WEICKER. And that phone conversation, did it relate to the Mardian-LaRue report?

Mr. MITCHELL. If it was from the President it obviously did not relate to the report, and I say, I have a very distinct recollection of having had the discussion with Mardian and LaRue alone and that is why I believe that it probably took place on the 21st when I did meet with Mardian and LaRue alone and not on the 20th when there were two other people shown at the meeting.

Senator WEICKER. Well, it could have been there, they couldn't have been there, that is something you have got to rely on your recollection. The way it is set up here and I have a photostat of the log, it is possible LaRue and Mardian were alone. That is something you have to go ahead and resolve. But in any event it is a fact that at 6 o'clock you talked to the President, that day.

Mr. MITCHELL. That is what the log shows.

Senator WEICKER. Does anything come to mind as to what the subject matter was of that conversation?

Mr. MITCHELL. To the best of my recollection was the conversation of the 20th is as I have described it here before the committee. It was a relatively short conversation and it was in this particular conversation that I apologized to the President for not having kept better control over the activities of some of the people that were at the Committee for the Re-Election of the President.

Senator WEICKER. And then you talked to the President from 6 to 6:12 which entry is not in your log and at 6:50 you talked to John Dean and at 7:15 you talked to John Dean.

Mr. MITCHELL. Now which day are we talking about?

Senator WEICKER. The 20th, the same day, Mr. Mitchell.

Mr. MITCHELL. It so shows. If you are trying to ask me what the subject matters of those conversations were, I haven't the faintest idea that I can recall them. I talked to Mr. Dean, as the log shows, many, many times over the period of the next number of months.

Senator WEICKER. Let me ask you one question: In other words, what this series of events then that involves LaRue and Mardian, phone calls from the President, meeting with Dean is as you have described it and in nowise did you transmit any information gained from Mardian and LaRue to either the President or to John Dean?

Mr. MITCHELL. Senator, I am certain that I did not have that information at the time that I talked to the President on the 20th of June.

Senator WEICKER. How come the President's call is not on your log?

Mr. MITCHELL. I haven't the faintest idea.

Senator WEICKER. In the meeting with Mardian and LaRue, did they tell you about the Memorial Day break-in at the Democratic National Committee?

Mr. MITCHELL. Now you are talking about the debriefing?

Senator WEICKER. That is right.

Mr. MITCHELL. Of Liddy?

Senator WEICKER. That is right.

Mr. MITCHELL. Yes.

Senator WEICKER. They did tell you?

Mr. MITCHELL. That is my recollection.

Senator WEICKER. When was the debriefing of Liddy?

Mr. MITCHELL. That is what we have been trying to get at.

Senator WEICKER. Well, roughly, can you give me a——

Mr. MITCHELL. Well, I believe it was sometime——

Senator WEICKER. On the 20th or 21st?

Mr. MITCHELL. On the 20th or 21st?

Senator WEICKER. May I read to you a transcript in the case of *Lawrence O'Brien* v. *James McCord, et al.*, dated Tuesday, September 5, 1972: "Did it ever come to your attention or were you given any information that members of the security group headed by Mr. McCord had entered on to the premises of the Democratic National Committee at 2600 Virginia Avenue prior to June 17, 1972.

"Answer. I don't have that information to this date, except to read of speculation in the newspapers.

"Question. Your answer is no.

"Answer. No.

"Question. Now beginning on June 17, 1972, and for the period thereafter did you have conversations with anybody from the security group," et cetera that continues.

But what you are telling me here today, Mr. Mitchell, is that you were notified of a prior break-in on either the 20th or the 21st of June and that you denied such a knowledge, such knowledge in a deposition taken on September 5, 1972?

Mr. MITCHELL. Let's go back on this, Mr. Weicker, because this is the same subject matter that you came up with and I am glad you read more of the information. I said it was my recollection, and it could be wrong, that I had been advised of the earlier break-in. Certainly that Liddy was involved. The questions, as you just read relate to the security group of McCord and it was answered in that context.

Senator WEICKER. To me it is very clear, this is the same group that Mr. Liddy was involved with?

Mr. MITCHELL. No, you will have to read the rest of the transcript. Mr. Liddy was not part of the security group. Mr. Liddy worked for the finance committee, and the questions involved there had to do with the security group that was headed by Mr. McCord, and this is a civil litigation and I was not volunteering any information.

Senator WEICKER. And Mr. Liddy as a practical matter was not a member of this group?

Mr. MITCHELL. Of the security group?

Senator WEICKER. That is right.

Mr. MITCHELL. No, he was not.

Senator WEICKER. The group that was involved in the breaking and entering?

Mr. MITCHELL. No—well, you will have to go to the discussion of what was the security group and it did not involve Mr. Liddy because Mr. Liddy worked for the Finance Committee.

Senator WEICKER. Let's move to June 21. At 8:15 you met with Mr. Haldeman; at 8:15 in the morning Magruder, LaRue, Mardian?

Mr. MITCHELL. May I stop you, Senator, that 8:15 is the regular staff meeting in the White House just like all the rest of them are listed in there.

Senator WEICKER. At 9:50 you met with Mr. Magruder, Mr. LaRue, Mr. Mardian, and Mr. Malek. At 11:30 you met with Mr. LaRue, 2:45 with Mr. Magruder, at 3:20 with Mr. LaRue and Mr. Mardian; 4:45 Magruder, Sedam; 6:20, Mardian, Magruder and LaRue.

Can you indicate as to whether anything in the discussion with Mr. Haldeman related to the Watergate?

Mr. MITCHELL. Senator——

Senator WEICKER. I know you have indicated it was a regular staff meeting but it still does not mean we don't talk to each other.

Mr. MITCHELL. There would have been no discussion of the Watergate at that particular staff meeting that involved the upper echelon of the people in the White House at that particular time and I can recall no such morning meeting when any of the specifics of the details of the Watergate matter were discussed.

Senator WEICKER. But in any event, and this is a dispute still to be resolved as to whether you received the information from LaRue and Mardian on the 20th or whether you received it on the 21st, by the 21st you had been given what I will call the Mardian-LaRue briefing relative to Mr. Liddy's activities.

Mr. MITCHELL. I will not say that it was actually the 21st but I believe that according to this log that it is more likely on that date that that meeting that I have pointed out because I have a very distinct recollection that they were the only two people there at the time.

Senator WEICKER. You have stated that you did not tell the President of Mr. Liddy's activities because of the fear that you had that revelation of these matters to the President would result in public exposure of these matters by the President and that that would be harmful to his reelection campaign, is that correct?

Mr. MITCHELL. Yes; and I want to make sure that you understand that we were not talking about the Watergate. We were talking about the other matters that have been discussed here, the so-called White House horrors.

Senator WEICKER. I understand that, and I must confess it is one of the few areas probably of judgment where I would agree with you as to which was the more serious situation, and I think the horror stories probably in a political sense were probably far more serious than the Watergate.

Mr. MITCHELL. Thank you, Senator, for that justification.

Senator WEICKER. However, in trying to protect the President by not telling him of these activities and thus preserving his status in the campaign, did you not feel that there was a far greater danger, relative to Mr. Hunt and Mr. Liddy and that it was not sufficient not to tell the President but rather that something would have to be done relative to Mr. Hunt and Mr. Liddy?

Mr. MITCHELL. Done to them in what respect?

Senator WEICKER. That is what I am asking you as to whether or not you felt that you could—it was sufficient to protect the President by not telling the President or whether you felt a far greater danger existed with Mr. Hunt and Mr. Liddy running around the countryside in having the story that you were trying to suppress come to the surface?

Mr. MITCHELL. Well, Mr. Hunt and Mr.——

Senator WEICKER. Was there not a far greater threat that Hunt and Libby would expose these activities than the President of the United States?

Mr. MITCHELL. That was always a possibility, but the fond hope was that they would, of course, not because they were involved in them.

Senator WEICKER. What did you do to prevent it?

Mr. MITCHELL. What did I do to what?

Senator WEICKER. Prevent it from happening.

Mr. MITCHELL. I did not do anything to prevent it.

Senator WEICKER. In other words, you took care of the Presidential situation by not telling him?

Mr. MITCHELL. That is correct.

Senator WEICKER. And you took care of the Hunt and Liddy situation by just letting it run its course?

Mr. MITCHELL. Well, Senator, if you will look at the——

Senator WEICKER. Because your next contact relative to Mr. Hunt and Mr. Liddy comes in September quite aways away before you get involved with them again.

Mr. MITCHELL. Senator, the fact of the matter is that the rationale is that Hunt and Liddy were involved in those other activities and there was every indication or belief that they were not about to go and incriminate themselves in those particular areas.

Senator WEICKER. So you did absolutely—even though having a deep concern over this matter, having been told about the White House horror stories and having a deep concern as to blow the whole campaign right out of the water even to the extent where you did not go ahead and tell the President of the United States, you did nothing relative to the two people who if they talked, could blow the whole campaign out of the water?

Mr. MITCHELL. Senator, I have never talked to Mr. Liddy or Mr. Hunt—I never talked to Mr. Hunt in my life, I never talked to Mr. Liddy or any of their counsel. But obviously, as we know that there were other people that did have that concern and did start at a very early date payments for support and lawyers' fees.

Senator WEICKER. Were you one of those people?

Mr. MITCHELL. No, sir, I was not. As a matter of fact, I have testified here that when the suggestion was made at the Mardian and LaRue meeting after they met with Liddy, Liddy suggested to them that it would be helpful if the Committee for the Re-Election of the President might provide bail money for the ones that were, I presume, then in the jail, that I refused to go along with it and turned it down.

Senator WEICKER. Now, then, let us move to the 22d of June and again run through those logs, 8:15 White House meeting, 10 o'clock White House meeting, 10:50 Magruder-LaRue-Mardian meeting; 11:15 Dean telephoned, 11:20 Ehrlichman telephoned, 4 o'clock LaRue, Mardian, and Magruder; 5:20 Kalmbach by telephone, and 5:45 LaRue, Mardian, and Magruder.

Do you have any recollection as to what it was you discussed with Mr. Dean and Mr. Ehrlichman?

Mr. MITCHELL. I do not have any specific recollection. Of course, as far as Mr. Ehrlichman was concerned, I would—I dealt with him frequently on matters that pertained to issues in connection with the campaign. I believe that if my memory serves me right, that June 22 was the day that the Democratic National Committee filed its lawsuit, and I am sure that they must have had to be subject matters of the conversations.

Senator WEICKER. Did you ask them either Ehrlichman or Dean, as to whether or not they knew anything about the Liddy activities which at this point in time you had come into knowledge about?

Mr. MITCHELL. Did I ask them what they knew?

Senator WEICKER. Right. Did you indicate to them that you knew about Mr. Liddy's activities?

Mr. MITCHELL. There was a period in here, Senator, and it must have been within this time frame that after I had been debriefed by LaRue and Mardian that I discussed the matter with John Dean and John Dean made aware to me the conversations that he had had with Gordon Liddy on the 19th of June, so there was a reaffirmation of some of the material. They were not exactly the same stories but there was a cross index of information.

Senator WEICKER. All right. Now, the phone call to Mr. Kalmbach at 5:20, your recollection as to the nature of that conversation.

Mr. MITCHELL. If you will look, Senator, you will find that the next day and the day after that, and right through Saturday of that week, there were calls to Mr. Kalmbach and those calls had entirely to do with Mr. Kalmbach being of assistance to my wife, who was then at the Newporter Inn in California, having substantial difficulties with some of the people that were out there with her.

Senator WEICKER. But, of course, this date which I am referring to is not that weekend at all. I am talking about June 22.

Mr. MITCHELL. I am talking about all three of them. If you will look at the 22d and go right on through, you will find, I believe, there is a call every day.

Yes, sir; there is one on the 23d, there is one on the 24th, which is Saturday.

Senator WEICKER. And there was no discussion at all of money with Mr. Kalmbach?

Mr. MITCHELL. None whatsoever. It had entirely to do with my personal problem.

Senator WEICKER. Now, then, moving to June 23, Friday. Were you aware that 2 days after you learned of what you called the White House horrors, a concerned effort by Messrs. Haldeman and Ehrlichman began at the White House to encourage the CIA to get involved, first of all, by informing the FBI of CIA involvement in the case, and thereby to hinder the investigation.

Mr. MITCHELL. I was not aware of the activities that were being carried on over in the White House, either by Haldeman, Ehrlichman, or subsequently, Mr. Dean.

Senator WEICKER. You had no conversations with Mr. Haldeman or Mr. Ehrlichman during this period of time about this particular subject?

Mr. MITCHELL. About this particular subject matter, I am quite certain that that is my best recollection; I am quite sure that I did not.

Senator WEICKER. And on that same day, June 23, Hugh Sloan, in an effort to alert the White House of what he was learning about people's involvement in the break-in, was first counseled to get a lawyer by Mr. Ehrlichman and was told by Mr. Chapin that he, Mr. Sloan, needed a rest because he was distraught. And nobody informed you, the campaign manager, that somebody at the White House was involved, is that a fact?

Mr. MITCHELL. No, sir, as you will see, I met with Mr. Sloan on June 24 and Mr. Sloan never even mentioned it to me at that time. He expressed no such concerns. In fact, all he did was undertake an argument with Magruder in the presence of Mardian, and so forth, as to the amount of money that he had passed on to Mr. Liddy.

And this, by the way, is the only time that I met with Mr. Sloan subsequent to June 17, and his testimony with respect to the fact that he was brought in to see me before he was being interviewed by the FBI, is not correct. That was a matter that was being handled by the lawyers.

Senator WEICKER. Now, Mr. Mitchell, I think probably I know what the answer to this one is going to be, but to try to pull together these 3 or 4 days, is it fair to say that on June 21, 1972, when you learned of the potential revelations of the plumbers' activities, which revelations you knew could be devastating to the President, that you and others began a coverup that carried over to the White House in order to prevent any such revelation?

Mr. MITCHELL. Well, the answer to that is that I certainly was not about to do anything that would provide for the disclosure of it. What others were doing on their own or in concert with others is the subject matter that they will have to testify to. I think what Mr. Dean has testified to is that he thought the coverup had started on June 19 in connection with certain activities that he testified to at that particular time.

Senator WEICKER. In other words, again, the nature of the activities that you discovered on the 20th or the 21st of June was in your mind sufficiently explosive to throw a Presidential campaign off the tracks?

Mr. MITCHELL. There is no question about it. I have testified frequently to that subject.

Senator WEICKER. And the only action which you took as one of the President's closest advisers and also as the head of the Committee To Re-Elect the President, the only affirmative action that you took was to say nothing to the President?

Mr. MITCHELL. Well, obviously, I had had discussions with the other individuals involved here about the subject matters, and this is where I learned more of the horror stories from John Dean. But as to an affirmative, overaction, there was no other action that I took during this period of time.

Senator WEICKER. Now, let's move through some other days here. At what time—let me ask that question. On what date did you leave as head of the Committee To Re-Elect the President?

Mr. MITCHELL. I met with the President on June 29—June—yes. On June 30, I had a meeting with the President to discuss the subject matter and the conclusion, the decision was reached, and it was announced on July 1.

Senator WEICKER. All right. On June 20, your logs for that day indicate meeting with LaRue, meeting with Mardian, telephone call from Dean, telephone call from Haldeman, telephone call to Haldeman, meeting with Mardian; 11:45, meeting with Haldeman, the meeting with the President at 12:30. Then at 4:30, a White House meeting.

What was the reason for you having left the campaign?

Mr. MITCHELL. Senator, I answered that question previously and it had entirely to do with the conversation that I had with Mrs. Mitchell, sometimes on the telephone, sometimes through UPI, to the effect that if I didn't get out of the campaign, I wasn't going to have a wife any longer. And that is the reason why I left. That was quite well publicized, I believe, at the time.

Senator WEICKER. I wonder if I might have put before us the calendars of late June, which would indicate your schedule just prior to your leaving the Committee To Re-Elect the President, and the schedule in July after you had left the Committee To Re-Elect the President? Let's see June—late June, and before that, the middle of June.

That is the schedule of June.

Now, could we see July.

With the exception of the Fourth of July, I would say it is pretty much the same schedule, wouldn't you, Mr. Mitchell?

Mr. MITCHELL. I wouldn't think so. It was quite a different area of operation. If you will go back—of course, what you have done there is just list on all of these charts the meetings with certain people. But if you will go back and look and see the change of the nature of the meetings, the different groups that had to do with the politics of the campaign, these are not shown on there. All that is shown on your prior charts are the ones that are involved in your hearings here.

Senator WEICKER. Well, let me read out your schedule and the individuals involved on that schedule of June 29, which was the last day, the next to the last day that you served—and your schedule of July 6. On June 29, your meeting with LaRue, Mardian, Haldeman, Dean, LaRue, Mardian and Dean.

On July 6, Colson, Mardian, LaRue, Magruder, Haldeman, LaRue. Mardian, LaRue, Dean, Magruder, LaRue, Mardian, LaRue.

That does not indicate to me, does it, a change in pattern.

Mr. MITCHELL. Senator, you have just picked out two pages that happen to coincide. If you go back and read some of these other pages, you can see that I meet with all types of people from campaign chairmen to Senators, Governors, all the rest of them down the line.

Senator WEICKER. My point is that the burden of work as far as you are concerned does not change.

Mr. MITCHELL. It changes completely. Clark MacGregor came in and took over the running of the campaign and met with the type of people I am telling you about except in some specific areas that remained for me to look after in my consulting role.

Senator WEICKER. Didn't anybody discuss the fact, Mr. Mitchell, that the reason why you should leave as the head of the Committee To Re-Elect the President was because it might be considered that in that capacity, you were subject to the daily confrontations with the press, which press might go ahead and continue to ask you questions relative to Watergate? What this ever discussed?

Mr. MITCHELL. If it was, it was not discussed with me, no. The determination, Senator, for my leaving the campaign was made entirely on the basis of that luncheon conversation that I had with the President.

Senator WEICKER. July 1, Saturday, 9:40, you met with LaRue and Moore and Magruder. 12:08, LaRue and Magruder. 12:30, Kleindienst by telephone and then from 5:13 to 5:36, it does not appear on your logs, you have phone conversation with the President from San Clemente?

Mr. MITCHELL. Yes, I had a phone conversation from San Clemente which I have described to this committee. And obviously, the phone call came to my apartment, since the log here shows that I left the office at 2 o'clock,

Senator WEICKER. And this conversation was on the evening of July 1, is that correct?

Mr. MITCHELL. That is correct.

Senator WEICKER. Did the President call you the next day, July 2?

Mr. MITCHELL. That is also correct.

Senator WEICKER. Do you know where he called you from?

Mr. MITCHELL. According to the information that I have received from the White House, he called on both occasions from San Clemente.

Senator WEICKER. What time?

Mr. MITCHELL. What time?

Senator WEICKER. Yes. Insofar as the call on July 2 is concerned.

Mr. MITCHELL. July 2—the information provided from the White House switchboard shows that the time was 9 a.m. And I don't know——

Senator WEICKER. My information shows 6 a.m. on Sunday morning.

Mr. MITCHELL. Well, we had the discussion yesterday, I believe, as to the time difference, and I am not quite certain whether this is Washington time or San Clemente time.

Senator WEICKER. On July 11, you met with Fred LaRue at 11 o'clock in the morning. Then at 12:48, you had a conversation with the President, which again does not appear on your log.

Mr. MITCHELL. It is 12:43, it shows here, that there was a call, it is not in the log and I have no explanation as to why it is not.

Senator WEICKER. Do you have any idea as to the substance of that conversation?

Mr. MITCHELL. Which one are we talking about, Senator?

Senator WEICKER. We are now talking about the conversation of July 11.

Mr. MITCHELL. The July 11 conversation, to the best of my recollection, as I testified yesterday, had to do with the discussion of the President's determination to keep Vice President Agnew on the ticket, or at least to recommend him to the convention, that he be kept on the ticket.

Senator WEICKER. And then, after that phone call with the President, you meet again with Mardian and LaRue, is that correct?

Mr. MITCHELL. Well, there is obviously no relationship to it; because I was not discussing with Mardian and LaRue the President's desire to keep the Vice President on the ticket.

Senator WEICKER. Well, let me give you some examples of pattern again, so that you can possibly supply me with an explanation that I fail to get from the logs themselves.

June 30, you meet with LaRue at 8:35 a.m., Mardian at 8:45 a.m., with Dean at 10:30 a.m., with Haldeman, 11 a.m., then you talk with the President at 12:55 p.m.

July 21, you meet with LaRue at 10 a.m., with Mardian at 10 a.m., with Dean at 10:15, with Parkinson at 10:30, then with the President at 2 p.m.

July 27, you meet with LaRue at 9:35, Ehrlichman at 10, Dean on the telephone at 12:50, met LaRue at 12:55, talked with Mardian at 1:10, met with Magruder at 4, and talked with the President at 5:51 p.m. No connection, what you are telling me is that none of the matters that were discussed as between you, Mr. LaRue, and Mr. Mardian were discussed with the President?

Mr. MITCHELL. I am telling you that as affirmatively as I can put it. There is no question.

Senator WEICKER. Did you discuss them with anybody else?

Mr. MITCHELL. Discuss what, Senator?

Senator WEICKER. Matters that you and Mardian and LaRue—specifically, I guess Watergate matters; is that correct?

Mr. MITCHELL. All aspects of it, Senator, including the civil litigation, including—and this runs on through to the General Accounting Office inquiry, has to do with the currency problems that were involved. It has to do, of course, as you can see from many of these meetings, with a response to the charges that the Democrats were making.

Senator WEICKER. One thing relative to the logs, then we will leave them. It is possible, however, as far as your logs are concerned, since we have established the fact that calls, meetings with the President, that appear on the White House logs that do not appear on your logs, that there might very well be other meetings with other individuals that do not appear in your logs; is that correct?

Mr. MITCHELL. Senator, it is always conceivable, but I doubt that would be the case because of the manner in which these logs were kept. And I am sure the staff has interviewed my secretaries and they would be much better able to describe that than I would.

Senator WEICKER. Well, if a Presidential phone call does not impress them, I would imagine not much below that is going to go ahead and impress them.

Mr. MITCHELL. I think both these girls were quite accustomed to receiving and handling phone calls from the President, and I think that they might have had many, many more of them before this period of time, as my earlier logs would show.

Senator WEICKER. But it was customary not to have them logged?

Mr. MITCHELL. No, sir; it was not. As a matter of fact, my logs, as I testified yesterday, were started in the Justice Department and they were continued even beyond my knowledge after I left the Justice Department in the same form and shape and circumstance after I came to the practice of law and then subsequent to that, to the committee.

Senator WEICKER. Now, on March 22, you have stated that you spoke with the President, along with Dean and Haldeman and Ehrlichman and that the sole subjects were executive privilege and developing a liaison with the Select Committee. Am I correct? And that nothing else concerning Watergate was discussed.

Mr. MITCHELL. I said that those were the main topics of the meeting. There was also the discussion, as I said, of having somebody provide liaison with the committee up here. Dean was discussed and apparently rejected, and then Ehrlichman, and as I think the record will show, and I think I can bear out Mr. Dean's recollection of it, the President called Mr. Kleindienst on the subject matter while we were there.

Senator WEICKER. Everybody seems to be very much in tune with the conversations of that particular meeting. And yet, in the President's remarks of April 17, 1973, he states that on March 21, "As a result of serious charges which came to my attention, some of which were publicly reported, I began intensive new inquiries into this whole matter."

That is by the President's own statement: "On March 21, as a result of serious charges which came to my attention, some of which were publicly reported, I began intensive new inquiries into this whole matter."

And on March 22, you and Mr. Dean, Mr. Haldeman, Mr. Ehrlichman, all met with the President and the subject matter of Watergate never comes up, is that correct?

Mr. MITCHELL. Now, what part of—you are talking about Watergate. We are talking about this committee up here whose purpose was to investigate Watergate, as I understand it. So obviously, the subject matter of Watergate came up in connection with this committee, being the committee to investigate Watergate. But if you are talking about did the meeting have any conversations that went back and reviewed the bidding as to who did what to whom under what circumstances, the answer is "No," it did not.

Senator WEICKER. But we know from the President's own statement that on the day before, new inquiries were made into the whole matter. And here he had standing before him the following day the head of the Committee To Re-Elect the President. Were any inquiries made at all of the former head of the Committee To Re-Elect the President?

Mr. MITCHELL. No, sir; the conversations were just as I have reported them.

Senator WEICKER. So, in effect, no inquiry, even though the President stated that new inquiries were being made, no inquiry was being made of you by this particular group of gentlemen, either the President or Mr. Haldeman or Mr. Ehrlichman or Mr. Dean, in that room at that time?

Mr. MITCHELL. There was no such discussion, Senator.

Senator WEICKER. Do you find that surprising, in light of the March 21 statement?

Mr. MITCHELL. I find it surprising in light of what Mr. Dean said about the March 21 conversation that he purportedly had with the President.

Senator WEICKER. I am not talking about Mr. Dean. I am talking about what is reported as said by the President.

Mr. MITCHELL. What is the date of that statement, Senator?

Mr. WEICKER. It is the statement of April 17, 1973, and the statement says:

> My second announcement concerns the Watergate case directly. On March 21st, as a result of serious charges which came to my attention, some of which were publicly reported, I began intensive new inquiries into this whole matter. Last Sunday afternoon, the Attorney General, Assistant Attorney General Petersen and I met at length in my EOB office to review the facts which had come to me in my investigation and also to review the progress of the Department of Justice investigation. I can report today that there have been many developments in the case concerning which it would be improper to be more specific now except to say that real progress has been made in finding the truth.

That is the President speaking relative to what he did on March 21.

Mr. MITCHELL. Now, what question would you like me to answer?

Senator WEICKER. My question to you is, "Do you find it surprising when you appear on the scene on March 22 and sweeping new investigations are being made that nobody goes ahead and raises the Watergate insofar as any participation of those in the room?" Do you find this rather surprising?

Mr. MITCHELL. I do not.

Senator WEICKER. Considering the new attitudes toward questioning for the truth announced or started on the 21st of March?

Mr. MITCHELL. I would presume that the President, under normal processes, would be having others look into the matter and not the President himself. I am sure he has a lot more important things to do than to conduct an investigation of his own of that type.

Senator WEICKER. Or do you think it is possible, in other words, it doesn't surprise you that nobody—it doesn't surprise you that nobody discussed Watergate. I am talking about now—I am not talking about the committee, I understand all about those discussions that go on about the committee, I am specifically talking about the involvement of persons in that room, it is not surprising to you it was never discussed in light of this statement of the President.

Mr. MITCHELL. No, it does not surprise me.

Senator WEICKER. That new affirmative action was being taken just the day before?

Mr. MITCHELL. No, it was not the purpose of the meeting and I can understand why it might not have been discussed. As I say it may have been very well someone else who was conducting the investigation.

Senator WEICKER. Do you think one of the reasons it was not, no reason to be discussed, with anybody in the room was because nobody was gaining that knowledge because they already had that knowledge?

Mr. MITCHELL. No, I had not thought of it in those concepts but I don't believe it was the case. When you meet with the President, you meet with the President for a specific purpose and the purpose was, the purposes were, as I have stated them here.

Senator WEICKER. Well, now, the President already knew at that point in time or suspected, let's put it that way, suspected, that you were involved. Dean had told him this.

Mr. MITCHELL. Well, now——

Senator WEICKER. And you don't find it surprising that he doesn't turn to you and say, "John, for heaven's sake, will you please tell me what your involvement in this matter is?"

Mr. MITCHELL. Senator, are you taking that from John Dean's testimony, is that where you are getting that?

Senator WEICKER. I am taking this from the White House logs, Mr. Mitchell.

Mr. MITCHELL. The White House logs of what? What does the White House logs——

Senator WEICKER. Of the meeting with John Dean, between John Dean and the President.

Mr. MITCHELL. What does it say about Mitchell. I am not privy to those logs.

Senator WEICKER. Dean gave the President his theory of what had happened. He still said no prior June 17 White House knowledge, Magruder probably knew, Ehrlichman probably knew, Haldeman had possibly seen the fruits of the wiretaps from Strachan, et cetera. Your name came up in the conversation it had been bandied about.

Mr. MITCHELL. This is still a Dean allegation. Well, Senator——

Senator WEICKER. This is the White House version, Mr. Mitchell, of the meeting with John Dean.

Mr. MITCHELL. I understand that but it is still John Dean who is being the one who is being quoted.

Senator WEICKER. Well, why—do you find it unusual that the President didn't ask you on March 22 to comment upon Mr. Dean's conversations with him as they related to you?

Mr. MITCHELL. I didn't find it at all unusual because of the basis——

Senator WEICKER. You don't find it unusual, you didn't know anything, you don't find it unusual now?

Mr. MITCHELL. I don't find it at all unusual because the basis of the meeting and the purposes of the meeting was a different one or different ones, as I have stated.

Senator WEICKER. Is this your definition, by the way, this kind of testimony, of, what is the expression of, "Stonewalling it."

Mr. MITCHELL. I don't know that term. Is that a Yankee term from Connecticut? [Laughter.]

Senator WEICKER. Now, Mr. Chairman, I am going to ask one more question. I really do have another series but I won't take the time of the committee now, but there is one question that I would like to get into. Now you have referred repeatedly to the White House horrors, specifically one of the horrors I believe is the break-in into the office of doctor—Ellsberg's psychiatrist?

Mr. MITCHELL. That is correct.

Senator WEICKER. That is one of the horrors. And on or about June 21 is when you found out about this?

Mr. MITCHELL. That is correct, Senator.

Senator WEICKER. You were no longer Attorney General at this time?

Mr. MITCHELL. That is correct.

Senator WEICKER. But you are an attorney. Is that correct?

Mr. MITCHELL. That is correct.

Senator WEICKER. And you are an officer of the court?

Mr. MITCHELL. That is correct.

Senator WEICKER. Did you bring this matter to the attention of any law enforcement officials?

Mr. MITCHELL. No, sir; I did not.

Senator WEICKER. Did you notify any officials in the Justice Department about the break-in?

Mr. MITCHELL. I notified nobody about the break-in.

Senator WEICKER. Did you notify Judge Byrne, the judge presiding in Ellsberg's prosecution, that you knew about a break-in of the office of his psychiatrist?

Mr. MITCHELL. I notified nobody about the break-in.

Senator WEICKER. In other words, as an officer of the court, and as a former Attorney General of the United States, you were content to remain silent even though you knew that silence might possibly convict American citizen via means of illegally—or illegal conduct?

Mr. MITCHELL. Senator, I am sure that you are aware of the fact that that break-in produced nothing whatsoever, and under no circumstances could there have possibly been any fruits of the break-in that could affect the trial one way or the other.

Senator WEICKER. Is it not really a question of what they found, is it, Mr. Mitchell?

Mr. MITCHELL. In answer to your question it is. Your question was whether or not American citizens could have been convicted because of this act, and I am saying that, as I understood the story as it was related to me, there was no material obtained or used; since it hadn't been obtained it couldn't have been used.

Senator WEICKER. You didn't know that at the time he committed the act?

Mr. MITCHELL. I don't know the time they committed the act. I had heard it when I was advised of the nature of the break-in.

Senator WEICKER. What I am saying to you is that you had no way of knowing at the time that if you remained silent this man might not have been convicted through information that you knew had been illegally obtained?

Mr. MITCHELL. What I am saying is that as these stories dribbled out and were embellished upon, it became known to me that their entry was unsuccessful in obtaining any information out of the doctor's office.

Senator WEICKER. Is there anything in this country, aside from the President of the United States, that puts you into awe, Mr. Mitchell?

Mr. MITCHELL. To put me where?

Senator WEICKER. That puts you in awe?

Mr. MITCHELL. There are very, very many things.

Senator WEICKER. Do the courts put you in awe?

Mr. MITCHELL. Very much so.

Senator WEICKER. Does your oath as attorney, does that put you into awe?

Mr. MITCHELL. Very much so.

Senator WEICKER. Do you feel as an officer of the court you did the right thing?

Mr. MITCHELL. In connection with the Ellsberg matter?

Senator WEICKER. When you did not notify the prosecution or you did not notify rather Judge Byrne of the information that you had in your possession?

Mr. MITCHELL. I think in retrospect, it probably would have been the right thing to do.

Senator WEICKER. I have no further questions at this time.

Mr. MITCHELL. It is a great trial being conducted up here, isn't it?

Senator ERVIN. The committee will stand in recess until 10 o'clock tomorrow.

[Whereupon, at 4:50 p.m., the committee recessed to reconvene at 10 a.m., Thursday, July 12, 1973.]

THURSDAY, JULY 12, 1973

U.S. SENATE,
SELECT COMMITTEE ON
PRESIDENTIAL CAMPAIGN ACTIVITIES,
Washington, D.C.

The Select Committee met, pursuant to recess, at 10:05 a.m., in room 318, Russell Senate Office Building, Senator Sam J. Ervin, Jr. (chairman), presiding.

Present: Senators Ervin, Talmadge, Inouye, Montoya, Baker, Gurney, and Weicker.

Also present: Samuel Dash, chief counsel and staff director; Fred D. Thompson, minority counsel; Rufus L. Edmisten, deputy chief counsel; Arthur S. Miller, chief consultant; Jed Johnson, consultant; David M. Dorsen, James Hamilton, and Terry F. Lenzner, assistant chief counsels; R. Phillip Haire, Marc Lackritz, William T. Mayton, Ronald D. Rotunda, and Barry Schochet, assistant majority counsels; Eugene Boyce, hearings record counsel; Donald G. Sanders, deputy minority counsel; Howard S. Liebengood, H. William Shure, and Robert Silverstein, assistant minority counsels; Pauline O. Dement, research assistant; Eiler Ravnholt, office of Senator Inouye; Robert Baca, office of Senator Montoya; Ron McMahan, assistant to Senator Baker; A. Searle Field, assistant to Senator Weicker; Michael Flanigan, assistant publications clerk.

Senator ERVIN. The committee will come to order.

In view of the fact that there has been some discussion in the news media about the executive meeting of the Select Committee this morning, I want to announce on behalf of the committee that the committee did not complete its deliberations and will resume them at 1 o'clock today.

I believe Senator Talmadge is next in order if he has some additional questions.

Senator TALMADGE. Mr. Chairman, in the interest of expediting the hearings I will pass at this time.

Senator ERVIN. Senator Gurney will be the next questioner.

Senator GURNEY. For the same reason I will pass, too, Mr. Chairman.

Senator ERVIN. Senator Inouye.

Senator INOUYE. Thank you, Mr. Chairman.

Mr. Mitchell, I have just one question and the question relates to "lowering the boom." I believe on March 21, the President had a meeting with John Wesley Dean III, at which time Mr. Dean has testified that he notified the President as to his involvement in all of the irregular activities.

On the following day we have testimony to indicate that the President met with high officials, staff members of the White House, including Mr. Dean. Now, according to what you have said, we would expect the President to have lowered the boom on John Wesley Dean III. But

on the 22d of March, instead of lowering the boom, testimony indicates that the President designated Mr. Dean to serve as his liaison with this committee. Is this your concept of lowering the boom?

TESTIMONY OF JOHN N. MITCHELL—Resumed

Mr. MITCHELL. No, Senator, it most assuredly is not. I believe that the facts were that there was a discussion of Mr. Dean being the liaison with the committee to get certain areas straightened out. What actually the President was doing in other areas to "lower the boom," I am not quite sure but as we all know, things started to happen from thence forward in the area where I do believe that steps were taken to the point where you could call it lowering the boom.

Senator INOUYE. For the record, could you tell us where the President has really lowered the boom?

Mr. MITCHELL. I think he has done so by his appointment of a special prosecutor, removing the people from the White House who were involved in the activities that were covered.

Senator INOUYE. Was not the appointment of the special prosecutor brought about because of intensive pressure initiated by the Congress of the United States? Does not the record indicate that the White House and the President resisted this?

Mr. MITCHELL. It was the President's determination; he was the one who made that determination. What were the causes of it, I think we can all have different opinions upon but it was his action that did provide for the special prosecutor.

Senator INOUYE. And in the case of so-called removals of staff members, the record seems to indicate that Mr. Haldeman and Mr. Ehrlichman submitted letters of resignation and the President most reluctantly accepted this and said publicly that these were the two finest men he has ever known. Is this lowering the boom, sir?

Mr. MITCHELL. No, but it shows the streak in the President of warmth and kindness that most people have not attributed to him before, I think could be considered in that light.

Senator INOUYE. I believe your lowering the boom statement is an important one and that is why I am pursuing this. You have indicated that you did not advise the President of the United States as to your knowledge of the facts involved in the matter before us, because you were concerned that the President would lower the boom and thereby lift the lid off the scandal. I am trying to find out where the President has, since learning of these activities, lowered the boom.

Mr. MITCHELL. It is my opinion, Senator, that particularly during the month of April and the succeeding intervening period of time, he has done exactly what he should have done in lowering the boom by removing the people from the White House and by providing for the special prosecutor within our system of Government that is what the Chief Executive should do.

Senator INOUYE. With the exception of Mr. Dean, when he advised the President that he is going to do some talking here, he, I presume, was removed, but was anyone else removed?

Mr. MITCHELL. Well, Mr. Haldeman and Mr. Ehrlichman were.

Senator INOUYE. They were not removed, sir.

Mr. MITCHELL. They were not removed from the White House?

Senator INOUYE. If you read the public statement, they submitted their resignations and the President most reluctantly accepted this, and in so accepting the resignations praised them to the highest.

Mr. MITCHELL. Senator, I have an entirely different interpretation of that. [Laughter.]

Senator INOUYE. Besides Mr. Haldeman and Mr. Ehrlichman, did anyone else suffer from the lowering of this boom?

Mr. MITCHELL. Yes, I believe that Mr. Magruder was removed from his job, Mr. Krogh was. I don't know whether other people that don't come to mind at the moment but those who had been participants through the information of the President were removed and the boom was lowered and the judicial process is going on under an independent special prosecutor.

Senator INOUYE. This may be a matter of disagreement, but I have done whatever research I could do last evening to find evidence of the lowering of this boom, and I regret very much, sir, that I just could not see much evidence of this boom being lowered on any alleged participant in this tragedy.

Mr. MITCHELL. I believe that the matters that I have discussed, and we have discussed and I have recounted here this morning is a lowering of the boom in the area of the prerogatives of the Executive.

Senator INOUYE. And do you believe that with this soft lowering of the boom the lid would have blown off?

Mr. MITCHELL. It has, and I don't think it was necessarily soft.

Senator INOUYE. But the lid wasn't blown off by the so-called removal of Mr. Haldeman and Mr. Ehrlichman. The lid was blown off, I believe, by two men in the Washington Post.

Mr. MITCHELL. Well, it depends on what areas you are talking about, Senator. If you go back to our White House horror stories, I think they came out from other sources and at other times.

Senator INOUYE. I thank you very much, Mr. Mitchell.

Thank you, Mr. Chairman.

Senator ERVIN. Senator Baker.

Senator BAKER. Thank you, Mr. Chairman, I have no further questions at this time.

Senator ERVIN. Senator Montoya.

Senator MONTOYA. I have no questions.

Senator ERVIN. I have just one or two questions.

Don't you consider that one of the primary functions of the President under the Constitution is to take care that the laws be faithfully executed?

Mr. MITCHELL. He is so charged, Senator, yes.

Senator ERVIN. And aren't you convinced or rather you have testified that if you had acquainted the President at the time you acquired knowledge of those matters with what you call the White House horrors the President would have undertaken to see that the laws relating to those matters were faithfully executed.

Mr. MITCHELL. I feel quite certain that would have been the case.

Senator ERVIN. Yes.

So, isn't it an inescapable conclusion that you exalted the political fortunes of the President before the President's responsibility to perform his constitutional duties to see that the laws are faithfully executed?

Mr. MITCHELL. I think that is a reasonable interpretation of the subject matter and, of course, in reflection it is a very serious one.

Mr. DASH. Mr. Mitchell, Mr. Magruder appeared before the grand jury for his second appearance on August 18, 1972.

Now, your logs, if you have them, show that you saw Mr. Magruder on August 17, the day before, at 2:15, and that on August 18, the day he appeared, you spoke to Mr. Kleindienst at 4 o'clock on the telephone and you saw Mr. Magruder at 4:10, 10 minutes afterwards, on that day.

Can you tell us whether or not the discussion with Mr. Kleindienst at 4 o'clock and the 10 minute later meeting with Mr. Magruder after he testified had to do with his testimony at the grand jury?

Mr. MITCHELL. Mr. Dash, I have talked to Mr. Kleindienst quite a number of times during this period and we have never discussed the Watergate matter in any form or shape or circumstance.

To answer your question specifically with respect to that date and that conversation, no, we did not discuss Mr. Magruder or his testimony.

Mr. DASH. Your meeting with Mr. Magruder both on the 17th and the 18th at 4:10, was that for the purpose of discussing his testimony before the grand jury?

Mr. MITCHELL. I don't have that recollection, Mr. Dash.

Mr. DASH. Do you have any recollection of what the discussion was about?

Mr. MITCHELL. No, sir. As you know from my logs, I met constantly with Mr. Magruder about campaign matters and other things, including the Watergate and the public relations aspect of it. And as I testified earlier, there were meetings in which Mr. Magruder outlined to a group of us the nature of his testimony that he was going to give.

Mr. DASH. It is specifically because of this that I asked you the question, because on a number of occasions, you said, especially during meetings with Mr. Magruder, Mr. Dean, Mr. LaRue, Mr. Mardian, that you did at least have presented to you what Mr. Magruder was going to testify before the grand jury.

Now, on the day he actually testified, you met with him; on the day before he testified, you met with him. Would it not be consistent with your earlier discussions that you would have discussed what his testimony was or was going to be when he finally testified?

Mr. MITCHELL. I think, Mr. Dash, those conversations took place much earlier than the date in August that you have made reference to. If you will look at the logs, you will see, as I say, I met with Mr. Magruder almost daily during the whole period of time on many subject matters.

Mr. DASH. But all the way up to this period of time?

Mr. MITCHELL. Pardon?

Mr. DASH. All the way up to this period of time?

Mr. MITCHELL. And thereafter.

Mr. DASH. Yes; but I would now draw your attention specifically to the day—did you know, by the way, when Mr. Magruder was going to appear before the grand jury?

Mr. MITCHELL. I have no recollection whether I did or did not. I presume I would have been advised, yes.

Mr. DASH. And at the time, whether it was the 17th or 18th, and when you knew that he was going to testify, wouldn't that be an appropriate time for you to discuss what he was going to testify before the grand jury? You certainly were interested?

Mr. MITCHELL. As I said, Mr. Dash, I believe those conversations took place much earlier than that.

Mr. DASH. I know, but you testified before the committee that you certainly wanted him to testify in such a way that the lid would not come off. You now knew he was going to be testifying. So whatever date you can recall at this time he was going to testify before the grand jury, would you not have discussed the grand jury testimony with him?

Mr. MITCHELL. Mr. Dash, I believe the sequence of events goes back to the time when Mr. Magruder and Mr. Porter went to Mr. Parkinson's office and put together their proposed testimony, which at that time they felt was going to be submitted to the grand jury in deposition form. I think that was the middle of July. It was in that time frame and during or shortly thereafter that the recitation of Mr. Magruder's testimony, of the nature of his testimony, was given. I have no recollection of having sat down with Mr. Magruder the day before, the second day before he went to the grand jury and going over it with him.

Mr. DASH. Well, did you learn what he testified to when he went to the grand jury?

Mr. MITCHELL. I assume that he had testified to what he had told us he was going to testify to.

Mr. DASH. Did you just assume? Didn't anybody tell you what he testified? Didn't you in fact learn that he did testify as he did, what he had been agreeing to testify to?

Mr. MITCHELL. I believe, Mr. Dash, if my memory serves me right, that he was debriefed by one of the lawyers who advised me as to what he testified to.

Mr. DASH. So in fact, you did learn?

Mr. MITCHELL. I did learn.

Mr. DASH. Now, he again testified before the grand jury on September 13 and at that time, it dealt with his diaries and the meeting that he had with you. Now, you saw Mr. Magruder, according to your log, Mr. Magruder and Mr. Dean, at 12 o'clock on that day. Did you have any discussions with him about his grand jury testimony on September 13?

Mr. MITCHELL. On September 13?

Mr. DASH. September 13 is when he appeared for his third and final time.

Mr. MITCHELL. Yes; I testified, I believe, on Monday to the fact that Mr. Dean, Mr. Magruder, and I rather briefly discussed the recollection of the meetings that had taken place in the Justice Department.

Mr. DASH. And what did Mr. Magruder, to your knowledge, tell you that his recollection or his testimony was going to be?

Mr. MITCHELL. Well, if I can recall it as best I can, No. 1, that he thought that one of the meetings had been canceled; No. 2, that there were discussions of the election laws, which, of course, they both testified there were. I think those were the essential parts of it.

Mr. DASH. What was your response to that? Did you respond to his recollection of what his testimony was going to be?

Mr. MITCHELL. I have no recollection of that, Mr. Dash.

Mr. DASH. Well, did you disagree with him?

Mr. MITCHELL. I didn't disagree with it, no, I did not.

Mr. DASH. Did you learn after that testimony on September 13 what his testimony was?

Mr. MITCHELL. I believe probably in the same way, in connection with the debriefing.

Mr. DASH. Because your logs show on September 14 you met with Mr. Dean and Mr. Magruder at 2:30 in the afternoon. Do you think at this point in time that you would have discussed that at that time?

Mr. MITCHELL. It is quite conceivable. As I say, customarily, the information would come to us from the lawyers by way of debriefing rather than talking to the individuals involved.

Mr. DASH. Actually, on the very following day of that testimony by Mr. Magruder on September 14, you had a meeting with Mr. Ehrlichman at 9:50 in the morning. In that meeting, did you discuss Mr. Magruder's testimony?

Mr. MITCHELL. I am sure that we would not, Mr. Dash. I have not discussed Mr. Magruder's testimony with either Mr. Ehrlichman or anybody else in the White House except John Dean.

Mr. DASH. Now, you testified yesterday that many of your meetings—I think it was in response to you being asked about the various meetings you had with Mr. LaRue, Mr. Mardian, Mr. Dean, Mr. Magruder—you testified that many of your meetings during July, August, and September of 1972 had to do with the Democrats civil suit and the strategy for counterattack or how to defend against that. Did you also, during that time, play any role in preventing the Patman committee investigation from getting off the ground?

Mr. MITCHELL. We had many, many discussions on the subject matter, Mr. Dash.

Mr. DASH. Now, did you make any recommendations as to how to deal with the Patman committee?

Mr. MITCHELL. Well, the only way to deal with the Patman committee as it evolved, was to make a determination as to whether or not there were enough votes to eliminate the subpena.

Mr. DASH. And how did you resolve that?

Mr. MITCHELL. Well, I think it was resolved mainly by people in the White House liaison and other individuals talking to members of the committee or subcommittee, whichever it was, of the Patman committee.

Mr. DASH. It turned out there were not enough votes to——

Mr. MITCHELL. It turned out there were not enough votes, and of course there was, as I think has been put into evidence here through one of Mr. Dean's exhibits, a letter from the Justice Department on which they preferred not to have such hearings held pending the criminal case that was——

Mr. DASH. Did you at any time during this discussion make any recommendation that such a letter be sent from the Justice Department to anybody?

Mr. MITCHELL. No, sir. Having left the Justice Department I certainly could not control what their activities might have been.

Mr. DASH. That was not my question, Mr. Mitchell. During your meetings in which this discussion came up, as you said, a number of times, was your suggestion at any time that somebody, Dr. Dean or somebody else, arrange that such a letter be sent from the Justice Department?

Mr. MITCHELL. Oh, excuse me. I misunderstood your question.

Most assuredly, we discussed quite widely the impact a letter from the Justice Department in such a situation would have on the committee and its membership.

Mr. DASH. I am puzzled, about your distinction between your efforts you said you were going to make, some sort of coverup of the White House horrors that you have described and the Watergate break-in and the defense against the civil suits themselves. You seem to draw a distinction about the activities that took you away from some of this discussion of the White House horrors or other activities because of your being involved in the discussion of the civil suits. Now, actually, was not the strategy against the civil suits the same kind of coverup activity? Would it not be true that full disclosure in the Democratic National Committee suit could result in unraveling all the things that you wanted to be not unraveled?

Mr. MITCHELL. Well, if I understand your question, Mr. Dash, it was our strategy to limit the progress of the civil suits as much as possible, certainly before the election. We knew that they would come afterwards, and of course, the civil suits, of course, related to the criminal trial which was subsequently, I believe, determined by the judge handling it. And there was a strategy to keep the civil suits from proceeding, yes, sir.

Mr. DASH. And then one of the policies behind that strategy was the similar policy you had on the other matters of keeping the lid on from having these things come out.

Mr. MITCHELL. Well, this, of course, included the Common Cause suit and whatever other suit, the Nader suit I guess it had to do with.

Mr. DASH. Right, and these discussions concerning what the strategy should be concerning the civil suit deals with what kind of testimony should be given at the depositions.

Mr. MITCHELL. No; I think—not in the meetings that I had. They were handled by the lawyers with the individuals who were to testify.

Mr. DASH. Now, around that same time, and I am now speaking still around the late June period, and perhaps early July, did you at any time after June 17, suggest that the CIA might be—or suggest not to the CIA but to Mr. Dean or to anybody else in any of those meetings—that the CIA might be a good source of coverup moneys for lawyers' fees?

Mr. MITCHELL. No, sir, I did not and, of course, I think Mr. Dean testified, and I do not know whether his testimony is accurate or not, he started out placing that in my lips and wound up with it with Mr. Mardian. Now this may be a perfectly honest mistake on his part. There were discussions, of course, as I testified, I think on the first day here, about, the question was the CIA involved. The newspapers were filled with it, the individuals that were involved had worked for the CIA, there were a number of such matters but the concept of the CIA's supporting or providing funds in connection with this activity was not discussed in my presence, to my best recollection.

Mr. DASH. Now, your log——

Mr. MITCHELL. Excuse me, Mr. Dash, if I might add to that because I think we discussed it on Monday, the meeting in which Mr. Dean places this conversation having come from the CIA meeting that had never took place and, of course, I was not in the city, so I could not have heard of his discussions about CIA support.

Mr. DASH. But it is your testimony that on no other day when you were present in these meetings with Mr. LaRue, Mr. Mardian, Mr. Dean, Mr. Magruder, or any other persons who were meeting with you regularly did a discussion take place on your part or on any other's part that the CIA might be a good source for funds?

Mr. MITCHELL. Not the CIA for the source of support, money for bail or defending or whatever it is. There were discussions or questions really, about what was the involvement of the CIA.

Mr. DASH. Now, your log shows from June 17 all the way to August 29 certainly and thereafter, but certainly to August 29, you had almost daily meetings with John Dean and sometimes twice or three times a day, and you knew, I think, from your testimony before this committee, what Mr. Dean was doing during this time, that he was serving as a liaison between you and Mr. Haldeman or Ehrlichman, White House people, and that he was not making any investigation of the Watergate case for the President. Yet, on August 29, the President did make an announcement that Mr. Dean had made an investigation to give him a report. What was your reaction to that announcement knowing, by having been meeting with Mr. Dean almost on a daily basis during that whole period of time that he was doing nothing?

Mr. MITCHELL. Well, Mr. Dash, I think your question provides an assumption that I am not willing to accept. It is perfectly conceivable in my mind so far as the involvement of personnel in the White House were concerned, that Mr. Dean was making such an investigation as to the involvement of people in the White House, and I think that was the context of the statement of August, whatever date it was.

Mr. DASH. Well, as a matter of fact, didn't Mr. Dean discuss with you what he was doing? You said he met with you regularly, he was at your meetings, and if he were making such an investigation, would you not know about it?

Mr. MITCHELL. I think Mr. Dean was making an investigation with respect to the involvement or potential involvement of individuals in the White House in the knowledge of the Watergate break-in or participation.

Mr. DASH. His testimony was that rather than make an investigation he was engaging in a coverup.

Mr. MITCHELL. Well, I don't doubt that for a moment, and I have so stated here, that there was that aspect of it. Now, the coverup is an entirely different thing, and the statement made by the President with respect to the involvement of individuals in the Watergate affair and prior to the June 17 or at the June 17 activities, and I think that was the thrust of the statement.

Mr. DASH. Well, you know from what Mr. Dean I think has testified or may have indicated to you is that on June 19 that Mr. Strachan had admitted to him that he had destroyed certain intelligence papers. Did Mr. Dean tell you about that?

Mr. MITCHELL. Yes, he did eventually.

Mr. DASH. Eventually. When did he tell you this?

Mr. MITCHELL. I am not quite certain.

Mr. DASH. Was it before August 29?

Mr. MITCHELL. I can't say that for sure, Mr. Dash, but he did somewhere along the way.

Mr. DASH. Well, if he had, you would have been somewhat surprised that Mr. Dean had said nobody in the White House——

Mr. MITCHELL. I think I would have been quite surprised if that had come out.

Mr. DASH. Did Mr. Dean tell you personally that he made a report to the President?

Mr. MITCHELL. No, Mr. Dean did not so tell me.

Mr. DASH. Did you ever ask him after the President's statement came out whether he made such a report?

Mr. MITCHELL. Yes, I discussed—I am not sure that I put it quite in the form of that type of a question. We did have discussions of it, and he told me that he, of course, had been discussing the matters with Haldeman and Ehrlichman, but that he had not specifically made a direct report to the President. That whatever information he was providing was going through Haldeman and Ehrlichman, one or the other, I forget which.

Mr. DASH. From that testimony or from the information you got from Mr. Dean that he was reporting to Mr. Haldeman and Mr. Ehrlichman, was it your impression that the President was being misled by that group just as you were misleading the President after your knowledge from June 21 to June 22?

Mr. MITCHELL. I would believe that would certainly be what—the impression that I would have, because Mr. Dean was not talking directly to the President.

Mr. DASH. And under that assumption and the President then making that kind of a report, you still did not feel it was necessary at least to correct the President, because now he made a public statement to the people of the United States which you knew was perhaps incorrect?

Mr. MITCHELL. He made the statement, as I recall, having to do with the involvement of the people in the White House with respect to the prior knowledge or participation in the break-in of the Democratic National Committee, and that statement I think was factually true at the time that he made that statement so far as the information that he had, and I think possibly so far as the information I had, because I believe the Strachan matter arose at a much later date.

Mr. DASH. But your testimony now is you think that Mr. Dean told you about the Strachan matter after the President's report.

Mr. MITCHELL. That would be my recollection, Mr. Dash.

Mr. DASH. Throughout your testimony, Mr. Mitchell, you also appear to distinguish the so-called White House horror stories, which I want to get back to briefly, but the so-called White House horror stories from the Watergate break-in.

Now, you were willing to state that you participated in a coverup of the former, the White House horror stories but you sort of distinguish that role or participation on your part in the Watergate break-in. Is this, Mr. Mitchell, an effort to develop a legal defense or is it a real distinction so far as you are concerned.

Mr. MITCHELL. Mr. Dash, this is what I made as a decision back in June. It has nothing to do with legal defenses one way or the other.

Mr. DASH. Well, then, if you considered the break-in of Ellsberg's psychiatrist's office to be a White House horror story, why did you

not consider the break-in of the opposite party, the Democratic National Committee headquarters at the Watergate a White House horror story?

Mr. MITCHELL. Well, Mr. Dash, that had become quite widely known publicly and there were people in jail, that were leading to an indictment, there was a grand jury investigation in connection with it.

Mr. DASH. But the break-in perhaps had become widely known but not all the people who were involved, and wasn't that an essential problem?

Mr. MITCHELL. I don't believe that that would necessarily be the case, because it had come out into the open, it was public knowledge that was being discussed widely, but with the other stories they had not come out and were not being discussed, were not known, and, of course, as I mentioned earlier it was directly in the White House.

Mr. DASH. Yes, but if, in fact, it had become known that Mr. Magruder, the deputy campaign director of the President's reelection committee, or Mr. Strachan, Mr. Haldeman's assistant, or perhaps Mr. Haldeman himself, had been involved, wouldn't that really be part of the White House horror story?

Mr. MITCHELL. It is entirely a matter of degree. Certainly the activities that we have described as the White House horror stories and the periods over which they were undertaken is quite different and were not known, is quite different from the fact that you now have or did have then on the record and in the media the fact that there had been a break-in at the Democratic National Committee that was participated in by some of the people from the Finance Committee To Re-Elect the President and the Committee To Re-Elect the President. To me it is an entirely different circumstance.

Mr. DASH. Now, Mr. Mitchell, in your testimony through all of these meetings of June, late June, July, and August with Mr. Magruder, Mr. Mardian, Mr. LaRue, Mr. Dean, although you indicate that there was quite a bit of discussion concerning the testimony that Mr. Magruder might make and strategies that were taking place, that you appeared to be constantly taking a passive role.

Are we to assume that you are a passive man in this operation, Mr. Mitchell?

Mr. MITCHELL. Mr. Dash, I think that would be very nice if you would do just that but I want to also point out to you that all of these meetings you are talking about, this did not all have to do with Watergate. They had to do with other things with the campaign.

Mr. DASH. I know they had but they quite frequently had to do with Watergate?

Mr. MITCHELL. They did quite frequently.

Mr. DASH. And wasn't your opinion quite frequently a deciding factor in so many of these things, certainly sought after in these decisions?

Mr. MITCHELL. There is no doubt that I undertook many of the discussions in connection with the matters that were brought up at those meetings.

Mr. DASH. Did you give any specific directions during these meetings?

Mr. MITCHELL. Well, it would depend upon what the subject matter was.

Mr. DASH. Well, could you give us any examples on subject matter that you might have given directions?

Mr. MITCHELL. I would have to go back and refresh my recollection on some of the subject matters that were discussed, the specifics of them, in order to arrive at that particular point.

Mr. DASH. Well, would it be fair to say, then, that frequently you were an active participant, not just sitting in the room and listening?

Mr. MITCHELL. I was a participant in the discussions, no question about it.

Mr. DASH. And also in the decisionmaking process?

Mr. MITCHELL. I am sure that there was a consensus would come out of the discussions in the room and I would be a part of that consensus.

Mr. DASH. Now, have you drawn a distinction in your meetings with Mr. Haldeman and Ehrlichman concerning the strategy or concern of the revelation of the so-called White House horrors as apart from the Watergate break-in?

Mr. MITCHELL. I do not understand your question, Mr. Dash.

Mr. DASH. Well, I think your testimony is that you did meet with Mr. Haldeman and Ehrlichman and discuss with them, you said from time to time, in July, you did discuss with Mr. Haldeman and Ehrlichman the problems involved in the Ellsberg break-in matter and all the other matters you have categorized as White House horrors.

Mr. MITCHELL. Excuse me, Mr. Dash, I do not believe that I said that I discussed them with Ehrlichman and Haldeman in July.

Mr. DASH. Well, the record would show it, but I think you did say that you did discuss that later, and I think you said in July.

Mr. MITCHELL. Later on. I do not recall that I said they were discussed as early as that. I think much later on down the road we discussed them.

Mr. DASH. The distinction I think you said in the record is the Watergate break-in, you said you did not discuss that with them until 1973, but as to the White House horror activities, you did speak to Mr. Haldeman and Mr. Ehrlichman in 1972.

Mr. MITCHELL. That is correct, sir.

Mr. DASH. And in those discussions, were those discussions concerned with the strategy to keep the lid on?

Mr. MITCHELL. There was no question about the fact that we discussed the problems that would arise if the parties that had been involved in those activities in the White House were to come forward with all of the conversations and all of the discussions and all of the information that they had relating to them.

Mr. DASH. And specifically in this particular context, the parties that you were most concerned with, I take it, were the two defendants under indictment, Mr. Hunt and Mr. Liddy.

Mr. MITCHELL. They were the participants; yes, sir.

Mr. DASH. And there was no doubt in your mind in those discussions that Mr. Haldeman and Mr. Ehrlichman were taking an active role themselves in attempting to keep the lid on?

Mr. MITCHELL. Well, I would say that they had a very active concern, just like I did.

Mr. DASH. I did not hear your answer.

Mr. MITCHELL. They had a very active concern, just like I did.

Mr. DASH. And that active concern was implemented, I think.

Mr. MITCHELL. Well, in what way they participated in the implementation of it, I have heard more of it from the testimony up here than I knew at the particular time.

Mr. DASH. Mr. Dean was reporting back to you, was he not?

Mr. MITCHELL. Mr. Dean, as I mentioned before, was reporting back to me certain things, but Mr. Dean, and I think quite appropriately, was not telling me everything that was happening in his conversations between he and the people in the White House.

Mr. DASH. Why was there reticence on the part of Mr. Dean when, as a matter of fact, you were really all together in a common purpose, to protect the President?

Mr. MITCHELL. Well, I believe that Mr. Dean, being a lawyer, would discuss the matters on a need-to-know basis and not go through all of the dialogs that he might have with parties in the White House, that he would consider it probably in an attorney-client relationship.

Mr. DASH. As an attorney-client with Mr. Haldeman?

Mr. MITCHELL. I would think so. He was the White House counsel——

Mr. DASH. Counsel to the President.

Mr. MITCHELL. Well, he was counsel to the President, but of course, he did legal work and gave legal advice to other people in the White House outside of the President.

Mr. DASH. But you knew what his actual role was?

Mr. MITCHELL. In what respect?

Mr. DASH. I think Mr. Dean has so testified that he did very little work as so-called counsel to the President; White House counsel does not carry with it that much of the prerequisites. Basically, Mr. Dean had a kind of low-level job at the White House, did he not?

Mr. MITCHELL. Well, that was his characterization of it. The fact of the matter is that my experience has been that the office of counsel over in the White House does a tremendous amount of legal work just in reviewing the documents that come through there that have to be acted upon by the President or other people in the White House. Whether you call that a low-level job or not, it is the chief legal officer in the White House establishment.

Mr. DASH. I think his testimony was that his principal activity was putting out fires, and I guess this was one of the biggest fires that had to be put out at the White House, was it not?

Mr. MITCHELL. I would hope there are none other that are any larger.

Mr. DASH. Who else was it that you mentioned was involved other than Mr. Liddy and Mr. Hunt at the White House that you were concerned about in these discussions that Mr. Haldeman and Mr. Ehrlichman might also have been concerned about?

Mr. MITCHELL. At that time, Mr. Dash, in my recollection, it was Liddy and it was Hunt. These other gentlemen who have appeared on the scene through newspaper accounts and testimony, they were not discussed at that particular time.

Mr. DASH. Now, at a later time, did you ever discuss Mr. Krogh's or Mr. Ehrlichman's involvement in the Ellsberg matter?

Mr. MITCHELL. I learned about that involvement later.

Mr. DASH. When did you learn about that?

Mr. MITCHELL. Out of the newspapers or the media or in connection with affidavits that were filed in the *Ellsberg* case. The Plumbers became knowledgeable to me shortly after the Watergate.

Mr. DASH. Shortly after the Watergate, they became knowledgeable to you through Mr. Mardian's debriefing of Mr. Liddy?

Mr. MITCHELL. That is correct, and also through Mr. Dean. But the specific activities of Mr. Krogh and others in connection with him were not known to me until later on, as I say, from the public media.

Mr. DASH. You didn't know from Mr. Dean that among the so-called supervising Plumbers was Mr. Krogh?

Mr. MITCHELL. I knew that he was one of the supervisors, yes. What his involvements were in particular activities, I did not learn.

Mr. DASH. Well, if in fact, the Plumbers did engage in what you called White House horrors and Mr. Krogh was in a supervisory role, would you not have been concerned as to what Mr. Krogh would have done, whether you learned about it or not?

Mr. MITCHELL. No question about it.

Mr. DASH. Did you ever ask Mr. Krogh or Mr. Haldeman or Ehrlichman anything about that? Did you ever probe that?

I mean you were concerned, Mr. Mitchell, and I think the question came out yesterday from Senator Weicker, that you were very much concerned at keeping the President from knowing about some of these matters because you were afraid that if he did know, this might take the lid off and it might hurt the reelection, and you did answer Senator Weicker's question that you didn't do very much to keep the people who could blow the lid off from doing so.

Mr. MITCHELL. No, I made the response to Senator Weicker to the effect that I believed fully it was in their interests as participants in it that they would follow that course without any necessity of any urgency.

Now, getting back to the question that you asked me and why I paused, Mr. Dash, I don't believe that I can recall discussing the subject matter with Mr. Krogh. In fact, I am not sure I have seen Mr. Krogh since June 17.

Mr. DASH. Did you ever discuss the matter with Mr. Ehrlichman, for whom Mr. Krogh worked?

Mr. MITCHELL. We discussed the matter, yes. Ehrlichman and Haldeman and I have discussed the matter from time to time.

Mr. DASH. Can you recall any of the specifics of that discussion?

Mr. MITCHELL. No, it had to do—the contents that I recall of the discussions had to do with respect to the facts of what had happened and not who were the participants or how it was originated or motivated.

Mr. DASH. What, if anything, did Mr. Ehrlichman say, to your best recollection, about the facts?

Mr. MITCHELL. I have no recollection other than what I have just outlined, Mr. Dash.

Mr. DASH. And the facts again were being discussed and the concern that you all had in seeing to it that these matters did not become public knowledge.

Mr. MITCHELL. That was the basis upon which I was discussing them, yes.

Mr. DASH. Now, it seems clear from your logs here that you were heavily involved in the civil cases, since you show a number of meetings with Mr. Parkinson and Mr. O'Brien, and phone calls and meetings were also had during this time with Mr. Parkinson, I take it about

the criminal case, because Mr. Parkinson and Mr. O'Brien, it has been testified, represented a number of the employees for the Committee To Re-Elect the President before the grand jury or in their testimony or statements before the FBI. So all these meetings that also include Parkinson and O'Brien was a combination of both the civil suits and the criminal investigaton?

Mr. MITCHELL. Yes, and of course, Common Cause and the General Accounting Office matter, and the whole gamut of them.

Mr. DASH. Now, a new name begins to appear in your logs, Mr. Mitchell, on August 7, 1972. Would you look at your August 7, 1972? You met with a Mr. McPhee. You had a meeting with him along at 3:40 p.m. Who was Mr. McPhee?

Mr. MITCHELL. Mr. McPhee is a lawyer here in the District of Columbia who was introduced to me by Mr. Maurice Stans. Apparently, Mr. McPhee has advised Mr. Stans on certain matters over a number of years. He was—I don't believe he was ever retained by Mr. Stans, I am not sure. At Mr. Stans' request, he discussed with this group and with me a number of the problems that Mr. Stans was having in connection with the function aspects of the campaign and the litigation that related to it.

Mr. DASH. And the litigation. Was this the Common Cause suit?

Mr. MITCHELL. Well, it not only was the Common Cause, but the fact of the civil litigation went very heartily into the question, of course, as to where these checks came from and why they were in the bank in Miami and how they happened to be from Mexico, et cetera, et cetera.

Mr. DASH. That would have been the Democratic National Committee suit?

Mr. MITCHELL. Yes, sir.

Mr. DASH. I think the chart shows that McPhee began to appear more readily in the meetings. I think he meets with you, Mardian, and O'Brien at 2:40 p.m. on August 17. Then there is an interesting series of calls on August 28, 1972.

There is a call with Mr. McPhee—I will turn to my calendar where I can read it better—at 10 o'clock in the morning. You had a telephone call with Mr. McPhee.

Mr. HUNDLEY. What date is this, Mr. Dash?

Mr. DASH. On August 28, 1972.

Mr. HUNDLEY. We don't have that in our diary.

Mr. DASH. Your telephone logs showed that there was——

Mr. MITCHELL. This is in the log.

Mr. DASH. Do you have the log?

Mr. MITCHELL. Yes.

Mr. HUNDLEY. Go ahead.

Mr. MITCHELL. Whatever it shows.

Mr. DASH. Then does your log show a telephone call at 11:30 with Mr. Kleindienst?

Mr. HUNDLEY. No, it shows a Bill Simon called——

Mr. DASH. I have a copy of your log showing August 28, 1972, and it shows that at 10 o'clock, Mr. McPhee called Mr. Mitchell and talked.

Mr. MITCHELL. No, sir. Maybe you have a different date there?

Mr. DASH. I have Monday, August 28, 1972.

Mr. HUNDLEY. No, it is Tuesday, August 28.

Right, it is Monday, August 28, that is right.

Mr. DASH. Do you have it now?

Mr. MITCHELL. We have a date now that corresponds.

Mr. DASH. I think you have the same date. I think it is Monday, August 28, right?

Mr. MITCHELL. Right.

Mr. DASH. Now that they are all the same date, Monday, August 28, there was a telephone call with Mr. McPhee at 10 o'clock; a telephone call at 11:30 with Mr. Kleindienst; a telephone call with Mr. Dean at 11:40; a telephone call with Mr. Haldeman at 12; a telephone call at 12:45 with Mr. Mardian; a telephone call with Mr. Ehrlichman at 1:10. Then let me see—Haldeman was at 12:45, excuse me—Mr. Ehrlichman at 2:30. Then you had a meeting with Mr. Stans, Mr. McPhee, and Mr. Parkinson at 4 o'clock.

Is there any relationship to that series of telephone calls during the day and a meeting at 4 o'clock?

Mr. MITCHELL. I would think there was none whatsoever, Mr. Dash. I would believe that in this time frame of August 28 was the time when Mr. Gardner had made his demands upon the committee with respect to the disclosure of the contributions which resulted in the later date of the filing of the Common Cause suit. I don't know whether there has been placed in the record the letter that Mr. Gardner wrote to the committee or to Mr. Stans or whoever it was written to. But it was in this time frame and I would believe that the discussions between Stans, McPhee, and myself and Mr. Parkinson would relate to that particular subject matter, or certainly to the civil litigation.

Mr. DASH. You said Mr. Stans had brought Mr. McPhee in in order to consult with him.

Mr. MITCHELL. Yes, sir.

Mr. DASH. What actual role was he playing at the meeting; was he retained counsel; was he representing any party to the suit?

Mr. MITCHELL. To my knowledge, he was not retained a fee but Mr. Stans had great faith in him and frequently had him sit in in some of the discussions.

Mr. DASH. Was he volunteering his time then?

Mr. MITCHELL. I would believe that he would be doing that as far as I know, but as I say, there was quite a relationship with Mr. McPhee and Mr. Stans that had gone back over quite a period of time.

Mr. DASH. Well now, in September your meetings with Mr. McPhee continue—on August 1, you, Parkinson, and Mr. McPhee.

Mr. MITCHELL. August 1?

Mr. DASH. Yes, August 1, 1972. Excuse me, I mean August, not September.

Mr. HUNDLEY. We do not have McPhee August 1.

Mr. DASH. August 17 is where you meet with Mr. McPhee, Mr. Mardian and Mr. O'Brien and again on August 28 you meet actually with Mr. McPhee twice, once—he telephoned, you have a telephone call with Mr. McPhee at 1 o'clock and you meet at 4 o'clock with Mr. Stans, Mr. McPhee, and Mr. Parkinson. And then again, there are additional meetings with Mr. McPhee going on September 1 and other meetings.

Now, these generally with Mr. Parkinson, Mr. O'Brien and yourself or others, there are a total of nine meetings that at least our reference to your logs show with reference to Mr. McPhee. During that period

of time the civil suits were underway and the depositions had begun, had they not?

Mr. MITCHELL. Yes, they had, sir.

Mr. DASH. And were there not plans discussed, as I think you have already indicated, and strategies to perhaps have the civil suits put off until after the election?

Mr. MITCHELL. That was certainly our desire and, I believe, that the court records can speak for themselves in connection with it.

Mr. DASH. All right. Now, was Roemer McPhee playing any active role in the civil litigation especially the effort to get a postponement?

Mr. MITCHELL. None other than sitting in on the discussions that I am aware of.

Mr. DASH. Now, you are aware, I think, of Mr. Dean's testimony that he said that he learned at a meeting in your office—one of these meetings which he attended when Mr. McPhee was there and others—that Mr. Roemer McPhee was having private discussions with Judge Richey, who was the Federal judge in the Democratic National Committee suit, and that both Mr. Parkinson and Mr. McPhee had told him personally that Judge Richey would be helpful. Now, was Mr. McPhee serving in any helpful role with regard to Judge Richey in your discussions?

Mr. MITCHELL. None that I know other than the fact that Roemer McPhee apparently knew Judge Richey and contributed to the intelligence as to how he thought that Judge Richey might handle the case and what his attitude might be with respect to different motions and matters of that just like you would discuss any other judge who might be handling a case.

Mr. DASH. How would Roemer McPhee be a special adviser or of special significance in his presence at these meetings with regard to how Judge Richey might act?

Mr. MITCHELL. I do not think there was anything special about it. It was the fact he attended the meetings and knowing Judge Richey apparently for a long time and expressed opinions as to what he thought his activities might be in the case.

Mr. DASH. Everybody knew then that Mr. McPhee actually did know Judge Richey and was a very good friend of Judge Richey's?

Mr. MITCHELL. Oh, yes, there was no question about that.

Mr. DASH. Was that not actually the major reason why Mr. McPhee was attending those meetings, was to give you this kind of opinion as to what to expect from Judge Richey?

Mr. MITCHELL. No; Mr. Dash. He was attending those meetings, I think, primarily at the request of Mr. Stans. He had been brought in by Mr. Stans originally, and I think he was sitting in and helping on behalf of Mr. Stans' interest.

Mr. DASH. Well, now, you testified before the committee, I think, to several of the Senators' questions, that you would have engaged in practically anything to keep the lid on so as to assure the President's election. Would it really have been——

Mr. MITCHELL. I do not think we should allow that one to stand.

Mr. DASH [continuing]. I think——

Mr. MITCHELL. Would engage in practically anything, no.

Mr. DASH [continuing]. I think you limited it to high crimes and misdemeanors involving the President in office. I guess that is directed

to the language of impeachment in the Constitution, perhaps, but I take it that you would also exclude murder, although you have indicated you would like to have seen some of the people shot in the White House.

Mr. MITCHELL. No; I did not say that I would like to see them shot. I said it might have been a good idea if it had happened at a particular time. [Laughter.]

Mr. DASH. Well, would it actually have offended your concept of having to do everything necessary to protect the President in his reelection bid to see to it that you did get favorable consideration in the civil suit from Judge Richey?

Mr. MITCHELL. I do not think that the thought ever occurred to me, Mr. Dash, until you just put the question and I cannot answer other than——

Mr. DASH. The thought never occurred to you?

Mr. MITCHELL. It never occurred to me that there would ever be any improper approach to a judge because in my opinion, that is the quickest way to get the opposite results.

Mr. DASH. Well, in some cases is that not true? You are not saying that there never have been successful approaches to judges, are you, Mr. Mitchell?

Mr. MITCHELL. I understand that some of the cases, case books in criminal laws are filled with such activities, but it would have been my opinion that it would have been absolutely nonproductive.

Mr. DASH. Well, Mr. Dean never reported to you about the statements that he says Mr. McPhee made to him or Mr. Parkinson made to him?

Mr. MITCHELL. In the context——

Mr. DASH. In the context that Mr. McPhee was having private conversations——

Mr. MITCHELL. Somebody, as I think you put it, was fixing the judge.

Mr. DASH. Well, I think Mr. Dean preferred to use the words "had influence with the judge".

Mr. MITCHELL. Well, I have not knowledge from anybody that there was ever any influence exerted upon Judge Richey in connection with the civil litigation that he handled, and that included, of course, not only the original case but the other two cases that were filed.

Mr. DASH. Did you ever at any time while you were Attorney General, send any representative to the Supreme Court on a wiretapping case?

Mr. MITCHELL. No; I have read that story in the newspaper and it is absolutely incredible. I do not know how it possibly could have gotten started.

Mr. DASH. All right. Therefore, your sort of standard that you would use to do anything to keep the lid on so far as the exposing of the White House horrors is it that you say as a matter of strategy would be bad but as a matter of what in fact it was effective, you would have done it?

Mr. MITCHELL. No; I am not saying that, Mr. Dash, because the question did not come up, the decision was not made, did not have to be made, and I would have great reluctance to have approached a

judge to the point where on these ex parte activities, is the way you are putting them, to compromise the judicial system.

Mr. DASH. Mr. Mitchell, I am sure, and I would agree with you, you would have had great reluctance but on balance, and you put it on balance here, if it meant the reelection of the President of the United States, President Nixon, would that reluctance have been overcome?

Mr. MITCHELL. That is a hypothetical question that I can't answer at the time——

Mr. DASH. Was it hypothetical in light of Mr. Dean's testimony that Mr. McPhee was in fact so being used?

Mr. MITCHELL. It is hypothetical to the point that I do not agree with Mr. Dean's testimony so far as I know about the discussions that had to do with the litigation that was before Judge Richey.

Mr. DASH. Well, is it that you know that this didn't occur or that so far as in your presence that discussion didn't occur?

Mr. MITCHELL. Well, obviously I have no assurance that it didn't occur but I do have my own knowledge of what took place in my presence with respect to the numerous discussions we had about that litigation, and the estimates as to what Judge Richey might do in connection with it.

Mr. DASH. But you could not completely disagree with Mr. Dean if Mr. Dean says that Mr. Parkinson and Mr. McPhee told him personally that this was going on and you weren't present?

Mr. MITCHELL. I was not present, of course, obviously.

Mr. DASH. You are not saying any of these persons told you otherwise?

Mr. MITCHELL. Otherwise than what?

Mr. DASH. Since, some of this has become public, have any of these persons, Mr. McPhee or anybody spoken to you or have you spoken to them about Mr. Dean's testimony?

Mr. MITCHELL. I have been advised that Mr. Parkinson, I don't recall that I have read it myself but Mr. Parkinson has denied this publicly in the newspapers.

Mr. DASH. But I asked the question whether you personally talked to Mr. Parkinson or Mr. McPhee about this?

Mr. MITCHELL. No, I have not.

Mr. DASH. Would you clarify how you heard about Colson's discussion of Executive clemency with Hunt. I think so far the testimony seems to be that you overheard it, and I am not sure the record is clear as to how you overheard it, who was present, who was telling you this?

Mr. MITCHELL. I think my testimony and my recollection is that it was either John Dean or Mr. O'Brien, and that it probably was John Dean because he was more closely related to it, and the recollection I have is that Mr. Hunt, in connection with his discussions, whether they were going through his counsel, Mr. Bittman directly to Mr. Colson or directly to Mr. Colson, but anyway to Colson, the bottom line that I recall in connection with it was that Mr. Hunt wanted assurances from Mr. Colson with respect to Executive clemency.

Mr. DASH. Did you hear, whether it be from Mr. Dean or Mr. O'Brien, that Mr. Hunt got some assurances from Mr. Colson?

Mr. MITCHELL. I believe that my recollection is that there were assurances that Mr. Hunt would have Executive clemency.

Mr. DASH. Now, you know, Mr. Mitchell that the only person who could grant Executive clemency is the President of the United States. Now when you heard that, did you inquire of anybody whether or not the President of the United States had authorized such assurances to be made?

Mr. MITCHELL. I am well aware of, Mr. Dash, that the President is the only one that can exercise the power. It was not in that context, it was in the context that Mr. Colson would exercise his best efforts to obtain the Executive clemency.

Mr. DASH. Do you know whether he ever did so exercise his best efforts with the President?

Mr. MITCHELL. I have no idea, sir.

Mr. DASH. Did you ever hear whether or not he did?

Mr. MITCHELL. Only through the discussions of Mr. Dean in his statement, that is the only knowledge I have.

Mr. DASH. That is the first time you heard about it in Mr. Dean's statement?

Mr. MITCHELL. That is the first time I heard of the subject matter.

Mr. DASH. Mr. Mitchell, when was the last time you had a communication from the President or someone on behalf of the President of the United States?

Mr. MITCHELL. Well, the last meeting I had with the President——

Mr. DASH. I am not restricting that question, Mr. Mitchell, to a meeting.

Mr. MITCHELL. I understand. But it was in two parts, as I recall.

Mr. DASH. Yes.

Mr. MITCHELL. Was on the 22d of March was the last time that I met with the President. I have not talked to him on the telephone. Will you not rephrase but phrase the second part of the question.

Mr. DASH. The second part of anyone on behalf of the President.

Mr. MITCHELL. Well, I don't think I have had anybody on behalf of the President but I don't want to exclude the fact that we have mutual friends who have had dinner together and I have had calls of condolences with respect to certain matters that happened in New York by people who are very close to the President.

Mr. DASH. How recently, Mr. Mitchell?

Mr. MITCHELL. Well, I guess, let's see, when was that, that was sometime in May, wasn't it, well sometime in May with respect to the calls relating to condolences, and I have had dinner within the past 10 days, I would guess, with mutual friends.

Mr. DASH. Yes, were these former employees or members of the White House staff or friends of the President?

Mr. MITCHELL. Both.

Mr. DASH. Both.

Now, could you tell us who they were?

Mr. MITCHELL. Yes, Mr. Robert Abplanalp, and Rosemary Woods was another one that telephoned me.

Mr. DASH. Who did you have dinner with?

Mr. MITCHELL. Mr. Robert Abplanalp.

Mr. DASH. Have you ever been promised any Executive clemency or have ever asked for it or any help with regard to your present pending matters?

Mr. MITCHELL. I hope, Mr. Dash, that with respect to matters in New York the question is absolutely not, and with respect to circumstances down here I trust that it is not necessary.

Mr. DASH. You have expressed a hope it is not necessary, but you haven't answered the question.

Mr. MITCHELL. The answer is absolutely no.

Mr. DASH. Senator Ervin asked you yesterday whether the President ever asked you anything about your knowledge of the Watergate break-in or the so-called White House stories and you said no, the President hadn't asked.

Senator Weicker asked you whether on March 22, 1973, when you met with the President the day after Mr. Dean reported to the President, that you might have been involved, whether the President asked you about it, and you said no, and you didn't think that was peculiar that the President didn't ask you.

Weren't you surprised that despite your own decision to keep concealed from the President what you knew that he never once asked you what your opinion or views were on the Watergate matter or anything else that was so daily in the newspapers and daily involved in the grand jury investigations and before this committee?

Mr. MITCHELL. Mr. Dash, you must remember that I testified that the Watergate matter was discussed at great length.

Mr. DASH. Yes.

Mr. MITCHELL. But in much different context to what you are talking about.

Mr. DASH. I know that but I am asking you now not in that context but in a much broader context as to who might have been involved, whether you were involved, after the President learned that in fact, there was a possibility that you were.

Mr. MITCHELL. And your question is?

Mr. DASH. The question is, Is your statement still that the President never asked you that?

Mr. MITCHELL. My statement is exactly that.

Mr. DASH. And you still are not surprised that he didn't ask you that?

Mr. MITCHELL. I am not particularly surprised about it at all, no.

Mr. DASH. If he had asked you what your knowledge was, especially before the election, would you have told the President?

Mr. MITCHELL. I would have laid out the chapter and verse on everything that I knew about it.

Mr. DASH. Now, certainly in 1973 you had a considerable number of telephone calls between March 13 and March 31 from your home to the White House about, I think, about 88 calls.

Mr. MITCHELL. Are you talking about my home?

Mr. DASH. Home phone, telephone calls from your home and office.

Mr. MITCHELL. And the office.

Mr. DASH. To the White House?

Mr. MITCHELL. Yes, sir.

Mr. DASH. There is a particular series of calls that are very interesting and perhaps you can help us understand what they were about. On March 31, 1973 there were 14 calls on the period, on that day. There is a call at 12:31 a.m., 12:35 a.m., and 12:47 a.m., and then there is a break, and there is a call at 1:09 p.m., that evening, 8:27 p.m., 9:01 p.m.,

10:05 p.m., 10:41 p.m., 10:48 p.m., 11 p.m., 11:07 p.m., 11:17 p.m., 11:39 p.m., 11:56 p.m. It appears just from the calls that there was somebody at least sitting at a telephone calling a number to the White House. Were these calls that you made, Mr. Mitchell?

Mr. MITCHELL. No, sir. We have another party in the family that does more telephone calling and during those hours than I do. [Laughter.]

Mr. DASH. Is it your testimony that you made none of these calls to the White House on the 31st?

Mr. MITCHELL. I can't say that I didn't make any of them but certainly not in that range, and let me say, Mr. Dash, that frequently calls to the White House are not necessarily to talk to people in the White House but to get through the wonderful operation they have over there the telephone numbers of people that are available to them.

Mr. DASH. Well, one of the significant thing perhaps of the number of calls and I say perhaps, and I am asking for your assistance, is that these occurred March 31, is that if you look at what was occurring at that time was that, certainly by March 31, the sentencing procedure before Judge Sirica had already occurred, Mr. McCord had come forward and given a letter to Judge Sirica, then come forward to this committee and it had become public knowledge that Mr. McCord was accusing Mr. Dean, Mr. Magruder and yourself as having been involved in the bugging operations of the Watergate.

Were these calls on March 31—14 calls to the different people at the White House—to discuss this implication of you by Mr. McCord?

Mr. MITCHELL. Certainly not at that hour, those hours.

Mr. DASH. These were not late hours. A call at 1:09 p.m., is in the afternoon, 8:27 p.m. is the early evening, all early evening calls, 10:05 p.m., 10:41 p.m., the latest call is 11:56 p.m., that is not very late.

Mr. MITCHELL. Well, they were not my calls, Mr. Dash.

Mr. DASH. And when you say they were not your calls, you are not saying none of them were?

Mr. MITCHELL. I am not saying none of them were, but there was no period of time——

Mr. DASH. Did you make any telephone calls to the White House or any White House person after the McCord revelations came out which named you?

Mr. MITCHELL. Yes, I am sure that matters were discussed with Mr. Dean. I am certain of it.

Mr. DASH. Just Mr. Dean?

Mr. MITCHELL. I do not recall discussing them with anybody else until a much later date, and you tied your question to what you referred to as the McCord revelations. I believe that Mr. Dean was the only one in the White House that I discussed the McCord letter—I presume that is what you are talking about, the letter to Judge Sirica.

Mr. DASH. Well, Mr. McCord came forward, actually, to this committee in executive session, and issued some statements which did name you.

Mr. MITCHELL. Well, would it have gotten out of executive session to the public——

Mr. DASH. Yes, it did, it was in the public press.

Mr. MITCHELL. If it did, then I am sure it was discussed with Mr. Dean at the White House and I do not recall discussing——

Mr. DASH. Could you tell us what the nature of your discussions with Mr. Dean was?

Mr. MITCHELL. I have had so many discussions with Mr. Dean on the matter, I cannot isolate that one.

Mr. DASH. Could you search your mind? I think it is the first time in the public press your name became identified with the break-in.

Mr. MITCHELL. It would have been discussed, I am sure, in the context of what was said in the letter to Judge Sirica or with respect to what came out of your executive session as to what the facts, or allegations, I probably should say, were contained in the particular items.

Mr. DASH. Actually, following up at least that McCord episode, were your meetings with Mr. Magruder on March 27, where he was beginning to be concerned about the unraveling of the operations, so far as he was concerned, your meeting with Mr. Magruder and Mr. Haldeman on March 28 and your later meeting with Mr. Dean, Mr. Magruder, and yourself, on a discussion of what Mr. Magruder was going to do at the grand jury?

Mr. MITCHELL. That is correct.

Mr. DASH. So this was coming to a head at this point, was it not?

Mr. MITCHELL. Well, it was coming to the point where conversations increased as the information came forth from this committee or Mr. McCord or whoever it came forward from.

Mr. DASH. And at that time, were you not in active discussion with Mr. Dean and Mr. Magruder as to how the grand jury testimony was to be carried out?

Mr. MITCHELL. We had that meeting that I have already testified to, Mr. Dash. That is the one meeting we had on the subject matter.

Mr. DASH. And was that the meeting where Mr. Dean had indicated, at least, that you were going to hold fast to your position that there was no discussion of electronic surveillance or intelligence at that meeting?

Mr. MITCHELL. I have never heard that. If you are referring to the memorandum that Mr. Dean wrote after the April 10 meeting, I do not believe that that is contained in there. With respect to the meeting that was held with Dean and Magruder, obviously not. There was no such concept discussed that there would not be revelation of the fact if there had been discussions with the Justice Department on electronic surveillance.

Mr. DASH. Well, Mr. Magruder had made the decision as to what he was going to do. If you all three stood together, he could continue to testify as he had. He had testified to the grand jury in August, he testified at the trial about those meetings. In fact, he said there was one meeting that had been canceled and all he discussed was the election laws. If all three of you had agreed to that, he could have gone back to the grand jury and stuck to that. What he was concerned about, his testimony is, was that the two of you, you and Mr. Dean, were not going to stay with him and it was unraveling as to him, that he had committed perjury and he would go back——

Mr. MITCHELL. That was not the discussion between Dean and Mitchell and Magruder on March 28; the fact that there had been two meetings that were shown in the logs and that the question was whether or not Magruder had perjured himself by the basis upon which he had presented his testimony to the grand jury on this subject.

Mr. DASH. What did you conclude, at least as to that?

Mr. MITCHELL. As I testified here yesterday and the day before, I told him that I would not know whether he had or had not, it would be dependent on what he told the grand jury.

Mr. DASH. Did he tell you what he told the grand jury?

Mr. MITCHELL. He told me in generalities with respect to it but when it got down to the question of what questions he had been asked, he could not recall that.

Mr. DASH. You have already indicated that you had been debriefed by the lawyers as to what Mr. Magruder told the grand jury afterwards back in August.

Mr. MITCHELL. That is absolutely correct.

Mr. DASH. So you know what he testified to at the grand jury.

Mr. MITCHELL. I did not know what the questions were. I knew what he had testified to.

Mr. DASH. Now, in early April 1973, Mr. Ehrlichman is supposed to have been assigned by the President to make new investigations on who was involved in the Watergate break-in and he interviewed a number of persons, including Mr. Magruder, Mr. Strachan and others. Did he ask you anything about your knowledge about the Watergate?

Mr. MITCHELL. To the best of my recollection, he did not. The meeting that I presume you are referring to was on Saturday, April 14.

Mr. DASH. Well, this is a separate—meeting with whom?

Mr. MITCHELL. Ehrlichman. Isn't that who you are talking about?

Mr. DASH. No, I am not asking you now. I know you did meet with Ehrlichman at that time.

Did he ever, when he was supposedly making a new investigation for the President, on what happened, did he ever ask you, John Mitchell, what your involvement might have been?

Mr. MITCHELL. No, sir.

Mr. DASH. Did you know that he had come to the conclusion, based, I take it, on Magruder's statement, that you had approved the bugging operation and were involved?

Mr. MITCHELL. That he had come to the conclusion?

Mr. DASH. Yes, he has so reported.

Mr. MITCHELL. Yes, he told me about Magruder's allegations when we met that Saturday.

Mr. DASH. Did he ask you about whether you——

Mr. MITCHELL. No, he did not.

Mr. DASH. Why would he tell you that and not ask you about it?

Mr. MITCHELL. I don't know. You will have to ask Mr. Ehrlichman. I don't know——

Mr. DASH. What did you say to him? When he told you about Magruder's allegation, did you say Magruder is a damn liar or its a palpable lie?

Mr. MITCHELL. I think something along those lines, Mr. Dash, and that is the basis on which the conversation was ended.

You will recall that this is the one where we didn't sit near the coffee table, but we were over at the desk.

Mr. DASH. Therefore, if there is a recording of that conversation, your denial would be on that recording?

Mr. MITCHELL. What I said at that conversation would be on the recording. I understand it is not a very good recording, but it would be there anyway.

Mr. DASH. I think you can hope, at least, it is good enough to include your denial?

Mr. MITCHELL. I would hope so.

Senator BAKER. Did you talk to the coffee table or did you talk to the desk? Which one was it?

Mr. MITCHELL. Mr. Vice Chairman, I don't know where that little device is, but I wouldn't be surprised if there were a number of them around there. Or had been, I should say.

Mr. DASH. I am sorry. I didn't want to interrupt your discussion with the Vice Chairman.

Were you aware that on April 15, 1973, Mr. Petersen and Mr. Kleindienst met with the President and informed him that a number of people might be involved and that you were so included?

Mr. MITCHELL. I was not aware of that, of course, until I read it in the press.

Mr. DASH. Well, did the President then at that time ask you about your involvement?

Mr. MITCHELL. I have not talked to the President, as I have previously testified, since March 22.

Mr. DASH. I think you have constantly indicated your close friendship to the President and your loyalty to the President. I take it, it is reciprocated. Would not the President have called you if he had this information and asked you, John, is this true?

Mr. MITCHELL. Well, first of all, I have not expressed my closeness to the President. That has been an assumption that has been used down here.

Second, with respect to the question, I believe that he was having it investigated by the proper people under the proper circumstances and it was not a function of the President of the United States to carry out such an investigation.

Mr. DASH. No, I don't believe it was, but as a personal matter, you have indicated that his references to Mr. Haldeman and Mr. Ehrlichman showed his warmth and sympathetic character as a personal matter. Just a matter of human personality and the relationship you had with him as Attorney General and campaign manager, would you not expect the President to call you and say, John, what about this?

Mr. MITCHELL. I don't think that would necessarily be appropriate under the circumstances.

Mr. DASH. He would not want to ask from your lips alone your viewpoints?

Mr. MITCHELL. I don't know what his motives would be one way or the other. I have found that, at least decided on April 14 that after having learned of some of the occurrences that had taken place, I made a determination not to meet with him and not to talk to him further about the subject matter.

Mr. DASH. Now, when did you testify before the grand jury in the new grand jury investigation, Mr. Mitchell?

Mr. MITCHELL. April 13 or April 14.

Mr. DASH. Is your testimony here the same testimony you gave before the previous grand jury?

Mr. MITCHELL. The testimony here is much more extensive.

Mr. DASH. Well, on the subject matters that are consistent with the subject.

Mr. MITCHELL. Exactly the same as they are here.

Mr. DASH. Did you testify before the first Watergate grand jury?

Mr. MITCHELL. Yes, I did, sometime in September, the day before the indictments came down.

Mr. DASH. Was your testimony then the same as the testimony in April of this year?

Mr. MITCHELL. No, it was different, because their questions were different.

Mr. DASH. Were you asked specifically whether or not you were involved in the meetings of January and February—January 27 and February 4—on a discussion of electronic interruptions?

Mr. MITCHELL. No, I don't believe, Mr. Dash—I don't recall the specifics of it. It was a very brief appearance. It was done almost on the basis of an apology, but the grand jury wants you up here, and I don't recall the specifics of the questions. But nobody to my recollection asked me was there a discussion of electronic surveillance at the meetings of January and February.

Mr. HUNDLEY. Excuse me. I think I have an obligation to note for the record that the last six or seven questions are under compulsion. I have asked—Mr. Mitchell has related certain matters that he has given before the Federal grand jury that is investigating this matter.

Mr. DASH. Of course, I think Mr. Hundley well knows that even under rule 6(e) of the Federal rules, nothing prevents a witness who testified before a grand jury to tell a committee of this kind or anybody else what he testified to.

Mr. HUNDLEY. As Mr. Baker stated at the beginning of this hearing, Mr. Dash, Mr. Mitchell was not waiving any rights by appearing here and he was here under compulsion. I just note that for the record.

Mr. DASH. I understand that.

Senator BAKER. Mr. Chairman, just so that this part of the record is complete, counsel properly states the claim of the reservation and the understanding of the committee, as I tried to express it at the beginning, as to reservation of rights.

On the rule referred to by Mr. Dash, it is my impression that a witness is perfectly free to testify on the subject matter that he discussed before the grand jury but not to tell of the proceedings before the grand jury.

Mr. HUNDLEY. Well, I think we did get into that and that is why I noted my objection for the record.

Senator BAKER. For my part, I have no desire to bring the witness into that situation that he specifically disclaimed that intent.

Mr. DASH. My questions aren't aimed at getting into the proceedings of the grand jury.

Mr. HUNDLEY. I just made a note for the record.

Mr. DASH. I just want one final question on the first Watergate grand jury inquiry. Would it be right to say, Mr. Mitchell, from your testimony that you were given some deference for your appearance?

Mr. MITCHELL. Deference?

Mr. DASH. You say it was a sort of apology that they called you. Would you say that you were given some special deference as a former Attorney General for being called before the grand jury?

Mr. MITCHELL. I thought they were very polite, Mr. Dash.

Mr. DASH. Going back to the March 30 meeting in Key Biscayne with Mr. Magruder, are you certain, that while Mr. LaRue was in the room, you didn't leave the decision on the Liddy plan open?

Mr. MITCHELL. I don't believe, Mr. Dash, that my reaction to that resubmission could be considered an open question. In my mind, it was a determination that it was not approved and showed extreme distaste for the fact that it had been brought again to me in any form, shape, or circumstance.

Mr. DASH. Now, when Mr. LaRue was down there, what role was he playing? Was not it there that he was to allow you to have privacy and answer the telephones somewhere?

Mr. MITCHELL. No, Mr. LaRue, of course, has been a friend of mine for quite some time. He also, of course, was working with me in the campaign or had been working in the campaign and was going to continue to work in the campaign as one of my assistants. The house that we had down there is a very long house with two segments to it. It is almost two houses that are put together. Mr. LaRue came down and stayed with us and the meeting that we had was in the part of the house where Mr. LaRue was staying and as I described it, it is a Florida room.

Mr. DASH. During that meeting, was it not true that Mr. LaRue was actually on and off the telephone for part of that meeting?

Mr. MITCHELL. I do not recall that, Mr. Dash. The telephones were right in the room where we were meeting and how many times he was on or off the telephone, I have no recollection.

Mr. DASH. Now, when Mr. Mardian debriefed you as to his conversation with Mr. Liddy on June 21 and June 22, did he not tell you that Liddy told him that you had approved the budget of the bugging operation and that his operations had been approved by the White House and carried out with the assistance of the CIA? Was that not in the debriefing discussion?

Mr. MITCHELL. That question was answered, Mr. Dash, and my recollection is to the effect that he did—that is, Mardian did tell me that Liddy said that the White House had, using that term as they had, had approved it. In my recollection with respect to the approval of the budget, I do not have that.

Mr. DASH. Well, now, on that debriefing, I just want to go into it just briefly again, because there were some loose ends. There are a number of things which you call White House horrors, and I think the record should be clear as to what are categorized as such, which Liddy told Mardian or LaRue and which they told you and they included, to be specific, the Ellsberg break-in, I think, was the first one.

Mr. MITCHELL. Yes.

Mr. DASH. Now, did Liddy indicate to Mr. Mardian, as Mardian told you, who was involved in that break-in?

Mr. MITCHELL. To the extent that he referred to himself and Hunt, I am certain of it. Going beyond that, I have no direct knowledge.

Mr. DASH. Did Mardian tell you whether Liddy said who had authorized that break-in?

Mr. MITCHELL. I do not believe that that was discussed at that particular time, Mr. Dash.

Mr. DASH. Well, did he indicate that that was part of a plumbers operation?

Mr. MITCHELL. Either at that time or shortly thereafter, yes, sir.

Mr. DASH. Did you know from Mr. Mardian from what Liddy had told him, who else was in it?

Mr. MITCHELL. Would you repeat that?

Mr. DASH. Did Mr. Liddy tell Mr. Mardian and Mardian you, who else knew about this other than the participants?

Mr. MITCHELL. As of that particular time?

Mr. DASH. Yes.

Mr. MITCHELL. I do not recall.

Mr. DASH. Did you learn later?

Mr. MITCHELL. Yes, I learned later.

Mr. DASH. Who else did you learn?

Mr. MITCHELL. I, of course, have had discussions with John Dean about these subject matters and learned more to the effect as to what the plumbers were and how they were operating in the White House.

Mr. DASH. And who were the plumbers?

Mr. MITCHELL. Well, they were, of course, Mr. Hunt and Mr. Liddy were the operators and they were apparently working under the direction of Mr. Krogh and David Young.

Mr. DASH. And Mr. Krogh worked under the supervision of Mr. Ehrlichman, did he not?

Mr. MITCHELL. Well, Mr. Krogh, according to my knowledge or information of the White House organization, was assigned to the then Domestic Council, of which Mr. Ehrlichman was the head.

Mr. DASH. Now, did you tell anybody, other than meeting the President now, about the information you got from Mr. Mardian?

Mr. MITCHELL. Well, Mr. LaRue was there at the particular time Mr. Mardian debriefed me, and, of course, it was discussed with John Dean on numerous occasions when these further stories came out from Mr. Dean as to the activities that had been carried on.

Mr. DASH. And I think you testified that you always talked about it to Mr. Ehrlichman and Mr. Haldeman?

Mr. MITCHELL. Yes, at a later time.

Mr. DASH. Now the spiriting out of Dita Beard from the town was one of the other White House horrors. Was it your information that Mr. Liddy said she had been kidnapped?

Mr. MITCHELL. No—well——

Mr. DASH. What did you mean by spiriting her out of town?

Mr. MITCHELL. Well, this is now again the Mardian story?

Mr. DASH. Yes, I know.

Mr. MITCHELL. His story to me.

Mr. DASH. Yes.

Mr. MITCHELL. I did not take it in the context of the fact she was kidnapped. It was the fact that they got her whatever way, with or without her consent, but I presume with her consent, got her out of New York, I believe it was, not Washington, but New York, and got her out to Denver.

Mr. DASH. And did Mr. Mardian tell you that Mr. Liddy had explained who had authorized that operation?

Mr. MITCHELL. Not to my recollection.

Mr. DASH. Who else knew about it, from Mr. Liddy to Mr. Mardian?

Mr. MITCHELL. No, I don't believe that was so, Mr. Dash. There was a—rather an outline of the activities that had been carried out rather than who were the parties that had authorized the activities.

Mr. DASH. All right.

The Diem cables, were these the so-called fake cables which purportedly link President Kennedy to the murder of Diem?

Mr. MITCHELL. That is correct, sir.

Mr. DASH. Who told you about them? Did that come from the Liddy discussion or from Mr. Dean?

Mr. MITCHELL. As being fake cables?

Mr. DASH. Yes.

Mr. MITCHELL. That came from John Dean.

Mr. DASH. Are these the so-called cables that were taken from Mr. Hunt's safe?

Mr. MITCHELL. I believe them to be the same, yes, sir.

Mr. DASH. And were you aware or did you learn that these false cables were ultimately given to Mr. Gray?

Mr. MITCHELL. No, sir, I did not.

Mr. DASH. Had you any prior discussions with anybody about those cables?

Mr. MITCHELL. Yes, I had.

Mr. DASH. Who were they?

Mr. MITCHELL. I didn't realize that they were the same cables at the time. Mr. William Lambert came to me at some time in the early part of 1972 and said he had been having discussions with Mr. Colson over at the White House concerning these cables and that he thought it was a great story, a problem——

Senator ERVIN. I'm sorry, I hate to interrupt you but there is a vote on in the Senate and the committee will have to take a recess temporarily.

[Recess.]

Senator ERVIN. The committee will have to resume a meeting at 1 o'clock and for that reason, I think it will be the expedient thing to recess at this time until 2 o'clock or as near thereafter as the committee can finish its meeting.

[Whereupon, at 11:55 a.m., the committee recessed, to reconvene at 2 p.m., the same day.]

AFTERNOON SESSION, THURSDAY, JULY 12, 1973

Senator ERVIN. The committee will come to order. The counsel will resume examination of the witness.

Mr. DASH. Mr. Mitchell, did Mr. Richard Moore sometime in February come to see you in New York for the purpose of asking you to participate to try to raise some funds for the legal defense of the defendants?

Mr. MITCHELL. Mr. Richard Moore came to New York on February 15 and, as I recall, we had lunch to discuss a number of items concerning the forthcoming hearings of this committee, and I believe, if my memory serves me right, that it was a casual reference to the thought that some people thought that I might be interested in that

subject matter and, as I recall, I had a very strong resentment of the concept and that was disposed of in one or two sentences.

Mr. DASH. Now the subject matter, again of casual reference, was seeking whether you would be interested in raising funds for the legal defense of the defendants?

Mr. MITCHELL. That is correct. But that was not the prime basis of the discussion.

Mr. DASH. I understand.

Mr. MITCHELL. Or the one upon which we dwelled.

Mr. DASH. That was raised though and what was your reaction to it?

Mr. MITCHELL. My reaction was that I was without interest in the subject matter.

Mr. DASH. Now, I think in a question asked by Senator Inouye to you about whether or not, after information did come out concerning the Watergate and the President became aware at least of certain involvements, I think a line of questions were put to you about whether or not you considered what the President did was lowering the boom, using your language, and I think you indicated it was kind of a soft lowering of the boom. Was it not true that Mr. Caulfield, who did leave, who went to work for the Treasury, and Mr. Krogh, who also left the White House, became Under Secretary for the Department of Transportation, Mr. Magruder went to the Commerce Department, and Mr. Strachan became General Counsel of the USIA? They may not all be there now but that is how they left the White House and where they went—was that your understanding of the proper way to handle people who may have been involved in the Watergate case?

Mr. MITCHELL. Mr. Dash, I am not familiar with the job that these gentlemen have held, particularly with respect to the time frame, but I would believe, according to any recollection, that they were placed in those positions before the period of the subject matter that Senator Inouye was talking about and they subsequently of course have been removed from those jobs.

Mr. DASH. But they certainly were placed in those positions during a time when there was quite a bit of a cloud that hung over all of these people including Mr. Magruder and Mr. Krogh and Mr. Caulfield and Mr. Strachan.

Mr. MITCHELL. Well, I can't tell you—it seems to me they were in an earlier time period and time frame with respect to my knowing when they were, Mr. Magruder's case might have been an exception.

Mr. DASH. It was really because Mr. Magruder was coming to see you asking for help and later Mr. Haldeman, you testified you tried to help him as much as you could, that was March 27?

Mr. MITCHELL. Yes, sir; that is correct.

Mr. DASH. Mr. Haldeman, I take it, offered the same kind of assistance?

Mr. MITCHELL. Well, I don't know what kind of assistance you are talking about, just the general fact.

Mr. DASH. Job opportunity.

Mr. MITCHELL. Well, the job opportunities at that time, Mr. Magruder was already working over at the Commerce Department.

Mr. DASH. You have told Senator Talmadge, and I don't want to restate it too dramatically but I think you did make a dramatic statement in terms of what you thought was necessary to assure the

reelection of President Nixon. I think you did state kind of dramatically to Senator Baker that you would pretty much not want to allow anything to stand in the way of reelection and I know you, of course, drew certain exceptions to that. Would you have included, and I am now talking about the time prior to the election, perjury as an activity that would stand in your way in getting the President reelected?

Mr. MITCHELL. Are you talking about somebody else's part?

Mr. DASH. Or your own part?

Mr. MITCHELL. I would think that that would be a subject matter, Mr. Dash, that I would have to give very long and very hard thought to.

Mr. DASH. All right, now, you have told us repeatedly during your testimony on Tuesday, Wednesday, and today that Mr. Mardian told you of his conversation with Mr. Liddy and I think the date on which he debriefed you was according to your testimony, around June 21 or 22, and that it was that debriefing that gave you all the information of Liddy's operation, which included the so-called White House horrors and break-in.

Now, have you ever denied at any time that Mr. Mardian told you about his conversation with Mr. Liddy?

Mr. MITCHELL. I have no recollection of having done so, Mr. Dash.

Mr. DASH. Did you give a deposition on September 5 in the Civil Case No. 1233 brought by the Democratic National Committee?

Mr. MITCHELL. Yes, sir; I did.

Mr. DASH. Let me read you, Mr. Mitchell, and I can send it to you if you wish to look at it yourself or counsel wishes to look at it from page 45 of that deposition. Question put to you, "Did you know whether or not Mr. LaRue had a discussion with Mr. Gordon Liddy about Mr. Liddy's involvement in the Watergate episode?" Answer by you, "I don't really know. I believe that according to my best recollection it was that Liddy—I mean LaRue and Mardian, one or the other or maybe both, talked to Liddy when Liddy decided he was not going to cooperate with the FBI. I am not sure which one of them. It was either one or the other, it may have been both of them."

Question put to you, "You were not present at this conversation?" And by you. "No, I have not seen Mr. Liddy since the middle of June, I have not seen Mr. Liddy or talked to him."

Question put to you, "Did either Mr. Mardian or Mr. LaRue report to you on their conversation with Liddy?" Your answer, "No; only to the extent that his services had been terminated in whatever way it was."

Now that was your testimony as of September 5, 1972, in the deposition.

Mr. MITCHELL. Mr. Dash, that relates to the basis of the termination of Mr. Liddy.

Mr. DASH. No; the question put to you was, "Did either Mr. Mardian or Mr. LaRue report to you on their conversation with Liddy?"

Mr. MITCHELL. If you go back to the basis of it it had to do with the subject matter of the termination of Mr. Liddy.

Mr. DASH. Let me ask you again the question that was put to you, and I will re-read it and you may look at this on page 45, "Did you know whether or not Mr. LaRue had a discussion with Mr. Gordon Liddy about Mr. Liddy's involvement in the Watergate episode?"

And then you said, "I don't really know"—but your answer was that Mr. Mardian and Mr. LaRue did and the question was, "Did either Mr. Mardian or Mr. LaRue report to you on the conversation with Mr. Liddy," and your answer was, "No," and it was your limitation "only to the extent his service had been terminated in whatever way it was."

Mr. MITCHELL. Well, the answer speaks to the termination of the services. My response with respect to the other subject matter was equivocal because of my recollection at the particular time.

Mr. DASH. Well, it certainly was equivocal because you have testified 3 days here that the important part of that conversation that Mr. Mardian was talking to you about was the White House horrors and the Watergate break-in and since this was September 5, 1972, before the election, didn't you answer "No" in that case as part of your willingness to keep the lid on so that if you had answered "Yes" and had to tell that conversation, you would have been opening the lid?

Mr. MITCHELL. Mr. Dash, I have spent many, many hours reconstructing the events in connection with what happened during this period of time, in preparation for the testimony of this committee, and that is one of the reasons why I have more specific knowledge or better recollect with what had gone on than at that particular time in September.

Mr. DASH. This was September 5?

Mr. MITCHELL. September 5.

Mr. DASH. Which was closer to the June meeting?

Mr. MITCHELL. Was closer to the particular time when there were two subject matters contained in that discussion there, one of which had to do, of course, with his termination and the other had to do with the other subject matter.

[Conferring with counsel.]

Mr. DASH. Well, your answer, "No," that Mr. Mardian did not tell you anything about his conversation with Liddy with regard to Liddy's involvement in the Watergate episode, is actually quite contrary to your testimony under oath before this committee.

Mr. MITCHELL. Mr. Dash, I would point out that there are two subject matters there, and is no relation to the termination aspect of it, and the other answer is as I say.

Mr. DASH. Mr. Mitchell, I don't want to argue with you but you put the limitation on. The question put to you was dealing with the questioning of Mr. Liddy concerning his involvement in the Watergate episode and you said that Mr. Mardian did not tell you about that conversation and all you said was except about his termination.

Now, all I am asking you is whether or not that answer "No," that Mr. Mardian did not tell you about the conversation with Liddy concerning his Watergate involvement is directly contrary to the testimony you have given here.

Mr. MITCHELL. I still disagree with the interpretation that you have put on it, Mr. Dash.

Mr. DASH. Now, it seems to me that——

Mr. MITCHELL. Let me also point out that in addition to the hours that have been put in reconstructing these events of course there have been other matters presented to us that relate to the subject matters which have refreshed my recollection, including testimony before this committee.

Mr. DASH. Well, is your testimony at the time you said, "No" there that you actually had no recollection that Mardian had told you about the White House horrors, that Liddy had told them. Could you have forgotten that?

Mr. MITCHELL. No; that is not the subject matter of that question.

Mr. DASH. That is the subject matter of the question.

Mr. MITCHELL. The White House horrors?

Mr. DASH. Liddy's involvement in the Watergate episode.

Mr. MITCHELL. Those are not the White House horrors, Mr. Dash.

Mr. DASH. Well, did you also forget about Liddy's involvement in the break-in of the Democratic National Committee headquarters?

Mr. MITCHELL. I go back and stand on the statement, the answer that I gave you, I think there are two subject matters there and there are two answers.

Mr. DASH. This statement was made under oath, was it not, Mr. Mitchell?

Mr. MITCHELL. It was made under oath, that is correct.

Mr. DASH. Now, you have testified several times to the committee as to the circumstances under which Mr. Liddy was hired as counsel to the Committee for the Re-Election of the President, involving Mr. Dean's introduction, your interview with him on November 24, and your hiring of Mr. Liddy, is that not correct?

Mr. MITCHELL. Well, I think my testimony and my recollection as to how it happened is after Mr. Dean had brought Mr. Liddy over to meet with me on November 24, 1971, and discussed the areas in which he would be working, we met, this is Liddy, Dean and myself, we discussed it, and then, as I understand it, the suggestion was that since Mr. Magruder was then overrunning the committee that Mr. Liddy be put in touch with Mr. Dean—Mr. Magruder by Mr. Dean and that the hiring of him took place over there.

Mr. DASH. But you were aware of the circumstances under which he was hired.

Mr. MITCHELL. I was aware of the circumstances, Mr. Dean having brought Mr. Liddy over to meet with me, and I having said that it looked to me like he could be perfectly competent.

Mr. DASH. And you approved his being hired?

Mr. MITCHELL. As counsel for that committee?

Mr. DASH. Right, and Mr. Magruder hired him on your approval, is that not true?

Mr. MITCHELL. I would presume that that had followed.

Mr. DASH. Now, have you ever denied to anybody that you were aware of these circumstances of Mr. Liddy's employment with the committee?

Mr. MITCHELL. There was one occasion in which my recollection failed with respect to who actually hired Mr. Liddy. It is still my opinion that Mr. Magruder hired Liddy, and not John Mitchell.

Mr. DASH. Without the question of who actually hired him and the circumstances under which he became employed, which would include at least your interviewing of him and your having some role, have you ever denied knowing any of those circumstances?

Mr. MITCHELL. I don't recall, Mr. Dash.

Mr. DASH. Under the same testimony of Mr. Mitchell on September

5, 1972, the question was put to you on page 18 of the transcript: "Mr. Mitchell, do you have any information as to the circumstances under which Mr. Liddy was hired?" with reference to the Committee for the Re-Election of the President.

The answer: "No sir, I do not."

Question. "Have you ever made inquiry to find out how it came that he was hired?"

"Have I made inquiry?"

Question: "Yes."

Answer. "No, I have not."

Now, that testimony was under oath. Could you have been actually able to answer no to that question?

Mr. MITCHELL. Very easily, because I was not aware of how Mr. Magruder ultimately hired Mr. Liddy.

Mr. DASH. Well, the question was not really that, was it, Mr. Mitchell?

Mr. MITCHELL. In the context as you have read it and as I understood it at that particular time, the answer is "Yes."

Mr. DASH. You were asked, do you have any information as to the circumstances under which Mr. Liddy was hired? Would not the truthful answer to that be, I may have not hired him myself, it may have been Magruder, but I interviewed him when Mr. Dean brought him over. I approved. Maybe I didn't hire him, Mr. Magruder did. Would not that have been a more factual answer than no, I have no information?

Mr. MITCHELL. It gets to a point of degree, Mr. Dash, and the question was as to the hiring and the hiring was done by Mr. Magruder in the following month and I have no knowledge of those aspects of Mr. Magruder hiring him.

Mr. DASH. Did you remember at that time the interview of Mr. Dean when you were asked that question?

Mr. MITCHELL. No, I had no recollection of the interview at that time.

Mr. DASH. And you had no recollection of your approving Mr. Liddy at that time?

Mr. MITCHELL. You are using the word "approving." It was not to that extent. It was the basis of the conversation that yes, I think he would be perfectly all right for counsel for the committee and the ultimate decision was to be made by Magruder.

Mr. DASH. Mr. Mitchell, you know an agenda was prepared for that interview and you know that if you didn't approve Mr. Liddy, Mr. Magruder would never have hired him. You know that.

Mr. MITCHELL. That could have been the case, or it might have been otherwise, because Mr. Magruder might have gotten approval.

Mr. DASH. Did you have any information——

Mr. MITCHELL. I might have had information on that meeting. That was my recollection.

Mr. DASH. Isn't it so, Mr. Mitchell, that you answered "No" in this context, because at that time on September 5 Mr. Liddy had been identified as being involved and that you did not want to have any relationship with Mr. Liddy's involvement or hiring by the committee?

Mr. MITCHELL. I think that would have been the magnitude or consequence. Obviously, Mr. Liddy was known to me, attended meetings in the Justice Department on different subject matters including the drug abuse law enforcements and so forth, that would not have been of that magnitude.

Mr. DASH. In any event, your statement that you had no information whatsoever as to any of the circumstances on September 5 is quite different than your testimony before this committee, is that not so?

Mr. MITCHELL. I believe that to be true, and I believe the rechecking of the records, and the committee being kind enough to furnish me a copy of the agenda that Mr. Dean provided, and further reflection so it has brought the subject matter very much into focus.

Mr. DASH. Now, you testified you asked Mr. Mardian to make an investigation for you as to the Watergate break-in. Did those instructions include cooperating with the Federal Bureau of Investigation?

Mr. MITCHELL. The matter involved, I do not recall coming back on the plane from California, whether that was specifically discussed or not, but there was a policy within the committee that they should cooperate with the FBI and, of course, that was the basis for the discharging of Mr. Liddy when he did not cooperate.

Mr. DASH. Well, did you ever give instructions that there should be cooperation with the FBI to Mr. Mardian?

Mr. MITCHELL. Mr. Dash, I don't recall the specific words. I would presume that it would be——

Mr. DASH. Did you consider——

Mr. MITCHELL [continuing]. Implicit in his actions.

Mr. DASH. Did you include yourself in that requirement to cooperate with the FBI?

Mr. MITCHELL. I would certainly believe so.

Mr. DASH. Isn't it a fact, that you were interviewed by Special Agents Mahan and Lill on July 5, 1972? Do you recall that?

Mr. MITCHELL. I recall there was an interview, Mr. Dash. I don't recall the date.

Mr. DASH. Do you recall being interviewed as to what knowledge you had of the Democratic National Committee break-in and informing the agents that the only knowledge you had was what you read in the newspapers?

Mr. MITCHELL. That is correct.

Mr. DASH. As a matter of fact, by July 5, and that is pretty close to June 21 or 22, you have been given information by Mr. Mardian on what Mr. Liddy told him about that break-in.

Mr. MITCHELL. Mr. Dash, at that particular time, I was not sure whether that information was correct or otherwise.

Mr. DASH. Whether it was correct or not, the FBI was making an investigation and would not you want to give whatever leads or information they wanted, having been the former Attorney General and knowing how the FBI investigates, so they could check that out?

Mr. MITCHELL. Mr. Dash, at that particular time, we weren't volunteering any information for the reason that I have discussed here.

Mr. DASH. Right. So that in other words, your answer to the FBI was part of the decision that you made, a strong decision for the reasons you have given, to see to it that none of these things got out.

Mr. MITCHELL. It was the decision of those that were involved to not volunteer any information under any circumstances.

Mr. DASH. Do you recall being interviewed again on October 5, 1972, by Special Agent Lano?

Mr. MITCHELL. I don't believe that I was, Mr. Dash.

Mr. DASH. This was a telephone call interview. Do you recall the FBI calling you on the telephone?

Mr. MITCHELL. I believe, Mr. Dash, that that was a telephone call concerning whether or not the FBI should interview my wife. That is my recollection.

Mr. DASH. Well, FBI records indicate that you were asked again about whether you had any information about the Watergate break-in and you deny that you did.

Mr. MITCHELL. Mr. Dash, that is not the case. I think you will find that it relates to my wife and not to myself.

Mr. DASH. Well, it is true that the telephone conversation did relate to your wife, but at least the FBI records show that a question was put directly to you also as to any information and that their records show that your answer was that you had no knowledge of your own.

Mr. MITCHELL. Then, their records are absolutely wrong, because the subject matter was limited to the question about whether or not they should interview my wife or not.

Mr. DASH. Mr. Mitchell, you enjoy the distinction, and you have made it from time to time, that it was your purpose to not volunteer anything. Is there a distinction between your not volunteering anything and lying?

If you do not volunteer an answer to a direct question, you might say you do not volunteer anything, but actually, you are lying.

Mr. MITCHELL. I think we would have to find out what the specifics are, what the particular occasion and——

Mr. DASH. We will have to go back to the July 5 question of the FBI as to whether or not you have any information on the DNC break-in and your answer, only what you read in the newspapers.

Mr. MITCHELL. I think the newspaper accounts were a lot more productive than what I had heard from Mardian or LaRue——

Mr. DASH. Or Dean?

Mr. MITCHELL. Well, Dean was not discussing or had no knowledge of the Watergate break-in, Mr. Dash.

Mr. DASH. Dean had no knowledge of it at all?

Mr. MITCHELL. Not that he had imparted to me at that particular time. I think we have established that it was much later down the road that he imparted to me the knowledge that he had obtained.

Mr. DASH. Well, the information received from Mardian about Liddy is that Magruder pushed him into it. Now, nobody in the newspapers had ever mentioned that Magruder had anything to do with it.

Mr. MITCHELL. I am not talking about it being in the newspapers. It was still an open question whether it had happened or had not happened. We still had Magruder telling us to the contrary and advising the lawyers to the contrary.

Mr. DASH. In any event, it seems to me that there are two instances that I have been unable to quote to you from the record—you may differ—where your testimony on December 5 on the civil deposition was diametrically opposed to your testimony before this committee. What I have to say to you on that, is that since you may have given false testimony under oath on prior occasions, is there really any reason for this committee to believe your testimony now, especially to

the issue of whether you did or did not give final approval at the Key Biscayne meeting to the Liddy plan, whether or not you had any knowledge about the President's knowledge of the coverup or participation in the coverup, or whether you took any active part in the payoffs or coverup, the Watergate case or any other part of the White House horrors?

Mr. MITCHELL. Mr. Dash, I disagree, of course, with your interpretation of the matters that you have just read. As far as the determinations of this committee, I think they can judge their testimony—my testimony—and make their own conclusions after my appearance here for 4 days, 3½ days, whatever it is.

Mr. DASH. I think that is true, Mr. Mitchell.

Mr. MITCHELL. And anything else I would say would be self-serving.

Mr. DASH. I think that is true, and actually, if one were to take your testimony to the various parts, which would include what you have had to say about the Key Biscayne meeting and what you have had to say about the raising of funds to pay off the defendants and some other parts, that in order to believe your testimony, you would have to disbelieve Mr. Magruder, Mr. Sloan, Mr. McCord, Mr. Reisner, Mr. Stans, and in some respects, Mr. Dean.

Mr. MITCHELL. I disagree vehemently on the list of the people that you have talked about. I would suggest that you wait until the rest of the witnesses that you are going to have appear and they will be testifying on these same subject matters and Senator Weicker yesterday pointed out something unbeknownst to me about Mr. LaRue's statement as to what transpired at the March 30 meeting down in Key Biscayne.

Mr. DASH. You didn't have any recollection that Mr. LaRue in fact had that recollection of that meeting, did you?

Mr. MITCHELL. I didn't have any recollection that he had that recollection?

Mr. DASH. Your testimony is that Mr. LaRue would have agreed or agree with your testimony that when Mr. Magruder presented the proposal to you in Key Biscayne that you just dismissed it out of hand at that point. And I think Senator Weicker said to you that Mr. LaRue's testimony would probably be the fact that you stated it didn't have to be decided at that time.

Mr. MITCHELL. This, Mr. Dash, is an affirmation of the fact that it wasn't approved at Key Biscayne. I say it wasn't approved subsequently and it is certainly temporary to Magruder's testimony that it was approved in Key Biscayne on March 30.

Mr. DASH. Not approved in Key Biscayne in that room at that minute. I don't know whether you may have taken either walks with Mr. Magruder or whether you spoke to Mr. Magruder outside of Mr. LaRue's presence. But I think we will have Mr. LaRue's testimony.

I have no further questions, Mr. Chairman.

Senator ERVIN. Mr. Thompson.

Mr. THOMPSON. Mr. Mitchell, I have a few more questions. They may not be as good as Mr. Dash's, but they will be a lot slower, I guarantee you.

Let me ask you concerning Charles Colson, what was your understanding of Mr. Colson's campaign duties and obligations, specifically during the months of July and August?

Mr. MITCHELL. Well, I am sure they were many and varied. The basic contact that I had with him in the Committee for the Re-Election of the President had had to do with the connection of the establishment of the Democrats for Nixon. I am sure there were many other things that he was doing, but that is one in which I had more contact with him than anything else.

Mr. THOMPSON. Let me ask you about your log again, Mr. Mitchell. Do you have your log there before you?

Mr. MITCHELL. Yes, sir.

Mr. THOMPSON. Let me refer you to some telephone calls that you had with Mr. Colson during July and August. I refer to a call to Mr. Colson on July 6, 1972, 10:05, I believe.

Do you recall the substance of that telephone conversation?

Mr. MITCHELL. I don't, Mr. Thompson. As you know, there is a substantial number of calls in here back and forth between Mr. Colson and myself, and there is no way that I can identify the subject matter——

Mr. THOMPSON. So I will probably be a little more general in some of these other references. But that one was followed by a meeting with Mardian and LaRue, the call being made at 10:05 and the meeting with Mardian and LaRue, I believe, at 10:10.

Mr. MITCHELL. I can see that there would be no connection between the two whatsoever.

Mr. THOMPSON. There would be no connection between the two?

Mr. MITCHELL. My belief would be that that would be the case.

Mr. THOMPSON. On July 7, you have another call with Mr. Colson after having had a meeting with Mr. LaRue that morning.

Mr. MITCHELL. There still would be no connection between any conversations or meeting I had with Colson and LaRue or Mardian. There would be in connection with some of the meetings in here with Secretary Connally and Clark MacGregor and Governor Rockefeller, and, I think Magruder sat in on some of them also.

Mr. THOMPSON. I am sure you remember Mr. Magruder's testimony that when he received this call from Mr. Colson in March of 1972, Mr. LaRue was present in the room.

Do you recall that?

Mr. MITCHELL. Yes, sir, I do. I do not recall the time frame involved, but I do recall the testimony to the effect that LaRue was either in the room or in the immediate vicinity of Magruder receiving the call.

Mr. THOMPSON. Did LaRue ever tell you anything about that conversation?

Mr. MITCHELL. Yes; he did.

Mr. THOMPSON. What did he tell you?

Mr. MITCHELL. Well, sometime along—I would have to believe it would be in the year 1973, he told me of having been in Magruder's office or having been told by Magruder after Magruder had received the call from Colson that Mr. Colson had called Magruder, told him that Hunt and Liddy were in the office of Mr. Colson and that Mr. Colson was urging Magruder to listen to Hunt and Liddy and get on with the Liddy program. I can't be any more specific than that.

Mr. THOMPSON. Did he state that Mr. Magruder was any more specific than that as to what the Liddy program was at that time?

Mr. MITCHELL. I am not quite sure who you are talking about. I am talking about a conversation that Mr. LaRue had with me.

Mr. THOMPSON. Yes. Did Mr. LaRue tell you, from what he got from Magruder, that either Magruder or LaRue had an understanding as to what that program was at that time?

Mr. MITCHELL. I don't believe we discussed it in those terms. I think what we were both assuming in retrospect, going back over the time, that was one of the programs that Liddy had proposed to Magruder.

Mr. THOMPSON. All right, now, we know also that LaRue was present at Key Biscayne.

Mr. MITCHELL. Yes, sir.

Mr. THOMPSON. In the same month that he heard part of this conversation, was on one end of this conversation, later on in the month he was at Key Biscayne when Liddy again presented this plan to you.

Mr. MITCHELL. Mr. Thompson, let me again point out that I think Mr. LaRue, at least in his discussions with me on this subject matter, thought that this telephone call had come after the meeting in Key Biscayne, not before. This is my recollection of what he told me.

Mr. THOMPSON. Then why did he discuss with you at all this conversation that he had overheard when he was in the room, if he didn't think it had any significance with what was openly described as the Liddy project as we know it now?

Mr. MITCHELL. Well, I don't know his——

Mr. THOMPSON. What was the nature of that conversation? What significance did LaRue place on it, even in retrospect?

Mr. MITCHELL. Well, I am not sure what significance that he placed on it. It was when we were reviewing some of the things that had happened over the period of time and it might have arisen in connection with the statements that Mr. McCord made after the appearance before Judge Sirica. I am not quite certain of the date, but in going back over the chronology of these events, he advised me of his knowledge of the telephone call from Colson.

Mr. THOMPSON. Did Liddy have any other project?

Mr. MITCHELL. Well, Liddy, of course, as I always understood it, had an area of intelligence and information-gathering that existed with respect to the committee from the time he came aboard, which is shown in the prospectus that I was discussing with Mr. Dash.

Mr. THOMPSON. That wouldn't fall within the scope of Mr. Colson's campaign interest, would it, according to the way you described his function a moment ago. What interest would he have in seeing that the Liddy program was carried out if he was referring to that program?

Mr. MITCHELL. I was talking, Mr. Thompson, to my contacts with Mr. Colson concerning the campaign issues. Obviously, he had other functions in connection with the campaign.

Mr. THOMPSON. Do you know any other functions? Could you be a little bit more specific?

Mr. MITCHELL. Yes, I am sure that Mr. Colson was very much interested in the issues of the campaign, because he was present at many of the meetings that I attended where the issues involved in the campaign were discussed. I believe that Mr. Colson was connected with or related to or knowledgeable of the so-called attack group that met and decided positions with respect to the candidate and the opposition. I am sure he had many other duties. I am not fully aware of all of them.

Mr. THOMPSON. None of the things you mentioned, of course had anything to do with intelligence-gathering or anything of that nature, do they?

Mr. MITCHELL. Not as such, no, sir.

Mr. THOMPSON. Well, even assuming that LaRue made this statement that this telephone conversation came after Key Biscayne, and even assuming that it did, you say it was 1973, sometime in 1973 before LaRue told you about the circumstance.

Mr. MITCHELL. This is my recollection, Mr. Thompson.

Mr. THOMPSON. Let me refer you to August 8 again in your journal. My notations indicate that you had a meeting with LaRue at 9:31 that morning and received a telephone call from Mr. Colson at 10:30 the same morning.

Would there be any connection there?

Mr. MITCHELL. I don't believe that there is anything that I can recall where there was any relationship between Mr. LaRue and Mr. Colson and myself throughout this whole period.

Mr. THOMPSON. Well, let me run through the list here briefly and maybe we can be more general if you have no specific recollection with regard to any specific telephone conversation.

I mentioned the July call to Mr. Colson followed by a meeting with Mardian and LaRue. July 7, you called Mr. Colson after meeting with LaRue.

July 21, you had a telephone conversation with Mr. Colson. July 26,

Mr. MITCHELL. No, sir, I was perfectly contented to accept Mr. Haldeman.

July 28, you had a telephone conversation with Mr. Colson between meetings with LaRue and Magruder.

August 4, you had a call with Mr. Colson.

August 8, you had a telephone call from Mr. Colson after meeting with LaRue.

August 29, you received a call from Colson.

September 8, you talked to Colson after talking with Parkinson.

Do you have any specific recollection of the substance of any of those telephone conversations with Mr. Colson?

Mr. MITCHELL. As I have stated, Mr. Thompson, there were two areas, or actually, three areas, in which Mr. Colson and I were discussing matters at that particular time. The first one, which spent more time than anything else, had to do with the establishment of the Democrats for Nixon.

Mr. THOMPSON. Were you still that actively engaged in the campaign? You had resigned?

Mr. MITCHELL. I was putting out fires in connection with this subject matter.

Mr. THOMPSON. Of course, we know that was the biggest fire you had at that time.

Mr. MITCHELL. Yes, but we also had smaller fires in connection with the establishment of the Democrats for Nixon and the personnel involved.

Mr. THOMPSON. Democrats for Nixon, what else?

Mr. MITCHELL. I think I have testified or told this committee that my responsibilities as a consultant continued in dealing with some of the people who were involved out of the Committee for the Re-Election, but in the election, reelection of the President, such as Governor Reagan, Governor Rockefeller, Governor Cahill and people like that. The problem that developed was apparently there was a great disagreement as to which Democrats should head up these organiza-

tions in the different States. Mr. Colson was going one way at the time and Secretary Connally was going another way and at times the organizations, the regular political organizations, in the States wanted to make sure they did not go that way, and frequently I was brought in to help clarify the situation.

Mr. THOMPSON. Are there any other areas?

Mr. MITCHELL. The second area, of course, that was involved with the establishment of the labor groups that were supporting the President, and Mr. Colson and I had conversations on that subject matter, and the third one, of course, which involved the issues that were being discussed at the particular time in relationship to the campaign.

Mr. THOMPSON. When Dean told you what he did tell you about the so-called White House horrors, I believe you said he mentioned the Diem cables?

Mr. MITCHELL. Yes, sir.

Mr. THOMPSON. His words were the Diem cables, did he mention Mr. Colson in reference to that matter?

Mr. MITCHELL. Yes, sir.

Mr. THOMPSON. When he mentioned the Dita Beard situation did he mention Mr. Colson in reference to that matter?

Mr. MITCHELL. I am not quite that certain. I believe that to be true but I am not quite that certain.

Mr. THOMPSON. You believe that to be true. You believe he mentioned him with regard to that and he mentioned him, you believe, with regard to the Diem cables, and you had this knowledge and you had some 13 or 14 telephone conversations within a period of 2 months, did you ever discuss any of these matters with him, ask him if what Dean had said about those matters was true?

Mr. MITCHELL. No, sir, to the best of my recollection, I did not.

Mr. THOMPSON. What did Dean say exactly about Mr. Colson with regard to those matters?

Mr. MITCHELL. With regard to what, Mr. Thompson?

Mr. THOMPSON. Those two matters, the Diem cable situation and the Dita Beard or the ITT situation.

Mr. MITCHELL. Well, as I say, these matters were discussed from time to time, and you would receive or at least I would receive the stark statement that such and such had happened and from time to time, you would learn additional items about it, particularly as to what was the nature of the cables, how they had been tampered with and who were the players who were involved in connection with them.

Mr. THOMPSON. I know you do not want to——

Mr. MITCHELL. Pardon?

Mr. THOMPSON. I know you do not want to repeat serious allegations as matters of hearsay. We will have an opportunity to talk to Mr. Colson about them. We already have had the opportunity to talk to Mr. Dean but I am just asking you, considering matters that serious when you had the situation on your hands, the whole Watergate situation, does it not seem a little bit strange, at least in retrospect, that you never mentioned those matters to Mr. Colson to find out whether or not there was any truth to them?

Mr. MITCHELL. No, sir, I was perfectly contented to accept Mr. Dean's statements on the subject matter.

Mr. THOMPSON. Well, I think it requires knowing just exactly what Dean did say then. What did he say with regard to Colson's part?

Mr. MITCHELL. Well, let me go back in history a little bit and pick up a question that Mr. Dash was about to ask me before the lunch break. I had heard about the Diem cables and Mr. Colson's involvement from a third party. Of course, I did not know all of the details at that particular time but I did know that Mr. Colson was aware of the Diem cables and had talked to Mr. Lambert, Mr. William Lambert about the Diem cables so that what Mr. Dean told me about it at a subsequent date fitted right into what I had previously heard about them.

Mr. THOMPSON. Did he tell you the same thing or did he tell you anything different about his involvement? What did he supposedly do with the cables, according to Dean?

Mr. MITCHELL. Are you talking about Mr. Colson doing anything with the cables?

Mr. THOMPSON. Yes.

Mr. MITCHELL. Well, what Mr. Colson was trying to do with the cables was to get Mr. Lambert to use them in a story.

Mr. THOMPSON. What about the splicing of cables together?

Mr. MITCHELL. Well, that was part of the information that came out at a later period of time.

Mr. THOMPSON. Did Dean refer to that particular aspect of it?

Mr. MITCHELL. Yes, he did. At what particular period of time I cannot pinpoint.

Mr. THOMPSON. Does it not seem even stranger, assuming that the telephone conversations with Mr. LaRue, when he was present in the room, occurred after the March 30 meeting you had with Magruder, that he would wait all this time from March of 1972 to sometime in 1973, and obviously was meeting with him continually also, to talk to you about the significance of these matters. I believe you have already stated, I get the impression anyway and correct me if I am wrong, that Mr. LaRue was, besides a political acquaintance, a personal friend; you had him down at Key Biscayne with you. Can you shed any light on why he would withhold a significant matter like this from you when this was one of your responsibilities?

Mr. MITCHELL. Mr. Thompson, I am sure he was not withholding anything from me. I am telling you that to the best of my recollection, the first time I heard this story from Mr. LaRue was in the year 1973 after some of these allegations were made, whether it was McCord's material or whatever it was.

Mr. THOMPSON. When we were asking about who might have been pushing Magruder, you referred to some of Magruder's testimony about the call he received from Colson as a possibility. Would it be fair to say then that during the period of at least July and August of 1972 that you had no suspicion whatsoever that Mr. Colson might have been the one who pushed Magruder?

Mr. MITCHELL. Well, as I have testified before, I have not to this day know who might have been or might not have been pushing Mr. Magruder.

Mr. THOMPSON. Would the answer to my question be yes, then?

Mr. MITCHELL. Yes, to what question, sir?

Mr. THOMPSON. I said would it be accurate to say that you had no suspicion whatsoever during at least July and August of 1972 that Mr. Colson might have been the one who was pushing Mr. Magruder to do the things that he ultimately did; that you had no suspicion of him

during that period of time? I mean, you were talking with him on a continuous basis about campaign matters to start with.

Mr. MITCHELL. I would believe I could answer that Mr. Thompson by saying that if I had any suspicion of it I would certainly have pursued it, yes.

Mr. THOMPSON. All right, sir.

So any reference to Mr. Colson then, from what I can gather at this particular time, simply goes back to what Magruder's testimony was concerning who might have been pushing him. Would that be an accurate statement?

Mr. MITCHELL. Well, it also goes to the point where I believe I have just recently testified here within the last number of minutes of the fact that Mr. LaRue mentioned the subject matter to me in this year.

Mr. THOMPSON. Mr. Mitchell, on the night of June 17, 1972, did you have a conversation with Pat Gray?

Mr. MITCHELL. No, sir.

Mr. THOMPSON. Did you see him at any time during that day or night?

Mr. MITCHELL. No, sir.

Mr. THOMPSON. When was the first time you saw Pat Gray after June 17, 1972?

Mr. MITCHELL. I do not believe I have seen him since June 17.

Mr. THOMPSON. Let me ask you to relate briefly to us——

Mr. MITCHELL. By the way, Mr. Thompson, you asked about June 17. All of these specs stories in the newspapers put it the following day on the 18th, which was the Sunday, not the 17th. And my answer is no to that question, too.

Mr. THOMPSON. I was interested in the 17th only. Let me ask you to refer back to February 15 of this year. As I understand it, Mr. Richard Moore came to you and visited you and had a conversation with you in New York, is that correct?

Mr. MITCHELL. Yes, sir.

Mr. THOMPSON. Could you relate to us briefly the substance of that conversation?

Mr. MITCHELL. The subject, general subject matter other than the one that Mr. Dash has touched upon here, had to do with the Ervin committee, this committee, the Select Committee, its activities, as how to some extent the White House was going to respond and how the Committee for the Re-Election of the President and their personnel were to be handled. I think he carried with him a suggestion that it would be nice if I would move back to Washington and help with the personnel who were, from the Committee for the Re-Election of the President, who were going to appear before this committee. I thanked him very much and declined the suggestion. We got into the question of whether or not I would be interested in helping to raise support money. I did not thank him for that but I declined anyway. We discussed a number of other areas with respect to the committee and its proposed staff and, as I recall, the question again of executive privilege which was always being discussed, general approach to the subject.

Mr. THOMPSON. Let me ask you to recall as specifically as you can exactly what he said to you concerning money.

Mr. MITCHELL. Well, I don't know as I can remember the specific phrase but there is one thought that sticks in my mind which may or may not be the exact words but it was something to the effect, "You would not be interested in helping raise money in connection with these activities, would you?" It was more of a question than it was a plea, and my answer to that was negative.

Mr. THOMPSON. What activities?

Mr. MITCHELL. The activities, the payment for the support and the legal fees of the people that were involved in the Watergate.

Mr. THOMPSON. Did he specifically mention support for the people involved in the Watergate?

Mr. MITCHELL. Well, this was the general tenor of the subject matter, yes.

Mr. THOMPSON. Did you have any talk about——

Mr. MITCHELL. Or at least I understood when he talked about raising funds that this is what they were talking about.

Mr. THOMPSON. That is the way you received it from your end of the conversation?

Mr. MITCHELL. Yes sir.

Mr. THOMPSON. Did you also discuss the Committee to Re-Elect, how the Committee to Re-Elect was going to function from then on?

Mr. MITCHELL. Yes, I covered that generally in my answer. It was discussed to the point that there would be people coming up here to testify, that if they would be needing counsel, counsel would be needing the backup of the documentation which was in the committee.

Mr. THOMPSON. Did you also discuss additional staffing?

Mr. MITCHELL. I think the additional staffing was discussed in connection with the other aspects of the litigation but there was the discussion that the lawyers, and I am talking about Mr. Parkinson and Mr. O'Brien, who had been doing legal work for the committee would be examining this area of the subject matter of the people from the committee who were coming up here to testify, and it was conceivable that they would need additional assistance.

Mr. THOMPSON. Additional lawyers would be employed by the committee?

Mr. MITCHELL. I think, Mr. Thompson, it went both to the potential of additional lawyers as well as clerical or staff help to take care of providing for the documentation that might be required in connection with it.

Mr. THOMPSON. Were there any other matters which you discussed there that would possibly require money or any additional money, where money considerations might be involved in any way?

Mr. MITCHELL. I don't——

Mr. THOMPSON. In other words, what you have mentioned so far did it involve that?

Mr. MITCHELL. I don't recall, Mr. Thompson because it seems to me that one thing that the Committee for the Re-Election of the President has or at least the finance committee has had plenty of money.

Mr. THOMPSON. All right, sir.

Are you firm in your own mind that Mr. Moore, from what he said to you, in the words that he used, referred specifically to support money for defendants or in retrospect would you say that is the way that you took it?

Mr. MITCHELL. That is the way I took it. Because, as I say, to the best of my recollection it was a very brief, almost an aside "Would you be interested in raising any more money" and the answer was negative, and——

Mr. THOMPSON. Raising any more money?

Mr. MITCHELL. Well, I think I had better drop the "more" since I hadn't raised any up to that time. Thank you very much.

Mr. THOMPSON. You had not raised any money up until that time?

Mr. MITCHELL. That is correct.

Mr. THOMPSON. Was the talk of the money the major focus of the conversation or did it receive equal consideration in your conversation or was it a minor part of the conversation?

Mr. MITCHELL. A very minor. As I mentioned before, I described it as almost an aside and I think that is a proper terminology for the way in which it was put.

Mr. THOMPSON. Just one more question or small line of questions, Mr. Mitchell, and I think this should be asked. If my memory serves me correctly, newspaper reports were that on one occasion fairly recently, I believe in a telephone conversation you had with a columnist, you indicated that you were not going to be the fall guy in this thing. Was that an accurate report?

Mr. MITCHELL. It most assuredly was not. I think you are quoting the other side, of the distaff side of the Mitchell family, not me.

Mr. THOMPSON. You didn't take the telephone and verify that fact then?

Mr. MITCHELL. I did not what?

Mr. THOMPSON. You did not take the telephone yourself after that comment was made?

Mr. MITCHELL. I took the telephone to try to terminate the conversation, not to perpetrate it.

Mr. THOMPSON. All right, sir.

Mr. Mitchell, have you requested immunity for your appearance here today?

Mr. MITCHELL. No.

Mr. THOMPSON. And of course, have received none, is that correct?

Mr. MITCHELL. That is correct, Mr. Thompson.

Mr. THOMPSON. Thank you, Mr. Mitchell.

Senator ERVIN. Any further questions from any member of the committee?

Mr. Mitchell, on behalf of the committee I wish to thank you for the extreme patience which you have manifested in what was necessarily a very trying ordeal.

Mr. MITCHELL. Mr. Chairman, if I might respond just briefly, I certainly want to, and I am sure my counsel do likewise, thank the committee and certainly the staff for the many courtesies that have been extended to us which have made the coming and going in the intermissions, and so forth much, much easier than they might have been otherwise, and we are quite appreciative of it. We appreciate it.

Senator ERVIN. Thank you, sir.

Mr. HUNDLEY. Thank you very much.

Senator ERVIN. On behalf of the committee I wish to make certain announcements.

On July 6 President Nixon wrote to the chairman of the committee a letter responding to the request which the committee had made of the White House for certain documents. The letter has been widely publicized in the press and will not be either read or paraphrased by me now for that reason.

On this morning at 9 o'clock the committee had the first meeting it has held since the letter was written and received. On that occasion the vice chairman of the committee, Senator Baker, who always manifests much wisdom, moved that the chairman send a committee to the White House by way of reply to the letter of July 6. After discussion among the members of the committee, the committee unanimously authorized the chairman to send the following letter to the President:

JULY 12, 1973.

The PRESIDENT,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: I acknowledge receipt of your letter of July 6, addressed to me with a copy to Senator Baker.

The Committee feels that your position as stated in the letter, measured against the Committee's responsibility to ascertain the facts related to the matters set out in Senate Resolution 60, present the very grave possibility of a fundamental constitutional confrontation between the Congress and the Presidency. We wish to avoid that, if possible. Consequently, we request an opportunity for representatives of this Committee and its staff to meet with you and your staff to try to find ways to avoid such a confrontation.

We stand ready to discuss the matter with you at your convenience. We would point out that the hearings are ongoing and that time is of the essence. We trust that this may be done very promptly.

Very truly yours,

SAM J. ERVIN, Jr., *Chairman.*

I would like to add that the letter was largely dictated by Senator Baker with suggestions from the other members of the committee. It was forwarded to the President by special messenger in a sealed envelope marked for the eyes of the President only. [Laughter.]

The letter was accompanied by this letter:

JULY 12, 1973.

The PRESIDENT,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: This letter is a product of deliberations of the Committee this morning, authorizing the Chairman to direct a letter to the President. It is the intention of the Chairman to try to reach the President by telephone at mid-day today.

Very truly yours,

SAM J. ERVIN, Jr., *Chairman.*

The chairman did contact the President by telephone and was assured by the President that after certain pressing matters are handled by him on which deadlines are necessarily imposed, he will meet with the chairman to discuss this question.

The committee adopted the following resolution at a special meeting today held at 1 o'clock.

Resolved by the Senate Select Committee on Presidential Campaign Activities:

First, that the Committee is of the unanimous opinion that the Committee is entitled to have access to every document in the possession of the White House for any Department or Agency of the Executive Branch of the Federal Government which is relevant to prove or disprove any of the matters the Committee is authorized by Senate Resolution 60 to investigate.

Second, that the Committee is anxious to avoid any confrontation with the White House in respect to this matter, and for this reason authorizes the Chairman to meet with the President to ascertain whether there is any reasonable possibility of working out any reconciliation between the position of the Committee in this respect and that announced by the President in his letter to the Chairman bearing date July 6, 1973 which will enable the Committee to gain access to the documents necessary to enable it to make the inquiry which it is authorized by Senate Resolution 60 to make.

The chairman expects to avail himself of the promised opportunity to confer with the President in this matter in the hope that we might work out some reconciliation of these two divergent positions and thus avoid any possibility of a confrontation between the committee as a representative of the legislative branch of the Government, and the White House.

Does any member of the committee wish to add anything to what the chairman has said?

If not, counsel will call the next witness.

Mr. DASH. Mr. Richard Moore.

Senator ERVIN. Mr. Moore, will you stand up, please.

Do you swear that the testimony that you shall give to the Senate Select Committee on Presidential Campaign Activities shall be the truth, the whole truth, and nothing but the truth, so help you God?

Mr. MOORE. I do.

Senator ERVIN. Be seated, please, sir. Will you please state your name and address in full for the record.

TESTIMONY OF RICHARD A. MOORE, ACCOMPANIED BY HERBERT J. MILLER, JR., COUNSEL

Mr. MOORE. My name is Richard A. Moore, Mr. Chairman. My address is 4917 Rockwood Parkway, Washington, D.C.

Senator ERVIN. I note that you are accompanied by counsel. I will ask counsel to identify himself by giving his name and address for the record.

Mr. MILLER. Mr. Chairman, for the record my name is Herbert J. Miller, Jr., 1320–19th Street, Washington, D.C. I am here representing Mr. Richard Moore.

Senator ERVIN. Mr. Moore, I also observe that you have a prepared statement, and I assume that you would like to read your statement before you are interrogated.

Mr. MOORE. I would, sir, and thank you for the privilege.

Senator ERVIN. You may proceed to do so.

Mr. MOORE. My name is Richard A. Moore. I am special counsel to the President, a position to which I was appointed on April 26, 1971. But today, I speak today only for myself.

For the 10 years following my graduation from Yale University Law School in 1939, I practiced law in New York, with 4 years out for Army service. After the war I migrated to California, where I was a lawyer and later an executive in the television industry. To save the committee's time, I will not recite biographical details at this point, but refer you to the résumé attached to this statement.

Senator ERVIN. We might let the record show that the résumé will be printed in full after the reading of Mr. Moore's statement.

Senator BAKER. Mr. Chairman, also, if Mr. Moore would not mind, you might pull the microphone a little bit further. We are experiencing some difficulty in hearing you.

Mr. MOORE. Thank you, sir.

Is that better?

In California, I became a friend and supporter——

Senator ERVIN. I would like to request that we have order in the audience and that anyone in the audience who wishes to converse, would please retire so that their conversation will not disturb the capacity of the committee to hear the witness.

Mr. MOORE. In California, I became a friend and supporter of Richard Nixon, and advised on the television aspects of his 1962 campaign. In 1968 I accompanied him on his campaign tours. I was then invited to join the administration.

For a year beginning in April 1970, I served as a special assistant to Attorney General Mitchell. I assisted him primarily in the preparation of speeches, statements, and position papers on current public issues within the Department's responsibilities. In April 1971 I was appointed a special counsel to the President. My principal role has been to assist the President and his staff in communicating their positions in the most convincing manner to the general public. Since convincing communications depend on having a convincing position to communicate, my job necessarily involves me in the substance of particular issues in the public eye. But I do not have a line responsibility either on the communications or on the substantive side. I serve primarily as an extra hand, if you will—as a source of white-haired advice and some experience, perhaps—whenever the President or the younger men with line responsibility seek my help.

I shall be glad, of course, to answer any questions concerning any aspect of these hearings, but I believe that the most significant testimony I can give to this committee relates to a limited time frame—that is basically the period from February 6, 1973, the day Senator Ervin introduced his resolution creating this Select Committee, to March 21, 1973. March 21 is the date when President Nixon, as he later announced to the Nation, learned of "serious charges" which caused him to begin "intensive new inquiries into this whole matter." This was the day when Mr. Dean, at my urging, went into the President's office and, as he has testified, told the President "everything."

Much of my testimony will involve my recollections about conversations with the President and John Dean. The good faith recollections of one party to a conversation often differ from those of the other. The chairman himself addressed to this point early in these proceedings when he recalled Sir Edward Coke's advice that "one scratch of a pen" is often better than the memories of a multitude of witnesses. Even the written word can be misunderstood—you may remember, Mr. Chairman, Elihu Root's insistence that in good legal drafting "the words you use must not only be consistent with what you mean; they must be inconsistent with any other meaning." The Chair reminded us—transcript p. 802—that when two men communicate with each other by word of mouth, there is a "two-fold hazard in that communication." First, the man who spoke might not have expressed himself clearly and may not have said exactly what was in his mind.

Second, even if he did express himself clearly, the man who heard may have put a different interpretation on the words than did the man who spoke them. The chairman's reminder is wise and sound and I would recommend, if I may, with all respect, Mr. Chairman, that that sound principle should be known as "Ervin's law."

In December—and there is a typo here; it should be 1972—and January 1973, I was primarily involved with inaugural matters and can recall no direct meetings or consultations with regard to the Watergate or related matters until February 6. On that day I attended a meeting in Mr. Ehrlichman's office to discuss our legislative position with respect to the proposed resolution creating this select committee. Except for the discussion at this meeting, I knew of no other planning or preparation that had been going on with regard to these hearings. Within the White House, I was a critic of this lack of preparation.

This may explain why I was called to the meetings in California on February 10 and 11. I had been home with intestinal flu for 2 days and had been planning to take the weekend off and had reservations for my wife and family at the Greenbrier for the long weekend of February 9 to 12. But late on the afternoon of February 9, Mr. Dean called me at home to say that we were both asked by Mr. Ehrlichman to meet with Mr. Haldeman and himself in San Clemente on February 10 to discuss the forthcoming Senate hearings. I, therefore, took my family and baggage to the Far West instead of South.

Mr. Dean and I met on Saturday, February 10, 1973, at San Clemente with Messrs. Haldeman and Ehrlichman in Mr. Ehrlichman's office from 10:30 or 11 in the morning until 3 or 4 in the afternoon. On Sunday, we went to Mr. Haldeman's cottage at La Costa.

All four of us were present for the majority of the time. One or more of us would leave the group on occasion to make a telephone call or to perform some other function. Summarizing these meetings is difficult because they involved about 8 hours of conversation, with none of the participants adhering to any strict agenda. In addition, the many things that were said during these sessions were heard by anywhere from two to four people—depending on who was absent at the moment—each person with a different background or degree of knowledge or point of view. It was a situation, if you will, where Ervin's law applied to the fourth power. With that prelude, let me now give you my best recollection of what transpired while I was present.

At the outset Mr. Ehrlichman or Mr. Haldeman—and parenthetically, I sometimes find it hard to recall which was which—asked Mr. Dean and me what we had been doing to prepare for the hearings. The answer was nothing. The focus of these hearings, they said, would be the activities of the Committee To Re-Elect the President, and it would be the committee that would have the primary responsibility for the defense. Had we had any discussions or, as they put it, any input, from John Mitchell? The answer was "No." Either Mr. Haldeman or Ehrlichman then said that in that case, Dick Moore ought to sit down with John Mitchell as soon as he could and fill him in on the things that we discuss here and get Mr. Mitchell actively interested—he is the only one who could give real leadership to the people at the committee.

Either Haldeman or Ehrlichman then suggested that Mr. Dean be the White House coordinator for the hearing, and that I hold

myself available to advise him. I suggested that the White House have a writer-spokesman who could issue statements or go on television, if necessary, to reply quickly to testimony or commentary that was wrong or slanted. Mr. Dean, I believe, suggested that Pat Buchanan be this spokesman.

The meeting then turned to a discussion of our relationship with the minority members of the committee. It was pointed out that in an ordinary hearing there is an open relationship between the White House and the committee leadership of the same party, and the White House has a perfectly proper role in presenting its views to the members affiliated with its party on the particular committee. No one in the group had any firm view as to what was appropriate here, but the general feeling was that since this was in effect an investigation of the administration, the normal relationship might not apply and we probably should maintain an arm's-length approach even to the Republican members. In any event, it was agreed that Wally Johnson, then of the White House Congressional Relations Staff, would be made available for whatever liaison with the committee might be appropriate.

Early in the discussions, Mr. Ehrlichman made it clear that the President wanted our position in the hearings to be one of full cooperation, subject only to the doctrine of separation of powers. It was agreed it would be important to work out a statement on executive privilege (the President had recently promised the press he would do this), that would enable us to cooperate and supply the information that the committee wanted. It is my recollection that at this time the question whether Presidential advisers would be permitted to appear was still unresolved, although the consensus was that appearances should be permitted where the subject matter did not relate to their official duties for the President.

Parenthetically, some of the matters that were discussed here clearly would not relate to official duties.

There was, as I have said, no prepared sequence to our discussions, and I cannot recall all the other subjects we discussed. I do recall a discussion about putting out a White House statement in advance of the hearings setting forth all the known facts about the Watergate episode. It was also agreed that more manpower would be needed by the Committee To Re-Elect the President—possibly in the form of young lawyers and researchers to review each day's testimony and prepare rebuttals. This was among the items I agreed to discuss with Mr. Mitchell.

Mr. Dean, of course, has testified about a discussion of money. His recollection differs from mine, and again illustrates the principle which I have called Ervin's law. The brief mention of money made at this meeting may have had a very different significance to a person with Mr. Dean's knowledge of the circumstances than it had to a person with my lack of knowledge. My recollection on that subject is as follows: The subject came up, I believe, on the second day at the hotel. In the context of a discussion of the litigation in which the committee was then involved, John Dean, in a sort of by-the-way reference, said he had been told by the lawyers—and I think that was the way he put it, but I cannot be precise about his language—that they may be needing some more money, and did we have any ideas? Someone said,

isn't that something that John Mitchell might handle with his rich New York friends. It was suggested that since I would be meeting with Mr. Mitchell I should mention this when I saw him and I said I would.

As I look back now, of course, with the knowledge I subsequently began acquiring in the latter part of March, Mr. Dean's reference to a need for money might well have stimulated some further inquiries on my part at La Costa. But I did not have that knowledge on February 11—at that point I knew nothing about any prior payments to any defendants or their counsel—and no one else at the meeting went into any details, at least in my presence. Moreover, I had served for a year as special assistant to Mr. Mitchell at the Department of Justice, and I know him well. I was certain that he wasn't about to be programed into becoming a fundraiser by Mr. Haldeman and Mr. Ehrlichman, and I anticipated that Mitchell's answer would be no, as it turned out to be.

We discussed several other matters and the meeting ended, as I recall, with Ehrlichman asking me about my draft of the statement on executive privilege. He indicated that he would like a revised report to be prepared and cleared for review by the President on the flight east, the next day. At sometime during or just after the Sunday meeting, I called my secretary in Washington and dictated some changes in the statement to be cleared among those in Washington who were working on the draft.

Mr. Dean has testified that we left the meeting together and that he had a conversation with me at which time he cautioned me against conveying this fund raising request when I saw Mr. Mitchell. I have absolutely no recollection of any such conversation and I am convinced it never took place.

I returned to my office in Washington on February 13, and telephoned Mr. Mitchell to inquire whether he had any immediate plans to be in Washington. He said he did not, and I said I needed 2 or 3 hours with him to tell him about the meetings in California. He suggested that I come to New York and we could take as much time as we needed. On February 15, I took a morning shuttle to New York, went to Mr. Mitchell's office, visited briefly before lunch, and after lunch we had a discussion about the California meetings and the upcoming hearings.

Knowing Mr. Mitchell as I do, I felt there were several points where he would resist being "programed" by the White House staff, as I mentioned earlier, and I elected to get those out of the way at the start. At the beginning of our discussion I said something like this: "Well, you will be glad to know that the group in San Clemente thinks you should be taking a more active interest in the Ervin hearings." I had a somewhat blunt reply, such as, thank you, and as you know, I am indeed interested and, I may be a star witness. I told him it was suggested that it would be most helpful if he could spend part of each week in his law firm's Washington office. He made a chilly reply that he would come to Washington whenever he felt it necessary. Then I said something to the effect that I didn't know what it was all about but that it had been suggested that the committee lawyers might be needing more money and that his White House friends had nominated him for the honor of being a fundraiser. I don't remember his exact words, but I believe he said something like "Tell them to get lost."

Thereafter I began my report of the meetings. We had a wide-ranging discussion and a pleasant visit that lasted most of the afternoon. I left his office at about 4 or 5 o'clock and took the shuttle home.

From mid-February to early March, I was not asked to participate in any followup to the La Costa-San Clemente discussions about preparing for these hearings, except for my continuing participation in the preparation of the statement on executive privilege. By the beginning of March, the Gray nomination hearings had become a major preoccupation for me and for Mr. Dean. During those hearings, Mr. Dean's role in the Watergate investigation became a subject of headline news almost daily. The Judiciary Committee's invitation to Mr. Dean to testify before it brought the question of executive privilege into critical focus and I should insert there that so also, certainly did the President's statement, you had on March 12.

A Presidential press conference was scheduled for March 15, and Mr. Dean and I prepared for the President's briefing book" a list of more than 20 possible questions on the subject. Although it was not the President's usual practice to hold face-to-face briefing sessions before a press conference, he chose to do so on this occasion. And so began a series of meetings about which Mr. Dean has testified and which marked the first occasion I had to discuss with the President any subject related to Watergate.

The first meeting on March 14 was in progress when I was called to the President's office in the EOB. Messrs. Ziegler and Dean were already there. We went over the questions and answers with considerable discussion on each. The meeting recessed temporarily while the President kept another appointment and had lunch. It reconvened after lunch for several hours.

Mr. Chairman, at no time during this meeting, or during the succeeding meetings on March 15, 19, and 20, 1973—all of which were attended only by the President, Mr. Dean, and myself—did anyone say anything in my presence which related to or suggested the existence of any coverup, or any knowledge or involvement by anyone in the White House, then or now, in the Watergate affair.

Late on the afternoon of March 15, after the President concluded his press conference, Mr. Dean and I were called to the Oval Office. We had a relaxed and informal session in which we discussed the press conference and the President's view of the doctrine of separation of powers.

The topic to which the President devoted most attention and emphasis was the separation of powers. He made the point that the term "executive privilege" doesn't properly express the principle. He asked Mr. Dean and me to advise others who were dealing with the subject to use the term "separation of powers." He emphasized several times that the President has the constitutional responsibility to preserve the separation of powers, a responsibility he cannot disregard.

The President made the point that he cannot command any Member of Congress to come to see him at the White House, but they usually come when invited, just as our people go up to the Hill when invited. He said our Cabinet people seem to be up there testifying voluntarily practically every day. But the point is, he said, that one branch cannot, as a matter of right, command the other to appear; that, he said, would destroy the separation of powers.

On March 19, I was called to meet with the President and Mr. Dean in the President's Executive Office Building office. The President reiterated his desire to get out a general statement in advance of the hearings. He asked us to be thinking about ways that this could be done. This would include or could include issuing a full statement or "White Paper"; he was also interested in our thoughts about ways to present our story to the Senate in terms of possible depositions, affidavits, or possible conferences or meetings which would give the Senate all the information it wished but which would not cut across the separation of powers. He asked Dean and me to consider ways to do this.

Now, late on March 19, 1973, or possibly on March 20—before we met later that day with the President—Mr. Dean told me that Howard Hunt was demanding that a large sum of money be given to him before his sentencing on March 23, and that he wanted the money by Wednesday, the 21st. If the payment were not made, Dean said, Hunt had threatened to say things that would be very serious for the White House. I replied that this was pure blackmail, and that Dean should turn it off and have nothing to do with it. I could not imagine, I said, that anything that Hunt could say would be as bad as entering into a blackmail arrangement. I don't recall Mr. Dean's exact words, but he expressed agreement.

This revelation was the culmination of several other guarded comments Mr. Dean had made to me in the immediately preceding days. He had said that he had been present at two meetings attended by Messrs. Mitchell, Magruder, and Liddy before the bugging arrests, during which Liddy had proposed wild schemes that had been turned down—specifically espionage, electronics surveillance, and even kidnapping. He said that the Watergate location had not been mentioned, and that he had "turned off the wild schemes." I believed then and believe today that Mr. Dean had no advance knowledge of the Watergate bugging and break-in. In addition, he said that if he ever had to testify before the grand jury, his testimony would conflict with Mr. Magruder's, and that he had heard that if Magruder faced a perjury charge he would take others with him.

Mr. Dean had also mentioned to me in these days in March that earlier activities of Messrs. Hunt and Liddy—not directly related to Watergate—could be seriously embarrassing to the administration if they ever came to light. He had also implied to me that he knew of payments being made to the defendants for litigation expenses, and Hunt's explicit blackmail demand raised serious questions in my mind as to the purpose of these payments.

This brings me to the afternoon of March 20, when Mr. Dean and I met with the President in the Oval Office. The meeting lasted about half an hour. The President again stated his hope that we could put out a full statement in advance of the hearings, and again he expressed his desire that we be forthcoming, as he put it. He made some comparisons as to our attitude and the attitude of previous administrations, and he wanted us to make sure that we were the most forthcoming of all.

As I sat through the meeting of March 20 with the President and Mr. Dean in the Oval Office, I came to the conclusion in my own mind that the President could not be aware of the things that Dean was worried about or had been hinting at to me, let alone Howard Hunt's

blackmail demand. Indeed, as the President talked about getting the whole story out—as he had done repeatedly in the recent meetings—it seemed crystal clear to me that he knew of nothing that was inconsistent with the previously stated conclusion that the White House was uninvolved in the Watergate affair, before or after the event.

As we closed the door of the Oval Office and turned into the hall, I decided to raise the issue directly with Mr. Dean. I said that I had the feeling that the President had no knowledge of the things that were worrying Dean. I asked Dean whether he had ever told the President about them. Dean replied that he had not, and I asked whether anyone else had. Dean said he didn't think so. I said, and I use quotation marks to indicate the substance, and I think these are almost my precise words—I said, "Then the President isn't being served, he is reaching a point where he is going to have to make critical decisions and he simply has to know all the facts. I think you should go in and tell him what you know, you will feel better, it will be right for him, and it will be good for the country."

I do not recall whether Dean told me he would take action or not, but I certainly had the impression that he was receptive. In any event, the question was resolved that very evening when I received a call at home sometime after dinner and it was Mr. Dean, who said that the President had just phoned him and that he had decided that this was the moment to speak up. He said that he told the President that things had been going on that the President should know about and it was important that Dean see him alone and tell him. Dean said that the President readily agreed and told Dean to come in the following morning. I congratulated Mr. Dean and wished him well.

The next day, March 21, Mr. Dean told me that he had indeed met with the President at 10 o'clock and had talked with him for 2 hours and had in his words, "Let it all out." I said, "Did you tell him about the Howard Hunt business?" Dean replied that he had told the President everything. I asked him if the President had been surprised and he said yes. I say he said yes in terms of his response; whether yes is the exact words, but it was an affirmative statement.

Following this critical meeting on March 21, I had several subsequent meetings and telephone conversations with Mr. Dean alone, as well as several meetings with the President which Mr. Dean did not attend. I do not dispute Mr. Dean's account of the meetings between us as to any substantive point, and I have no direct knowledge of what transpired in Mr. Dean's subsequent meetings with the President. But nothing said in my meetings or conversations with Mr. Dean or my meetings with the President suggests in any way that before March 21 the President had known—or that Mr. Dean believed he had known—of any involvement of White House personnel in the bugging or the coverup. Indeed, Mr. Dean's own account that he and I agreed on the importance of persuading the President to make a prompt disclosure of all that the President had just learned is hardly compatible with a belief on Mr. Dean's part that the President himself had known the critical facts all along. In one of my talks with the President, the President said he had kept asking himself whether there had been any sign or clue which should have led him to discover the true facts earlier. I told him that I wished that I had been more skeptical and inquisitive so that I could have served the Presidency better.

I have given you the most complete account I can as to my knowledge of the events being examined by this committee. It is my deep conviction—as one who has known the President over the years and has had many private conversations with him—that the critical facts about the Watergate did not reach the President until the events that began when John Dean met with him on March 21, 1973.

That completes my opening statement, Mr. Chairman.

[The biographical sketch of Mr. Moore follows:]

BIOGRAPHICAL SKETCH—RICHARD ANTHONY MOORE

Special Counsel to the President of the United States

Born—January 23, 1914, Albany, New York, son of the late John D. and Julia Leader Moore.

Educated—Public schools of New York City, Phillips Academy, Andover, Massachusetts; Yale University, AB 1936; LLB, 1939

1939–1942—Practice of law in New York. Left to enlist in United States Army, World War II, Served Private to Captain; Legion of Merit.

1946–1951—Assistant General Counsel, American Broadcasting Company and later head of West Coast Operations.

1951–1962—President, Times Mirror Broadcasting Company (KTTV) subsidiary of Times Mirror Company; Director (1956–1962) of parent company.

1962–1970—Engaged as principal in own communications enterprises in Southern California, including cable television.

1970–1971—Special Assistant to the Attorney General of the United States.

1971 to date—Special Counsel to the President of the United States.

Present and Past Community and Business Activity

Director, California Portland Cement Company.

Director (five terms), Los Angeles Chamber of Commerce.

Vice-Chairman and Director, National Cable Television Association.

Director, Los Angeles Community Chest.

Trustee, Richard M. Nixon Foundation.

Director, Hollywood Bowl.

Member, Yale University Council; Yale Development Board; President's Council of Loyola University (Los Angeles); Mayor's Committee on Human Rights.

Panel Member, President Eisenhower's Commission on National Goals.

Founder and Chairman, Television Bureau of Advertising.

President, Television Broadcasters of Southern California.

Member, California Club; Metropolitan Club, Yale Clubs of New York and Southern California; Friendly Sons of St. Patrick (President, 1966); Delta Kappa Epsilon; Skull and Bones; Chicago Club; Cypress Point Club.

Married—1943, Jane Swift; Children: Richard A. Jr., Matthew, Joseph, Kate, Samuel.

Residence—757 Hillcrest Avenue, Pasadena, California and 4917 Rockwood Parkway, NW., Washington, D.C.

Mr. DASH. Mr. Chairman, Mr. Terry Lenzner, assistant counsel, will ask questions for the majority.

Mr. LENZNER. Mr. Moore, I want to go back briefly to some dates prior to your testimony from your statement.

First, I would like to ask you whether you had a meeting on February 10, 1972, with Mr. Kleindienst and Mr. Mitchell at Mr. Mitchell's office at the Committee To Re-Elect the President. Do you recall that meeting?

Mr. MOORE. I don't recall.

Mr. LENZNER. You don't recall meeting with Mr. Mitchell or Mr. Kleindienst?

Mr. MOORE. I don't recall any such meeting. It could well have happened.

Mr. LENZNER. Approximately 12:30 in the midday.

Mr. MOORE. That is 1972? 1972?

Mr. LENZNER. Yes, sir.

Mr. MOORE. In Mr. Mitchell's office?

Mr. LENZNER. At 1701 Pennsylvania Avenue, at the committee to reelect officers.

Do you have any recollection of that?

Mr. MOORE. No, I don't.

Mr. LENZNER. Do you have a recollection of a meeting on March 14, 1972, at 8:30 in the morning, also attended by Mr. Kleindienst and Mr. Mitchell?

Mr. MOORE. At what, I am sorry.

Mr. LENZNER. That date was February 14, 1972.

Mr. MOORE. It would help if I knew when Mr. Kleindienst's nomination was presented or when the issue arose——

Mr. LENZNER. Let me help you. Do you recall when Mr. Lackritz and I interviewed you on June 7 in Mr. Miller's office?

Do you recall our discussing this with you in Mr. Miller's office on June 7?

Mr. MOORE. These two meetings?

Mr. LENZNER. Yes.

Mr. MOORE. I don't recall this conversation.

Mr. LENZNER. Well, the results of our notes indicate that you said those meetings were related to Mr. Kleindienst's confirmation hearings.

Mr. MOORE. They could well have. That is why I asked about the dates.

Mr. LENZNER. Does that refresh your recollection as to what those meetings were about?

Mr. MOORE. Yes.

Mr. LENZNER. Do you recall the meetings now?

Mr. MOORE. Well, I don't have an independent recollection of the meeting, but if that is in the time frame of the Judiciary Committee hearings on Mr. Kleindienst's nomination, that is most likely what they were about.

Mr. LENZNER. Do you recall a meeting with Mr. Kleindienst, Mr. Mitchell, and Mr. Mardian on March 10, 1972, beginning at approximately 10:30 a.m., in the morning?

Mr. MOORE. Not independently but—no, sir.

Mr. LENZNER. Do you recall telling us on June 7 that you did recall that meeting and it referred to the upcoming Kleindienst confirmation hearings?

Mr. MOORE. Well, I don't recall saying it that firmly. Obviously, that is what could have been, and——

Mr. LENZNER. On June 7, when Mr. Lackritz and I interviewed you, do you recall telling us that you did remember that meeting and it referred to the Kleindienst confirmation hearings?

Mr. MOORE. I don't think we are quite on the same frequency when you say remember the hearings. I remember that during the hearing or the pendency of the Kleindienst nomination, I met frequently with Mr. Mitchell, sometimes Mr. Kleindienst, and others—Mr. Mardian, who was the Assistant Attorney General then—to discuss the hearing and the steps which should be taken to help support the confirmation of the nomination of Mr. Kleindienst. But I don't know the day or

that I was at a meeting on March 10, 1972. I could check them, of course. But that is what these meetings would have been about.

Mr. LENZNER. Well, Mr. Moore, let me ask you this: Those hearings involved the issue of ITT, is that correct?

Mr. MOORE. Yes, sir.

Mr. LENZNER. And did you have any involvement in the question of ITT as it affected Mr. Kleindienst's confirmation?

Mr. MOORE. Yes, I was a White House liaison or adviser, helping the Department to support and present the case in favor of the confirmation of the nomination of Mr. Kleindienst.

Mr. LENZNER. Did you have some specific duties in assisting in that effort?

Mr. MOORE. I was a Johnny One-Note who kept saying we should talk about the biggest victory in divestiture of the antitrust laws we had ever had instead of talking about all these details that kept coming out in the hall every day. I was advised of the main issue, yes, I remember vividly.

Mr. LENZNER. Do you have any recollection of receiving information concerning a White House investigation relating to the ITT matter?

Mr. MOORE. Receiving——

Mr. LENZNER. Information or receiving confirmation or receiving memorandum reflecting a White House investigation involving the ITT issue?

Mr. MOORE. A White House memorandum?

Mr. LENZNER. A White House memorandum, or information concerning the White House involvement in the investigation?

Are you refreshing your recollection, sir, from a document your attorney has handed you?

Mr. MILLER. Yes. As you know, we did not review this particular area before Mr. Moore came in to testify today because of shortness of time. I was merely letting him see a copy of the interview report to put into the frame of context the interviews that did occur in my office, possibly a month ago.

Mr. LENZNER. Who prepared that for you, Mr. Miller?

Mr. MILLER. I assume the committee did.

Mr. LENZNER. Mr. Miller, could you tell us how you got a copy of that?

Mr. MILLER. Yes, it was handed to me in your presence in my office about quarter to 7 last night.

Mr. LENZNER. That was prepared, I believe, by Mr. Parker of the White House, is that correct?

Mr. MILLER. I don't believe so. It was handed to me——

Mr. LENZNER. By Mr. Thompson?

Mr. MILLER. By Mr. Thompson.

Mr. LENZNER. Mr. Thompson, I believe that was a document prepared by Mr. Parker of the White House, who was present at that interview.

Mr. MILLER. I have my own notes. I don't have——

Mr. THOMPSON. What is the date of that?

Mr. MILLER. June 8.

Mr. THOMPSON. That is a document that was sent over by Mr. Doug Parker, who was also present at the interview.

Mr. LENZNER. The interview of June 7.

Mr. THOMPSON. That is right.

That interview was not attended by anybody of the minority staff. Mr. Parker was over there. He submitted that to me. I submitted it to you and to Mr. Miller.

Mr. LENZNER. Fine.

Does that refresh your recollection of what White House investigation was conducted involving the ITT matter?

Mr. MOORE. If I may read it, Mr. Lenzner.

Mr. LENZNER. Surely.

Mr. MOORE. I am having trouble finding it in the memorandum.

Mr. LENZNER. Let me first ask, Mr. Moore, you have no independent recollection now of a White House investigation involving ITT, is that correct? I will then ask you a question which I hope will refresh your recollection.

Mr. MOORE. Well, it is so general, you mentioned a White House memorandum.

Mr. LENZNER. No, no, I am speaking of any information you obtained involving a White House investigation with regard to ITT. Let me ask you this. Did you meet with Mr. Colson during that period of time?

Mr. MOORE. Yes.

Mr. LENZNER. Did you have discussions with Mr. Colson involving the ITT matter?

Mr. MOORE. Was this—I am not being difficult but I just cannot recall, was this the investigation where a young man tried to prove that Mr. Jack Anderson's secretary was a friend of Miss Dita Beard, is that the investigation?

Mr. LENZNER. Yes, that is correct.

Mr. MOORE. Yes, I do remember that. But this——

Mr. LENZNER. Was that an individual who was an employee of the Internal Security Division of the Department of Justice named John Martin?

Mr. MOORE. It could have been, I do not remember his name.

Mr. LENZNER. Did you attend a meeting at which he was present when he was asked to conduct that investigation?

Mr. MOORE. Yes.

Mr. LENZNER. Who else was present?

Mr. MOORE. I cannot recall exactly.

Mr. LENZNER. Well, do you recall telling us on June 7 that it was a meeting in Mr. Rohatyn's office when Mr. Colson, Mr. Mardian, Mr. Wally Johnson and yourself and Mr. John Martin came in and was requested to interview people about a relationship between Dita Beard and Jack Anderson's secretary?

Mr. MOORE. That is correct.

Mr. LENZNER. You recall that?

Mr. MOORE. Yes, as my counsel says, I have been concentrating on other matters and this has been—yes, that sounds like it.

Mr. LENZNER. Do you recall telling Mr. Lackritz and myself that on June 7 in Mr. Miller's office. You do so——

Mr. MOORE. I do not recall it independently but I will not quarrel with your report of it.

Mr. LENZNER. OK. You will accept my version?

Mr. MOORE. Yes, no problem.

Mr. LENZNER. But you do not now remember telling us?

Mr. MOORE. I do now. I remember this discussion, Mr. Lenzner, but I did not remember what five names I mentioned but I accept that—that is fine.

Mr. LENZNER. OK. Do you recall whether you ever saw the results of that investigation in writing or heard them orally?

Mr. MOORE. I recall hearing a result, whether it was oral or writing, I do not know.

Mr. LENZNER. You do not recall whether it was in writing or who gave you the information orally, sir?

Mr. MOORE. No; I do not.

Mr. LENZNER. Do you recall, if it was orally, who was the person who spoke to you?

Mr. MOORE. No; I do not recall.

Mr. LENZNER. Now, do you recall that you received information as to how the Dita Beard memorandum was furnished to Mr. Colson as part of your participation in preparation for the ITT hearings?

Mr. MOORE. I think I might have said, but I do not remember, you know, the conversation, that I learned it in the newspapers, that the memorandum went from the FBI to Justice to the White House, someone in the White House, I should say, and then was given an independent examination by a commercial firm specializing in identifying typewriters, something like that; I do not recall.

Mr. LENZNER. Do you have any information on that besides what you read in the newspaper, information received directly from either White House or Government employees?

Mr. MOORE. I simply do not remember.

Mr. LENZNER. All right, Mr. Moore. If you do not recall that, let me ask you this. On March 21, 1972, you had a meeting with Mr. Mitchell, Mr. Mardian, Mr. Jack Caulfield, and Mr. Dean at 2 o'clock. Do you recall that meeting?

Mr. MOORE. I recall your mentioning it but I do not recall the meeting, I do not recall the purpose or substance of the meeting. May I have the date again?

Mr. LENZNER. March 21, sir.

Mr. MOORE. Of what year?

Mr. LENZNER. 1972. That was a meeting in Mr. Mitchell's office.

Mr. MOORE. I remember saying to you that I did not recall Mr. Caulfield being in the meeting but, being at any meeting with Mr. Caulfield is what I said, I think. I remember he had at that time, for a short period had, a little office adjoining Mr. Mitchell and I remember him perhaps coming in the room once or twice when, to deliver a piece of paper but he was not at the meeting. He could have been but I do not recall.

Mr. LENZNER. On June 7 you told us you were going to try to remember what was discussed on that date. Have you had an opportunity to refresh your recollection and do you recall now what the substance of the meeting was?

Mr. MOORE. I have not, sorry. I did not follow through on that.

Mr. LENZNER. Now, you had a meeting with the President on June 30, 1972, which, of course, was shortly after the break-in at the Democratic National Committee. You recall the subject discussed with President Nixon on June 30, 1972? Do you recall, first of all, meeting the President on June 30, 1972?

Mr. MOORE. There is nothing about that date that helps me out. Maybe I can look at the log.

Mr. LENZNER. Well, I think we gave your counsel yesterday a copy of the logs sent over by the White House which does reflect, I believe, a meeting on June 30.

Mr. MILLER. I just handed the log to him, Mr. Lenzner.

Mr. LENZNER. Does that document, which was furnished to us by the White House, refresh your recollection or is it conceivable that you did not meet with the President on that day?

Mr. MOORE. I have always found these logs liable. The log notes that from 4:22 p.m. to 4:29 p.m., the President met with Mr. Moore. More than a year ago, I noticed that, you know, in your office earlier today and I could not recall what it was, whether it was some ceremonial matter or whether—I just do not know. I am sure I can find a way to refresh my recollection on that.

Mr. LENZNER. I believe, I am not going to quarrel with you.

Mr. MOORE. I would say this, though, the fact it happened the same month as the Watergate affair suggests nothing to me that refreshes my recollection.

Mr. LENZNER. All right, Well, I believe that the log indicates on June 22 and June 27 that you met with the President and it involved "broadcast executives," so I take it that the June 30 meeting was just between you and the President.

Mr. MOORE. Yes: that is what the log reflects.

Mr. LENZNER. But do you recall whether you discussed the events of June 17 and the Watergate break-in with the President on that day?

Mr. MOORE. I am certain——

Mr. LENZNER. I am sorry, Mr. Moore, I did not hear your answer.

Mr. MOORE. Just a moment now, pardon me, the date comes back, of course, this was the day that Mr. John Mitchell had met with the President and they had reached a conclusion that Mr. Mitchell was going to resign as chairman of the—or campaign director for reasons which you well know, Mr. Mitchell had made this ultimatum, and the President called me in to ask me a little bit as to how the announcement should be made and we spoke briefly about that. I was there 7 minutes. Should the President make it, should Mr. Mitchell make it, that kind of thing.

Mr. LENZNER. You said in your prepared statement, Mr. Moore, that your principal role was to assist the President in communicating the positions in the most convincing manner to the general public. Now, it was clear on June 30, was it not, when Mr. Mitchell resigned from the campaign, the press might imply that it was related directly or indirectly to the events of June 17. Was that discussed?

Mr. MOORE. It really was not.

Mr. LENZNER. Were you working on that issue for the President at that time?

Mr. MOORE. No.

Mr. LENZNER. Were you concerned about that as an issue and how the White House and the President were going to communicate, in your language, the positions in a convincing manner?

Mr. MOORE. No.

Mr. LENZNER. You met on August 8 with Mr. Mitchell at 11 a.m. in the morning and at 11:20 in the morning, August 8, 1972. Do you recall what the subject of that meeting was since Mr. Mitchell had left the campaign at that time?

Mr. MOORE. August 8, 1972?

Mr. LENZNER. Yes, sir.

Mr. MOORE. And what was the other date?

Mr. LENZNER. The same date and you met again at 11:20. It indicates two meetings on that date. I am referring to Mr. Mitchell's diary, logs which he has testified were kept by his secretaries.

Mr. MOORE. Well, no, I cannot.

Mr. LENZNER. You have no recollection of that? You were on Air Force One, apparently on August 24, 1972, with the President. The White House log indicates a trip 9:55 to 11:20 to O'Hare Airport in Illinois, and 1:10 flying on Air Force One to 2:10 to Selfridge Air Force Base, Mich., and at 3:35 to 5:55 flight to San Diego, Calif., all on August 24. Did you discuss anything with the President on that occasion? Did you talk with the President in Air Force One?

Mr. MOORE. I am trying to recall. No.

Mr. LENZNER. You did not see him to talk to him at all on that day, is that what you are saying?

Mr. MOORE. I did not talk to him at all.

Mr. LENZNER. Now, on September 8, 1972, you met with Mr. Mitchell, Mr. O'Brien, Mr. LaRue, Mr. Miller, I take it that is Cliff Miller, Mr. Dean, Mr. Mardian, and Mr. Powell Moore at 1 p.m. Do you recall what the subject of that discussion was?

Mr. MOORE. August?

Mr. MILLER. What was the date again?

Mr. LENZNER. I am sorry, September 8, 1972.

Mr. MOORE. I had better write these down because by the time the question finishes, I cannot remember the date. This date is September 8.

Mr. LENZNER. You have no recollection of that meeting I take it?

Mr. MOORE. I have not answered the question.

Mr. LENZNER. I am asking it.

Mr. MOORE. September—those present, particularly Cliff Miller and did you say Powell Moore was present also?

Mr. LENZNER. Yes, sir.

Mr. MOORE. That undoubtedly was, that was the first, certainly one of a series of meetings over a period of 2 or 3 weeks in the middle of September in this campaign year of 1972, when, as I described, Mr. Stans and the finance committee to reelect, were getting a particularly strong series of barrage of criticisms every day on issues that were coming up quite regularly, the checks, the lawsuits, that report that came out of the staff of the Patman Committee, the question of why not disclose funds, pre-April 7 funds voluntarily, that kind of thing, and Mr. Stans, who is, neither he nor his finance committee had any informational or press office, and they felt they were not getting enough attention or help from the Committee for the Re-Election of the President, so it was decided, I think, or which John Mitchell and Mr. Stans requested asked me if I would join a little ad hoc committee to act as public relations advisers to Mr. Stans and the finance committee on these issues which, of course, affected both committees. This was the campaign, an attack on our fund-raising practice was an

attack on the other committee so I attended quite a number, I would say 6, 8, or 10 meetings over a particular period. The public relations committee was Cliff Miller who was a professional in that field, Powell Moore who has a very fine record in that field in Government and myself. That would have been it.

Mr. LENZNER. And your recollection now is that the meetings, those meetings were concerning the subject matter that you just described. is that correct?

Mr. MOORE. Yes, that is correct.

Mr. LENZNER. Now, on September 13, 1972, you met at 2 p.m., with Mr. Stans, Mr. Parkinson and Mr. O'Brien, Mr. LaRue, Mr. McPhee, Mr. Mardian, Mr. Miller, and Mr. Mitchell. Was there any discussions on that day about Mr. McPhee's relationships with Judge Richey, to your recollection?

Mr. MOORE. I recollect none and I doubt that there were any.

Mr. LENZNER. I am sorry I can't hear you.

Mr. MOORE. I recollect none.

Mr. LENZNER. Is it possible that there were that you don't recall right now?

Mr. MOORE. I doubt that very much.

Mr. LENZNER. Had you heard that subject discussed at any time?

Mr. MOORE. No.

Mr. LENZNER. Now, that was 2 days before the indictment on September 15, 1972. Was the impending indictment discussed in that meeting?

Mr. MOORE. No. I don't know that we—well, no.

Mr. LENZNER. I think it is fair to say, and I want to know if you agree with this, when we did discuss some of these meetings that are reflected in Mr. Mitchell's diary on June 17 of this year you had a similar problem remembering what the subject matter of those discussions were, is that an accurate statement when we initially went over these meetings?

Mr. MOORE. Which meetings are you referring to?

Mr. LENZNER. Well, the meetings I just asked you about.

Mr. MOORE. Well, I responded to quite a few. And I take it that the ones, the series, I mentioned there were a series of meetings, for example, dealing with Mr. Kleindienst's nomination and during this period I met with Mr. Kleindienst and Mr. Mitchell and others, that, of course, we were dealing with the subject of his nomination and confirmation. I have outlined these series of problems that the finance committee and given the dates and the makeup of the subcommittee, and I have told you that those meetings deal with those subjects. I think we could probably find a headline or a statement that came out every day there was one of those meetings.

Mr. LENZNER. By the way, were you also assisting in the preparation of the Committee To Re-Elect the President press releases and statements in response to the news that was coming out of the newspapers?

Mr. MOORE. Rarely.

Mr. LENZNER. Were you consulted on the denials that were being issued by Mr. Mitchell, Mr. Porter, and Mr. Magruder reflecting their noninvolvement with the break-in on June 17?

Mr. MOORE. No.

Mr. LENZNER. Now, in your statement of today, you say that you were primarily involved with inaugural matters in December 1972 and January 1973, and can recall no direct meeting or consultations with regard to the Watergate or related matters until February 6. I take it that is February 6 of this year, is that my understanding?

Mr. MOORE. Yes, sir.

Mr. LENZNER. Now, would you include as a related matter the information that became public on the issue of the White House relationship to Donald Segretti?

Mr. MOORE. Mr. Lenzner, if I could find the page.

Mr. LENZNER. It is page 4, Mr. Moore.

Mr. MOORE. You will note I corrected the years. I have made two other corrections which, in reading it, I failed to include in my reading. My reading copy has the words "in latter December," I meant to read that.

Mr. LENZNER. In latter December.

Mr. MOORE. In latter December, and then on the second line it says "recalled no particular meetings or consultations."

Mr. LENZNER. With regard to Watergate or related matters?

Mr. MOORE. Right.

Mr. LENZNER. Did you consider the Segretti matter a related matter?

Mr. MOORE. Actually not. Although—at that time for the purpose of this meeting I am certainly willing to acknowledge that this hearing which is known as the Watergate hearing or the Ervin hearing embraces matters that would involve the Segretti matter. But I was not being cute about words. I did recall in early December we did have discussions about Segretti and that is why I caught that error but failed to read it and if I may I would like to correct the record.

Mr. LENZNER. Fine, Mr. Moore.

Mr. MOORE. To the effect that I have written in my statement.

Mr. LENZNER. Let me ask you this. Before December 1972 were you not deeply involved in the Segretti matter on behalf of the White House?

Mr. MOORE. What I was involved in was a response to a news report that connected Dwight Chapin to Mr. Segretti in terms and in a frame of reference which we thought at the time were inaccurate. That was not, I would say, being deeply involved in the Segretti matter.

Mr. LENZNER. Well, I did not mean you personally were involved in his activities, but were you involved in the White House's response to the information that was coming out about his activities?

Mr. MOORE. Yes.

Mr. LENZNER. And in fact, were you not requested to conduct an investigation of the White House involvement and prepare a statement on that subject?

Mr. MOORE. Yes.

Mr. LENZNER. And to that end, did you interview a variety of employees of the White House?

Mr. MOORE. I interviewed two employees.

Mr. LENZNER. And who was that?

Mr. MOORE. Mr. Chapin and Mr. Strachan.

Mr. LENZNER. Who asked you, by the way, to conduct that investigation or prepare that report?

Mr. MOORE. Mr. Ehrlichman.

Mr. LENZNER. Do you recall when he asked you to do that?

Mr. MOORE. Yes, I recall that I think on the weekend—it was the St. Patrick's Day weekend, I think—February 16, [he said February, he meant March]—late in the day, he called me and said he had just left the President, who still was insisting that everything that anybody knew should be gotten out and would I take a crack at an outline or a preliminary report on the White House connection with Mr. Segretti so that we could see what it looked like. I think that that was probably dated March 22, if I am not mistaken.

Mr. LENZNER. Of 1973. But did you not have discussions in October of 1972 concerning Segretti?

Mr. MOORE. Yes.

Mr. LENZNER. Who were those discussions with?

Mr. MOORE. Well, the first discussions were with Mr. Ehrlichman, Haldeman, Ziegler, and I think Chapin, and myself.

Mr. LENZNER. How about Mr. Dean?

Mr. MOORE. No.

Mr. LENZNER. Now, on June 7, and I do not want to quarrel with your memory, Mr. Moore, but on June 7, you told Mr. Lackritz and myself that the meeting was attended by John Ehrlichman, Ziegler, Mr. Haldeman, Mr. Dean and yourself; you issued a brief statement and you did not recall specifically that Mr. Chapin attended the meeting. But later in the interview you said he probably was there since he had the most information.

Does that refresh your recollection?

Mr. MOORE. Yes, it does. I think Chapin probably was there. I was wrong about Dean. It turns out he was getting married at that moment, but he was not there.

Mr. LENZNER. Mr. Dean was not there?

Mr. MOORE. No. He was invited but he was being married.

Mr. LENZNER. I take it you have had your memory refreshed by Mr. Dean's appearance before this committee? Is that how you know that now?

Mr. MOORE. Yes, when he talked about his honeymoon, I suddenly remembered that was the weekend when this Washington Post story was about to break.

Mr. LENZNER. After that, did you receive information from Mr. Chapin and Mr. Strachan involving their relationships with Mr. Segretti?

Mr. MOORE. Yes.

Mr. LENZNER. And did you incorporate some of that information into what is now exhibit 34–44 that has been submitted to this committee by Mr. Dean? Is that your memorandum?

Mr. MOORE. This was a draft that I prepared as a starting point for a report that Mr. Dean might make, or it could be—it was in response to the request I just told you about from Mr. Ehrlichman.

Mr. LENZNER. Now, let me ask you this. Did you ever discuss the events of June 17 with the President prior to the time that you had learned of Mr. Dean's knowledge concerning those in March of 1973?

Mr. MOORE. The — no.

I had better have that question read back.

Mr. LENZNER. Well, did you ever discuss with President Nixon the event of June 17 prior to, say, January 1 of 1973?

Mr. MOORE. No.

Mr. LENZNER. Now, turning to the La Costa meeting in February of 1973, do you recall whether Mr. Haldeman or Mr. Ehrlichman—first of all, did you take any notes at that meeting?

Mr. MOORE. No, I did not.

Mr. LENZNER. Was that memorandum ever written up by anybody on that meeting reflecting the agenda or the items discussed?

Mr. MOORE. The only memorandums that I am aware of were those Mr. Dean presented, none of which I ever saw before until he showed them on television.

Mr. LENZNER. Did either Mr. Ehrlichman or Mr. Haldeman take notes, or did they tape that conversation to your knowledge?

Mr. MOORE. I do not know either.

Mr. LENZNER. Did Mr. Haldeman or Mr. Ehrlichman furnish any facts of their own when you were discussing the Watergate matter and how they would respond to the Ervin committee?

Mr. MOORE. Facts?

Mr. LENZNER. Facts of their own personal knowledge concerning the breaking and entering on June 17?

Mr. MOORE. No.

Mr. LENZNER. Do you recall whether there was any discussion of the Watergate criminal case at the La Costa meeting?

Mr. MOORE. I do not.

Mr. LENZNER. Do you recall whether there was any discussion of the Democratic National Committee civil suit at that meeting?

Mr. MOORE. I have to answer it this way. I do not recall the suits by names. It is possible. I do not recall specifically.

Mr. LENZNER. Well, did you recall any discussion of the suit brought by Common Cause out at that meeting?

Mr. MOORE. Mr. Lenzner, Mr. Dean was talking about the cases and I do not have a firm recollection, but that Common Cause suit was—if this was mentioned, I do not have a firm recollection of it, sir.

Mr. LENZNER. You say the Common Cause suit was mentioned?

Mr. MOORE. I do not have a firm recollection of it.

Mr. LENZNER. May I recall we asked you this question. Mr. Thompson and Mr. Moore—Mr. Thompson may not recall, but Mr. Moore was there at 1 o'clock today in Mr. Thompson's office. I asked you if there was any discussion in La Costa of the Democratic National Committee lawsuit or the Common Cause lawsuit, and your answer was not to your recollection. You say now there may have been?

Mr. MOORE. I will let the answer stand, whatever it was.

Mr. LENZNER. I am sorry, sir. What I am asking you now is, do you recall at approximately 1 o'clock today saying there was no discussion of the Common Cause suit or the Democratic National Committee suit or for that matter, the Watergate criminal trial?

Mr. MOORE. I think we have a question of your speaking to me and my listening and not understanding each other. The suits were discussed. I think I said this afternoon I found it difficult to specify which suit had been identified in that conversation by name. I think I was asked in that frame of reference about the pending lawsuits. There was a general discussion of the, or report, really, of various lawsuits and it

was not part of my field of interest, and I do not—I think you said this afternoon that it sounds like you were not paying too much attention and you were right.

Mr. LENZNER. So you were not paying much attention to that discussion?

Mr. MOORE. That is right.

Mr. LENZNER. Do you recall who first suggested that you ask Mr. Mitchell to raise funds?

Mr. MOORE. Again, I think, to talk about today, I think either Ehrlichman or Haldeman.

Mr. LENZNER. I think today when I asked you that at 1 o'clock, you said, can I see my statement?

Mr. MOORE. No, I didn't.

Mr. LENZNER. You didn't ask to see your statement at that point?

Mr. MOORE. No.

Mr. LENZNER. You don't remember asking Mr. Miller, your lawyer there——

Mr. MOORE. I won't argue about whether I asked to see my statement or not.

I believe that Mr. Miller showed it to me and you objected. I didn't ask for it.

Mr. LENZNER. No; I asked you if you had any recollection before you looked at your statement of whether you remembered who suggested getting Mr. Mitchell to raise the funds. At that point, you said you didn't recall whether it was Mr. Haldeman or Mr. Ehrlichman.

Mr. MOORE. That is right. As I said, that is not an infrequent situation to be placed in, because trying to remember which it was is often a problem.

Mr. LENZNER. I understand.

Now, at page 7 of your statement, you made it clear that Mr. Ehrlichman made it clear that the President wanted the White House position to be one of full cooperation subject only to the doctrine of separation of powers. Did you ever talk to the President to have him indicate to you that he wanted Mr. Haldeman, Mr. Ehrlichman, and Mr. Dean to come up before Senator Ervin's committee and testify?

Mr. MOORE. This is up until the present date?

Mr. LENZNER. At any time.

Mr. MOORE. No.

Mr. LENZNER. Did you ever become aware of the fact that——

Mr. MOORE. Could I have that question read back?

Mr. LENZNER. Did you ever hear from President Nixon that he wanted Mr. Haldeman, Mr. Ehrlichman, and Mr. Dean to come up to Senator Ervin's committee and testify before his committee?

Mr. MOORE. No.

Mr. LENZNER. Did you ever become aware of whether that was in fact the President's position? Or did it become the President's position at any time, to your knowledge—before, I might say, Mr. Ehrlichman, Mr. Haldeman, and Mr. Dean left the White House?

Mr. MOORE. No.

Mr. LENZNER. Now, have you had an opportunity to review the log that was submitted of Mr. Dean's meetings and calls with the President that was prepared by the White House?

Mr. MOORE. I have not reviewed it?

Mr. LENZNER. Well, let me read you from the entry of March 17, which says, in part:

The President wanted Haldeman—

This allegedly reflects a meeting between the President and Mr. Dean.

The President wanted Haldeman, Ehrlichman and Dean to talk to the committee and Dean resisted.

Now, to your knowledge, is that an accurate statement from conversations you have had with the President?

Mr. MOORE. Well, that conversation was not in my presence.

Mr. LENZNER. Well, I am asking you now——

Mr. MOORE. I can't say whether it is accurate or not.

Mr. LENZNER. You can't say further whether he did or did not want at any time those three individuals to come up before Senator Ervin's committee?

Mr. MOORE. Well, again, are you speaking of a formal appearance as a witness or to appear before the committee informally and answer any questions——

Mr. LENZNER. The logs does not make a distinction on that, Mr. Moore, but I think it might indicate testimony before this committee, which was the subject of the question of executive privilege; was it not?

Mr. MOORE. Well, I was not in the discussion or the negotiations with the committee, but it was my understanding, from perhaps the press or general, that the President wanted his people to cooperate in every way they could except under a command appearance, as I discussed in my testimony. So that could have been included an appearance other than a formal appearance before a hearing.

Mr. LENZNER. Now, you also said in your statement that you have no recollection of the conversation which Mr. Dean testified about concerning the time when you left the meeting with him, which he alleges you left out at La Costa?

Mr. MOORE. That is right.

Mr. LENZNER. Are you absolutely sure, beyond any doubt, now, that you did not leave that meeting with Mr. Dean?

Mr. MOORE. No; I am not sure that I did or I didn't.

Mr. LENZNER. Are you absolutely sure beyond any doubt that you did not have that conversation with Mr. Dean?

Mr. MOORE. A. I don't think I had any conversation; B. I certainly didn't have the conversation he described.

If we walked out together, and I don't know if we did, and he said, it has stopped raining, maybe we had a conversation. We did not have the conversation he described.

Mr. LENZNER. As you said yourself, Mr. Moore, you did not realize the significance of the request to Mr. Mitchell to raise funds.

Mr. MOORE. That is right.

Mr. LENZNER. So is it possible that you also did not recognize the significance of what Mr. Dean was trying to say to you after that meeting?

Mr. MOORE. He said, if he said anything, if there was a conversation, and if there was, I certainly did not get anything remotely resembling the meaning that seems to be conveyed in the words he used in his

testimony. If it happened, which I don't think, the conversation, as I say, did not take place. But if there were remarks passed as we left, there is no resemblance to that.

Mr. LENZNER. And there is no question in your mind that that conversation didn't take place. Is that correct?

Mr. MOORE. Absolutely.

Mr. LENZNER. Now, I think you stated on page 13, that at no time during meetings of March 14, 15, 19, and 20 with the President, Mr. Dean, and yourself, did anybody say anything involving Watergate involvement or coverup. You watched Mr. Dean's testimony, did you not?

Mr. MOORE. Not all of it.

Mr. LENZNER. Are you aware of that fact that Mr. Dean did not testify that any discussions were held at those meetings concerning the matters that you have outlined here? This does not, in any way, conflict in any shape or form with what Mr. Dean testified to.

Are you aware of that?

Mr. MOORE. I don't think I am aware of that. I think he twice testified that he said some of these things at a meeting with the President at which I was present.

Mr. LENZNER. Not on any dates of March 14, 15, 19 or 20?

Mr. MOORE. No, that is true. He said twice, I believe, that he said it in the presence of the President and me. But one of the times, he said, I can't place the date, with good reason. He can't place the date because it didn't happen.

Mr. LENZNER. I am not going to review the testimony of each of those occasions. Mr. Dean's testimony will stand for itself.

By the way, you are aware now, are you not, that they discussed, Mr. Dean and President Nixon discussed possible involvement of a variety of individuals on March 13 in the President's office?

Are you aware of that?

Mr. MOORE. You mean am I aware of Dean testifying to that?

Mr. LENZNER. No, I am asking you if you are aware of the fact that the White House itself has admitted that there was a discussion between Mr. Dean and the President about whether Mr. Mitchell and Mr. Colson knew of Watergate. Mr. Strachan was involved in the discussion, and there was a question whether Colson or Haldeman knew Segretti.

Are you aware of that discussion as admitted by the White House?

Mr. MOORE. Well, when you say the discussion, am I aware of that report?

Mr. LENZNER. Yes, sir.

Mr. MOORE. No.

Mr. LENZNER. You are not?

Mr. MOORE. No, I am not.

Was that published in the New York Times? I try to read the New York Times.

Mr. LENZNER. Well, the papers have been publishing a lot of things. I can't keep up with them myself, Mr. Moore.

Mr. MOORE. Well, I——

Mr. LENZNER. Now, you also testified, Mr. Moore, that Mr. Dean told you that Howard Hunt was, I think in your words, trying to blackmail people for money. Now, did you ask Mr. Dean on that occasion

what was behind that? Did you try to get details of what that involved?

Mr. MOORE. No.

Mr. LENZNER. This is the first time you had heard about blackmail, was it not, by Mr. Hunt?

Mr. MOORE. Yes.

Mr. LENZNER. Had you heard previous to that meeting that Mr. Hunt, Mr. Liddy, or Mr. Dean had been involved in earlier activities that could be seriously embarrassing to the administration?

Mr. MOORE. Yes.

Mr. LENZNER. When was that for the first time?

Mr. MOORE. I can't quite place it. It was in this growing or accelerating period in mid-March, as Mr. Dean was coming under more and more daily pressure, where he talked to me a bit more than he had been doing. At one point, he said what I testified to about these activities.

Mr. LENZNER. Well, what activities was he talking about?

Mr. MOORE. I don't know.

Mr. LENZNER. You never asked him what specific activities might be embarrassing to the administration?

Mr. MOORE. No.

Mr. LENZNER. When did you first learn of the break-in of Dr. Ellsberg's psychiatrist?

Mr. MOORE. I can't give you that date. I don't know the exact date.

Mr. LENZNER. Was it sometime in March of 1973?

Mr. MOORE. No. It would have been later than that.

Mr. LENZNER. Well, you don't have any recollection of when that date was? That was rather significant information, was it not?

Mr. MOORE. Yes. There is an awful lot of significant information coming out in these days, and as to fixing the date—I can do a little checking on that and see if I can find anything that would remind me of the date.

Mr. LENZNER. Did Mr. Dean tell you who was involved in that break-in whenever you heard about it?

Mr. MOORE. I don't recall that he did.

Mr. LENZNER. Well, at one point, he did, didn't he? Didn't you once review with him a list of people who might be indicted who were employed at the White House.

Mr. MOORE. Yes.

Mr. LENZNER. When was that?

Mr. MOORE. I believe it was either April 13 or April 14, 1973.

Mr. LENZNER. Did he indicate to you that Mr. Ehrlichman might be indicted?

Mr. MOORE. Yes.

Mr. LENZNER. And did he indicate why?

Mr. MOORE. He said he might have trouble over that $350,000.

Mr. LENZNER. That was Mr. Haldeman, Mr. Moore?

Mr. MOORE. You said Mr. Haldeman.

Mr. LENZNER. No, Mr. Ehrlichman.

Mr. MOORE. I asked, as I recited to you earlier today, when I saw the list, I pointed to Ehrlichman and I said, what has he got to do with Watergate? You know, what is this?

He said, his problem may be with Ellsberg.

Mr. LENZNER. Well, did he say anything else?

Mr. MOORE. I think I told you that I cannot recall whether at that time, having now learned about the break-in and having heard about it, whether Ellsberg was synonymous with the break-in or whether I would now attach that to it. I have been puzzled about it and I will acknowledge that I don't recall whether—Mr. Dean was often cryptic and I don't remember that he said anything more than Ehrlichman's trouble may be Ellsberg.

Mr. LENZNER. The trial of that case was on that time. Did you ask him what Ehrlichman's relationship to Ellsberg was? He surely was not on trial with him. What was the relationship?

Mr. MOORE. I do not know. As I say, it is possible that he mentioned it but I cannot pin that down and this would have been April 14.

Mr. LENZNER. Well, did you ask him any questions on that subject of Ehrlichman's relationship to Ellsberg?

Mr. MOORE. No, no, I was—no.

Mr. LENZNER. Did you tell anybody about that matter? Did you tell the President about it, the possibility of Mr. Ehrlichman's involvement with Ellsberg, which was rather vague in your mind?

Mr. MOORE. Yes.

Mr. LENZNER. Did you tell the President?

Mr. MOORE. Yes.

Mr. LENZNER. When did you tell the President?

Mr. MOORE. On August 19—pardon, April 19.

Mr. LENZNER. About 5 days after you learned of it, is that correct?

Mr. MOORE. I think it was that soon, yes.

Mr. LENZNER. What did you tell the President and who else was present?

Mr. MOORE. I was the only one with the President, and it was 2 days after his April 17 statement and we had a discussion about it, we had a conversation and that is what it was.

Mr. LENZNER. Well, do you recall what specifically you said about Mr. Ehrlichman's involvement with the *Ellsberg* case?

Mr. MOORE. Yes. Well, you say specifically.

Mr. LENZNER. Well, to the best of your recollection, Mr. Moore.

Mr. MOORE. I am trying to recall and I want to be careful about the circumstances. I told him that Mr. Dean had shown me this list, and I recalled the names from memory, I did not cover them all, I mentioned the names that I remembered, and I simply said that I did not understand it or I did not understand how realistic it was. In discussing the names I said Dean had told me that apparently in his opinion, Mr. Ehrlichman's problem might be involved with the *Ellsberg* case. Whether by then I knew about the Ellsberg break-in, I do not know. I do not think I said break-in. I think I said Ellsberg or the *Ellsberg* case.

Mr. LENZNER. What was the President's reaction to that? What did he say to you at that time?

Mr. MOORE. He said that, of course, investigation of Ellsberg had had to be done because Mr. Hoover could not be counted on doing it because Mr. Hoover was a close friend of Mr. Ellsberg's father—father-in-law.

Mr. LENZNER. Father-in-law, yes, sir. Go ahead, what else did he say?

Mr. MOORE. That is all he said.

Mr. LENZNER. Well, what relationship did that have with Mr. Ehrlichman's involvement with Mr. Ellsberg? Did he tell you that Mr. Ehrlichman had an investigation conducted by this so-called Plumbers group because Mr. Hoover could not be relied upon himself?

Mr. MOORE. Well, I am not—I was not a student of the Ellsberg case and I do not remember the dates or the procedures. The question was that, the point was that, the White House had set up a security operation to investigate Mr. Ellsberg's activities in leaking top-secret documents and possibly giving them to a foreign embassy of the other great superpower, and that the President said in view of the fact that Mr. Hoover would not undertake this investigation, the White House undertook it, and he did not—I think that was about all he said.

Mr. LENZNER. Did he say that he knew that there had been a break-in of Dr. Ellsberg's psychiatrist?

Mr. MOORE. No, he did not.

Mr. LENZNER. Was it your impression that he did know?

Mr. MOORE. I have long since learned not to try to draw impressions from the President in that fashion. I did not say anything about it.

Mr. LENZNER. Now, are you aware of the fact that during Mr. Richardson's confirmation hearings on May 22, in response to a question from Senator Byrd, Mr. Richardson said the President and he had spoken on Sunday, April 25, and the President told him he had found out about the break-in on April 25. Were you aware of that testimony?

Mr. MOORE. No.

Mr. LENZNER. I have no more questions at this time, Mr. Chairman.

Senator ERVIN. The committee will stand in recess until 10 o'clock tomorrow.

[Whereupon at 4:55 p.m., the committee recessed to reconvene at 10 a.m., Friday, July 13, 1973.]

FRIDAY, JULY 13, 1973

U.S. SENATE,
SELECT COMMITTEE ON
PRESIDENTIAL CAMPAIGN ACTIVITIES,
Washington, D.C.

The Select Committee met, pursuant to recess, at 10:10 a.m., in room 318, Russell Senate Office Building, Senator Sam J. Ervin, Jr. (chairman), presiding.

Present: Senators Ervin, Talmadge, Inouye, Montoya, Baker, Gurney, and Weicker.

Also present: Samuel Dash, chief counsel and staff director; Fred D. Thompson, minority counsel; Rufus L. Edmisten, deputy chief counsel; Arthur S. Miller, chief consultant; Jed Johnson, consultant; David M. Dorsen, James Hamilton, and Terry F. Lenzner, assistant chief counsels; R. Phillip Haire, Marc Lackritz, William T. Mayton, Ronald D. Rotunda, and Barry Schochet, assistant majority counsels; Eugene Boyce, hearings record counsel; Donald G. Sanders, deputy minority counsel; Howard S. Liebengood, H. William Shure, and Robert Silverstein, assistant minority counsels; Pauline O. Dement, research assistant; Eiler Ravnholt, office of Senator Inouye; Robert Baca, office of Senator Montoya; Ron McMahan, assistant to Senator Baker; A. Searle Field, assistant to Senator Weicker; John Walz, publications clerk.

Senator ERVIN. The committee will come to order.

Mr. Thompson.

Mr. THOMPSON. Mr. Moore, you have restricted your prepared statement to the events between the resolution introduced by the chairman of this committee for this committee on February 6, 1972, until March 21 of this year, and while you have been special counsel to the President since April 1971 and I am sure you have had many conversations, many meetings that may want to be explored during your testimony, I plan to stick pretty much to the confines of your statement and the matters contained therein.

TESTIMONY OF RICHARD A. MOORE—Resumed

Mr. MOORE. Thank you, sir.

Mr. THOMPSON. First of all, I would like to ask you about the San Clemente meeting at La Costa. As I understand, you went to this meeting pursuant to a request by Mr. Dean, is that correct?

Mr. MOORE. Yes, sir, relaying a request apparently from Mr. Ehrlichman.

Mr. THOMPSON. And you went to San Clemente and arrived there on what date?

Mr. MOORE. Around midnight of February 9, Friday night.

Mr. THOMPSON. Did you have a meeting the next day?

Mr. MOORE. Yes, sir.

Mr. THOMPSON. Who attended that meeting?

Mr. MOORE. Mr. Ehrlichman, Mr. Haldeman, Mr. Dean and myself.

Mr. THOMPSON. I know you set this out in your statement but I want to explore your memory a little bit with regard to that.

Mr. MOORE. Yes, sir.

Mr. THOMPSON. Give us, first of all, the tenor of the discussions; what was the general subject matter; what was your understanding of what you were going to talk about and what did you in fact talk about?

Mr. MOORE. Well, the general subject matter was the time had surely come to start preparing and planning and, if you will, brainstorming the question of how we were going to approach and cooperate with and prepare for the forthcoming hearings of the Select Committee which then were, we thought, more imminent than they turned out to be. I remember they were postponed but at that time apparently little had been done and it was time to sit down and talk as you would to prepare for any important case hearing and that was the purpose.

Mr. THOMPSON. Why were you included in this meeting?

Mr. MOORE. This is a kind of assignment where, what we had here was—first of all, I had been in, consulted in, other hearings, I—my role is as an adviser on issues exactly like this. For instance, the whole issue of television, should we object, if you will, to this hearing being carried on television? Of course, we did not. The whole matter of preparing so that we could be equipped so that when things were said by witnesses or by commentators that we would be staffed up and be available to do the research and be ready to reply the same day so in the evening when those millions of Americans watch the news shows they could hear our side of the story. That is something we felt—I went on at length about this—I felt that we had failed to do in the hearings on the nomination of Mr. Kleindienst. This is the kind of thing where I think that they would expect me to contribute, and that was my area, purely, if you will, public relations, communications, that aspect of it.

Mr. THOMPSON. Besides the media aspect, did you have any discussion with regard to the problems that, as you considered them, this committee was creating for you, for the Committee To Re-Elect, and these sorts of things; was the Committee To Re-Elect discussed? Of course, I assume you had nothing to do with the committee.

Mr. MOORE. Yes, the Committee To Re-Elect was discussed. There was a question in our mind, for instance as to how partisan this hearing might turn out to be. We felt that it might be, we felt, some of us, that the previous one, the so-called ITT hearing, had taken on at least on the part of some members of that distinguished committee, had a certain partisan flavor and certainly partisanship by some of the witnesses and some of the commentators, which we didn't know. We felt if it were going to take that turn we should be prepared to call the attention of the partisan approach to the American public.

I think I can say from my standpoint those concerns were ill-founded and I don't know anybody who, that I know who, feels differently about it but that was should we, for instance, at that point—and this was discussed, emphasize the fact that our amendment, which had suggested that as in the case or the Senate Ethics Committee, the membership be equal on this committee since you are really getting

into ethics of campaign. Should we make something of that? Nothing was made as you know, all these things were discussed, very little decided.

Mr. THOMPSON. Did you discuss the relationship which the White House should have to the committee?

Mr. MOORE. Yes, sir; in a fairly brief way because none of us had a real feel for that. In some situations with a bill or perhaps a nomination of an officer, I think that there is quite an open and direct contact between the congressional staff of the White House and the minority, bringing to them facts and points which we would like to have represented in the discussions, and we felt somehow we had better wait and see in this because there was, there was no question that Watergate was not a subject of which the Democrats are going to be investigating about. This was going to be an investigation on the Republican side and we felt that since we were, in effect, the object of the investigation, we perhaps maintain an arm's length arrangement until we could see whether it was appropriate and whether we were invited to have the kind of customary relationship and all that was done was that if, as I remember, was that if there were to be any liaison young Mr. Wally Johnson on the congressional staff would be available, and I heard the testimony that he called Senator Baker to get some guidance on this, and I never did know what came of that nor did I ever know that he called him until I heard it here.

Mr. THOMPSON. Prior to this meeting on February 10—I believe you met for 2 days?

Mr. MOORE. Two days.

Mr. THOMPSON. February 10 and February 11.

Mr. MOORE. Yes, sir.

Mr. THOMPSON. I believe the February 11 meeting was at Mr. Haldeman's cottage, is that correct?

Mr. MOORE. Yes.

Mr. THOMPSON. Do you recall what matters you discussed on the 10th and what matters you discussed on the 11th or was there general overlap? Was there an agenda?

Mr. MOORE. No, there was no agenda. This meeting apparently was decided upon late Friday, as I was told by Mr. Dean on the phone, I think. That Mr. Haldeman and Mr. Ehrlichman found they would have some free time over the weekend and would it be possible to get a night plane and be there in the morning so we could take advantage of this. It was a loose meeting with no agenda and a wide ranking; I think a brain-storming discussion would be the best description. I can separate some of the conversations by day but not all. The discussions of the role of the Committee came in very early. In fact, there were among one of the first things because the point was made that the vehicle that could respond and—to whatever issues, charges, or criticisms came up that needed a response—should be the committee who were, in effect, the primary target of the investigation. That is why that happened early. I do recall quite vividly, but—that late at the end, I think, of the second day, the question of executive privilege came up for a final review, and I think I had a separate session with Mr. Ehrlichman on that where he was going to be flying back with the President the next day, and he wanted to get the latest rewrite and, in fact, I telephoned back Sunday evening to dictate some corrections

which were then cleared with the people who worked on the draft and sent back to Mr. Ehrlichman the next morning, so that I can place.

But that money discussion we referred to, I just simply seem to recall that that took place sometime in the middle of the second day.

Mr. THOMPSON. All right.

Tell us what you remember about the discussions for the need to raise money.

Mr. MOORE. The question came up, as I recall, when Mr. Dean was discussing the things over the committee involving the lawsuits and how they were going. Now, there were several lawsuits, there was the Common Cause suit, there was the O'Brien suit, original suit against the committee. there was the amendment to that that added additional defendants. That suit also included not only the committee itself but, I guess all the Watergate defendants and also officers of the committee.

There was a countersuit for abuse of process filed by the committee and, I think, by some individuals, although I am not certain of that.

Mr. THOMPSON. Were all these suits discussed by them or did you just know——

Mr. MOORE. No, as I think I said to Mr. Lenzner, I know the name of the suits. We were discussing the suits. At what point a name of a suit was attached—it was a general discussion that they were going forward. I think, on reflection, that there was some talk or suggestion of the Common Cause suit, and I, yesterday, was uncertain whether it was mentioned by name. It must have been, because there was some discussion of settlement about it.

In any event, this was a discussion which, in which Mr. Dean was relaying information he had gotten from the committee—I assumed, and I expect he probably said, from Mr. O'Brien and Mr. Parkinson. Somewhere in that discussion, he said, by the way, they—or the lawyers—and I cannot think of the precise words; I rarely try to say the precise words, because I happen to believe most people cannot remember them except in exceptional circumstances—tell me there is going to be a need for some more money. And either Mr. Ehrlichman or Mr. Haldeman said, oh, did we have any ideas about it; is that not something that John Mitchell ought to handle?

Mr. THOMPSON. Who said that?

Mr. MOORE. I do not remember; either Mr. Ehrlichman or Mr. Haldeman. It may have been one of those cases where one joined in the comment with an affirmative. That was quickly, yes, that is a good idea, and it is a remark that—I think this was by Ehrlichman—it sounds like him—a facetious remark like, John Mitchell has rich friends up in New York, why does he not worry about this, or something to that effect.

That was the total effect and, Dick, you are going to be talking to him, this will be coming up, maybe you can talk to him or get into it.

Mr. THOMPSON. You mentioned 2 days. At what point in those discussions did this arise?

Mr. MOORE. Well, I think it would have been in the middle of the afternoon session.

Mr. THOMPSON. Which afternoon session?

Mr. MOORE. Pardon me, on Sunday.

Mr. THOMPSON. The second day?

Mr. MOORE. Which would have been February 11, the second day, at La Costa.

By the way, to save confusion, Mr. Dean did testify that the second half of the Saturday meeting took place at La Costa. I am certain he is wrong about that. The first day's meeting took place entirely at San Clemente, so the La Costa meeting was purely a Sunday meeting, the San Clemente meeting was purely a Saturday meeting. And it was, and I must say if this matter was important—this money matter—which I have been invited in just in time to switch from going to the railroad station, to the airport the night before, Mr. Dean testified, having no previous knowledge of these things, it strikes me that if this matter were important, it probably would have come up sooner and not kind of as a by-the-way throw-in in an afternoon discussion of a fairly unrelated matter, those lawsuits. That is the way I remember it.

Mr. THOMPSON. In retrospect, do you still feel like it was a by-the-way throw-in—an unimportant matter?

Mr. MOORE. No.

Mr. THOMPSON. Are you saying that is the way you took it at the time?

Mr. MOORE. Yes, sir. What I took it as at the time primarily, sir, was one of those little things that I have seen before of passing the buck with a request for money. First of all, in my experience, nobody enjoys raising money. You have to have a finance chairman. That is always true.

I know this thing of John Mitchell, who generally is independent, and particularly independent of these two gentlemen in many things, that he would not relish the thought that or respond affirmatively to the idea that they would like to have him raise money. It was not a matter of for what or for whom or why, and no background on that. It was, I am not going to get into any argument as to whether John Mitchell should raise money, because I know he will not.

I said, I will tell him, and I told him as I described yesterday, and I got a snort and a, tell them to get lost, which is exactly as I have related it and that was as I thought.

Mr. THOMPSON. Before these meetings of February 10 or February 11, did you have any knowledge concerning who was responsible for the Watergate break-in, whether it was connected with either the White House or the Committee To Re-Elect, except Mr. Liddy or Mr. McCord?

Mr. MOORE. Except——

Mr. THOMPSON. Mr. Liddy and Mr. McCord.

Mr. MOORE. Liddy and McCord.

Mr. Thompson, at that point and for quite a period, for some days thereafter—certainly at that point—I believed implicitly and totally in the President's statement of August 29 that no one in the White House at that time had any knowledge or participation in the Watergate. I believe that that was enlarged at one or more points to include any person in the administration. Nor did I have any knowledge of anyone in the committee. To me, that, I believed implicitly that that was an unauthorizd adventure by people who happened to have some $100 bills in their availability and an adventurous spirit and enjoyed

playing James Bond. That was what I thought it was at that very moment.

Mr. THOMPSON. All right. What about after the date of the break-in? Did you have any knowledge concerning efforts to do what has been referred to as engage in coverup, or obstruct justice or suborn perjury, or any of those matters?

Mr. MOORE. After the date of the break-in?

Mr. THOMPSON. Yes.

Mr. MOORE. No, sir. It was up to and close to the date of March 19, 1973, where I remember the suspicions that Mr. Dean had intimated. He had said this, you know, in this room, that as you put it, Moore knew some things but not other things. I believe that whatever his knowledge was, he did not wish to involve me with knowledge that would be inappropriate, I think as he did for his young assistant. I think that he did this. I appreciated that in retrospect. But he would make guarded comments because in my judgment, he began to get worried that things were going on and he was afraid that he might be involved. When I put that together with the—if I said Liddy, I meant Howard Hunt—the Hunt demand, that confirmed my intimation that something was with, in the nature of, payoff was possible. But again, at that time and during the period in March when my suspicions got firmed up, or became firmer, I was not thinking of the White House, I was thinking of people at the committee or related to the committee who might have conducted this coverup plan if there were one. And it was very late in the game when, as I indicated, I heard of the existence, Dean told me of the existence of the $350,000, I think around the end of the first week in April, when he was—he was, of course, I think, getting deeply concerned about this thing.

Mr. THOMPSON. Was that in connection with Mr. Haldeman's $350,000, that conversation that you had with him in April?

Mr. MOORE. Yes, I——

Mr. THOMPSON. Let me get back to that. Let's follow it a little bit more in chronological fashion. You are at the meeting. You meet February 10, you meet February 11, and you agree to go see Mr. Mitchell.

Mr. MOORE. All right.

Mr. THOMPSON. Now, what were the things you are supposed to take up with Mr. Mitchell when you see him?

Mr. MOORE. Well, a general review of the discussion, but with particular reference to his role. His role was—let me digress to say you mentioned the tone of the meetings. There was a little needle at the beginning of those meetings that neither Mr. Dean nor I had done anything, that of all things, we had not even been in touch with John Mitchell, who obviously was at the committee and would play a lead role. So I was assigned to go up and get him active because, since the committee would be important, Mr. Mitchell would be particularly important, because at that point, the committee was something of a shell and his leadership would be needed. So let's say I was supposed to go up and give him a kind of pep talk.

Second, I was supposed to discuss with him the substance of all the things that might have to be done by the committee—enlarging the press operation so we could respond, as I said, daily, by the hour if necessary. This meant research: it meant clerical help. It meant one or more assistants for the press officer. It meant, we hoped, some extra

young lawyers who could be reviewing the transcripts and going back to the previous transcripts and doing the preparation that is needed in any one of these great hearings. On a great trial, there is an enormous amount of work that had to be equipped for. So we discussed that with them.

We discussed the question of whether we would have a voice in the choice of the minority counsel. We talked at length as to—we didn't know you then, Mr. Thompson, and that discussion could have been unnecessary.

Mr. THOMPSON. You are the same as a whole lot of people, Mr. Moore, so don't feel badly.

Is that the sum and substance of it?

Mr. MOORE. A general preview.

Yes, the meeting went on. We talked before lunch. Although we didn't get into these, we talked generally before lunch, a social lunch, then I would say 3 hours in his office, perhaps 4, with about 45 minutes out for——

Mr. THOMPSON. At what time in your conversation with Mr. Mitchell did the money matter come up?

Mr. MOORE. It came up when we got back to his office. We sat down after lunch and I said, now, about the meetings. I said, first, there are two or three messages from your friends that I will deliver and I think I know your answer. I think I went through that yesterday, that they thought he could come down here part of the time, that they thought he ought to get actively interested, that from what they know, he might be one of the most actively interested persons in this proceeding.

Mr. THOMPSON. It turned out to be true, didn't it?

Mr. MOORE. It did. He said something like, I don't need my friends in San Clemente to tell me that this is an important hearing and I ought to get interested—that sort of thing. A friendly tone.

I mentioned that there had been a discussion that more money might be needed and I said, I don't know what this is about, but it is suggested that you might like to become a fundraiser, or you are nominated for the honor of raising the funds, if you will. And I got, as I say, a quick answer to that.

Mr. THOMPSON. Did you ever discuss raising money with him at any time after that?

Mr. MOORE. Never. Or before.

Mr. THOMPSON. Let's move on to March.

I believe you stated that during the first part of March, Mr. Dean first told you about other involvement with regard to the break-in. He mentioned Mr. Liddy, of course. He also mentioned meetings that he had attended with Mr. Mitchell and Mr. Magruder.

Mr. MOORE. Yes, sir.

Mr. THOMPSON. Would you tell us about when this conversation or these conversations occurred and as nearly as you can recollect, just exactly what those conversations were?

Mr. MOORE. I think that the first such conversation took place—I will take March 1 as a rough date. It could even have been, in connection with that conversation, be a little earlier, where at one point in the conversation, it came up in connection with a discussion about, something about Liddy's name came up, or something—he said this, I remember, at one point. This thing, I don't know what else might have been on at this point. It may have been that Watergate, because

he said, I attended two meetings and I am sorry I did. He told me, he said, at the first meeting, we went to Mr. Mitchell's office and there was Liddy and there was Magruder and I, and with a tone of some kind of astonishment, he said, there he was with big charts, put them out, with the craziest, wildest schemes you ever saw. He said they were razzle-dazzle charts with code names. He said—I think he might have used a word or two that I shouldn't use on the air. He said, holy so-and-so, the charts had plans for surveillance, electronic surveillance, even kidnaping.

And I, you know, I reacted with disbelief. I said kidnaping? I think I said, what the hell are you talking about?

He said, well, this guy, this guy Liddy, had a plan where the leaders, if the leaders of the demonstrators in San Diego got too tough, we would snatch them, they would be equipped to snatch them and take them to Mexico, and at this point we would assume the demonstrations would fail because the leaders had disappeared.

I said, you know, I think, you know, you have got to be kidding. That was my reaction.

He said, well, I just couldn't believe it; I said, get those charts out of here, destroy them, you shouldn't even be discussing such things in the presence of the Attorney General, let alone carrying them out or even considering them. He said, I turned that off.

He said, but I went to another meeting and he said, now, this one troubles me because I got there late and I don't know what was said or who will say what was said when I wasn't there, he said, because now he still had a chart that was, all this rough stuff was out, but electronic surveillance was still in.

And I said, well, now, you mean in general.

He said, yes, it was a budgetary thing.

And I said, well, was there any—I must preface this by saying that he did say he was concerned about being at this meeting lest that involve him.

I said, well, was there anything in the chart about the Democratic Committee or Watergate, using either or both phrases?

He said, no, there were not specifics, just a principle.

And then, he said, I thought I turned it off.

I did not know and he did not tell me that he later went to Mr. Haldeman, as he so testified, and said he would have nothing to do with anything like this.

But those were his two discussions of the meetings.

Mr. THOMPSON. Did you say that he told you that he was concerned for himself because of his presence in those meetings?

Mr. MOORE. At a later time, as he told me that he was concerned about his participation in those meetings because the grand jury was back in session or was about to be and he said "I am probably going to have to testify," and he said, "I am going to tell the truth about those meetings," and he said or intimated that Mr. Magruder had not revealed that aspect of the meetings when he had testified either at the trial or at the grand jury, I do not think he specified, but Mr. Magruder was on record under oath, and he said "I am going to raise hell with Magruder when I tell the truth." And later either in the same conversation or within a short time thereafter he said "One of the things that concerns me is that I keep hearing or I have heard that

Magruder if he gets in trouble, if he goes down, he is determined to take other people with him." And he said "I can easily see how he would involve me as having been there and having approved these proceedings."

Mr. THOMPSON. All right, when did this conversation take place?

Mr. MOORE. This was an acceleration of Mr. Dean's problems started with the Gray hearings, let us say March 15, Mr. Thompson.

Mr. THOMPSON. What was going on during that period of time? Look at it from Mr. Dean's standpoint. You mentioned the Gray hearing. What was Mr. Dean confronted with at that period of time?

Mr. MOORE. Well, he was confronted with a lot of comment about the ubiquitous Mr. Dean who always seemed to turn up. He had sat in investigations, FBI interviews of White House personnel. He had had access to FBI records. Another, as I indicated, he got access to the FBI reports without clearing with the Attorney General, without his knowledge or approval. There was a suggestion that he had either withheld some of the contents of the Hunt safe or had unduly delayed delivery of the contents of the Hunt Safe. There was, of course, a suggestion, and that was March, well, it was around March 22, that I believe it was Senator Byrd who said in the Gray confirmation hearings "Don't you think that Mr. Dean lied when he said to the FBI, when he said, he would have to check to see if Hunt had had an office? Mr. Gray said he would have to draw that conclusion. Mr. Dean had a very different version of that. All these things were piling up to the point—and then he was also invited by the Judiciary Committee to appear, and he had become the central figure in what I think is one of the great debates of the season or the year, the debate of executive privilege, where the intimation was that, and we were hearing mostly from the press and commentators that Gray will be held hostage for Dean. No Dean, no Gray. So he had emerged as a person with a great deal of problems.

At the same time, Mr. Jack Anderson, or a little later in this series, dug up a file which I later felt was a bad rap but which said that he had been discharged from his first legal employment for unethical conduct. Since I am on television and there are millions looking in, that was softened, that was retracted, but at the same time when a charge like that is made the retraction seldom catches up and this was a very rough rap for him. So he had all these things going.

Mr. THOMPSON. How did he react to all these, could you tell on a day-to-day basis?

Mr. MOORE. I will say this, he kept his cool, but he was concerned and disturbed.

Now later at Camp David when all this had piled down he said to me on the phone one night "I am trying to write a report up here and I can't do it." He said "I am just walking around in the woods trying to collect my thoughts," and—but he was and he testified correctly as far as I am concerned, what I knew about trying to find ways that this matter could be brought out with the President taking the initiative which all of us were saying, and I know the President was eager for it and we were discussing all kinds of methods, you know, the Warren Commission——

Mr. THOMPSON. Executive privilege was a big issue along about that time, I believe.

Mr. MOORE. Yes, and he was at the center of it.

Mr. THOMPSON. About how many conversations——

Mr. MOORE. I am sorry.

Mr. THOMPSON. About how many conversations would you say you had concerning these meetings in Mr. Mitchell's office with Mr. Dean? I mean, was this—where were your offices located?

Mr. MOORE. Both on the first floor of the Executive Office Building but a full right angle away, sort of.

Mr. THOMPSON. Did you see each other daily?

Mr. MOORE. During this March season, probably so. Before that hardly at all.

Mr. THOMPSON. Would he go into your office, would you go into his office?

Mr. MOORE. I would usually go to his office, sometimes he would drop by mine, and then often during these daily bulletins from the Gray hearings we might both go over to Mr. Ziegler's office to talk about what the facts were and what response we might make such as on that lie story.

Mr. THOMPSON. All right.

Did he at any time tell you about what is known now as the Plumbers activities, Mr. Hunt, Mr. Liddy at the White House?

Mr. MOORE. He made one remark, let us say—no, two remarks. One again in this March period, and the conversations were sort of a continued story like a soap opera going from one to another. He said at one point "You know, it is not the Watergate's embarrassing but, you know, and I think he referred, I am not sure he used the word "Plumbers." I think he might have used the words "Hunt and Liddy"—"there are things about them if they get out are going to be embarrassing or seriously embarrassing."

Mr. THOMPSON. When did this conversation take place?

Mr. MOORE. That one, I can only say, let us say, between the 7th of March and the 19th of March.

Mr. THOMPSON. When Mr. Dean was telling you these things, of course they concerned you; you learned about Mr. Mitchell, I am sure, for the first time in reference to the horror stories generally or some things that could be seriously embarrassing, as he stated; did you consider going to the President yourself at that time?

Mr. MOORE. I was considering it seriously, Mr. Thompson but what I had essentially was gossip. What I had was guarded, certainly nothing evidentiary. The procedures were going forward, the grand jury had been reopened. I felt that whatever it was, and this is when almost daily one of us was discussing the possibility of getting the story out. As I mentioned to you, Mr. Ehrlichman, as I said yesterday, phoned me on March 16, I think it was, to say that the President wanted a full statement of all these things, and I thought this thing was coming to a head but I did not feel I had anything except hearsay and gossip and rumor but I sure was beginning to worry. But also I must say that when he spoke of the Hunt and Liddy, I did not know that that would involve the White House. That could have been something else they had done, I didn't know what it was, and he made it a point never to go over the evening and tell me anything. He never told me, as I recall, of an actual criminal situation or act. He talked about embarrassment and problems.

Mr. THOMPSON. Let me ask you about the meetings that you and Mr. Dean had with the President, and I will start with March 14.

Mr. MOORE. Yes.

Mr. THOMPSON. Would you tell us what you discussed at that meeting, the purpose of the meeting; what was discussed and what was resolved, if anything?

Mr. MOORE. Yes.

Mr. THOMPSON. As of this year?

Mr. MOORE. The purpose of the meeting was to go over with the President the possible questions that might be asked in the next day's, the next morning's press conference on the general subject of executive privilege and these hearings, the Gray hearings were still also going on, and in that sense the Watergate. Now, Dean and I—the way that worked was Mr. Buchanan, who usually coordinates the President's briefing book, had sent us a list of at least 20 questions that could be asked, more were handed, and for 2 or 3 days before that we divided them up, we suggested answers or gave background answers so that the President could consider them, and they were then edited by Mr. Buchanan and put in the briefing book.

The President now wished to discuss those answers with us.

Mr. THOMPSON. Had the President made a statement on executive privilege by that time?

Mr. MOORE. Yes; he had made that on March 12 and this meeting took place on March 14 and it was a very hot issue at that moment obviously.

Mr. THOMPSON. What about March 15?

Mr. MOORE. March 15 was a very pleasant and relaxed meeting at the end of the day in the Oval Office where the President kind of wanted to chat about the press conference.

Mr. THOMPSON. The press conference had been earlier that day?

Mr. MOORE. Earlier that day and he wanted to know how we thought it went, and Mr. Dean correctly testified that the President said, "You know, the very first thing that I said, I made an announcement that I thought was quite historic, first representative to the People's Republic of China, and I was nominating a most important man as our first representative, David E. K. Bruce. I made the announcement and what do you think the first question was? Dean's testimony at the hearings and it shows where their minds are." And then we talked a little bit about the press conference and then he got into this discussion where he had been thinking more and more where we had been using the wrong, the more narrow phrase that what was involved here was the separation of powers and the President's responsibilities to preserve that separation, and I think I told you how he went through, how we invite each other, that Congressmen will come here by invitation, that we go there but neither of us can command the other, and that is the way it has to be and we went into that.

And then he got talking about how he wanted us to be outgoing and he recalled the days when he was a Congressman, when he could not get a report, an FBI report, not raw files but an FBI report, in the Hiss matter, and he said, "But we are going to tell this committee, give them anything that they want in terms of information. Now we may do it," he said. "That is where you fellows come in," he said, "It

should be depositions or private meetings and this kind of thing." We got back into that, and that was that meeting.

Mr. THOMPSON. What about the meeting on the 19th?

Mr. MOORE. The meeting of the 19th was again a comment, he said that—I think that, whether we came in together or whether Dean was already there I am not sure. It may be—but in any event he turned to me and said, "John is going to have to sort of take the lead in these matters of executive privilege and the hearings and I asked you to join the meeting because I know you have been working with him."

And he said, "I want you to go about how to get our story out," and that kind of thing.

Mr. THOMPSON. Well, were the hearings the primary topic of discussion at that time, these hearings?

Mr. MOORE. Were they on——

Mr. THOMPSON. Were they the primary topic of discussion?

Mr. MOORE. I would say along with the principle of executive privilege, yes. There was a discussion that the distinguished chairman had been on "Face the Nation" the day before, and Senator Byrd had made a talk or inserted in the record a list of questions about Mr. Dean's constant presence, as they called it in all these things, and I think the President suggested, "You know he shouldn't wait to be asked, maybe he should respond," and in fact Dean did draft a letter which I don't know was ever sent, sort of voluntarily responding to some of these things.

Mr. THOMPSON. Is this something that Dean himself suggested or the President suggested that Dean do?

Mr. MOORE. I think I suggested it.

Mr THOMPSON You think you suggested that Dean do this?

Mr MOORE. Yes. No, I think I suggested—for example, we were talking about getting our story out voluntarily rather than having it drawn out of us which the President——

Mr. THOMPSON. You are talking about, a sort of white paper or letter or what?

Mr. MOORE. Mr. Thompson, in this period of March where I had five personal meetings with the President, in every single one of those meetings, I think, he emphasized, "Why don't we get the story out ourselves."

At the meetings in San Clemente and La Costa Mr. Ehrlichman had made that point, and I believe he indicated that he was echoing the President's desire.

On March 16, Mr. Ehrlichman again relayed that desire to me. So that this white paper, depositions, forthcoming was the word the President kept using, be forthcoming, was also—and, of course, that is one of the reasons I was convinced that the President had no permanent idea of what we knew is going on or he would not be pressing to get it out.

Mr. THOMPSON. Did Mr. Dean have any suggestion as to what might be done with regard to the hearings or anything else?

Mr. MOORE. Well, I know for one thing that Mr. Dean as recently, I believe, as March 15 concurred, I believe, in a draft of the executive privilege statement which concluded with the recommendation that White House assistants and aides to the President would normally

not appear but if the subject matter was extraneous to their duties as Presidential aides or advisers that the executive privilege would be waived.

Later that did not end up in his statement.

Mr. THOMPSON. Let me see if I understand it. You are saying that as late as March 15, 1973, Dean was concurring in the President's statement of March 12 that White House personnel would not appear but the information would be furnished otherwise.

Mr. MOORE. Pardon me, I got my month wrong, pardon me, February 15.

Mr. THOMPSON. February 15?

Mr. MOORE. Yes, the La Costa and San Clemente meetings and thank you for that correction.

The draft that went back the next day had that recommendation in it that we have this waiver for matters extraneous to the normal Presidential duties. That draft kept going through a lot of circulation and revision and as late as February 15 I recall seeing a memo from Mr. Dean which still did have that provision in it. So, he was still voting for at least in that draft, in that statement, a policy of cooperation and appearance in matters not related to the official duties involving their relationship with the President.

So, it is a long answer to your question as to what his attitude was. Later, in the post-March 21 period he and I on the phone or in person talked many times about the variety of ways by which the President could see to it that whatever the White House story was would be forthcoming.

I think I perhaps referred to this, and we talked about everything from his own Presidential commission, from the appointment of a distinguished nonpolitical lawyer to come in with full power to interrogate everybody in the White House under penalty of immediate dismissal, to get a 30-day—or report as to this kind of thing or three-man panel, a residential appointment of a Warren Commission, I remember reviewing the book of the Warren Commission to see what the mandate and the privileges and the procedures there were and it seemed to me they fitted. All these things were being talked about not only with Dean but with me and others.

Mr. THOMPSON. In the March 19 meeting did Dean ever mention the use of the FBI?

Mr. MOORE. In the March 19 meeting?

Mr. THOMPSON. Pardon me if I am wrong.

Mr. MOORE. There is a reference to the FBI but I am not sure that that was the date. Could you give me a clue as to what it was?

Mr. THOMPSON. Yes. Correct me if I am wrong. I believe in a staff interview, you mentioned something to the effect that he suggested that the members of this committee perhaps be asked if they would submit to——

Mr. MOORE. Yes, sir.

Mr. THOMPSON. Well, you pick it up from there.

Mr. MOORE. Yes, that was in the March 20 meeting.

Mr. THOMPSON. The March 20 meeting?

Mr. MOORE. Yes. We had been asked for ideas where we could take the initiative, and in that meeting at one point, Mr. Dean said to the President, you know, one way is for us to take the initiative. He said,

I have worked on the Hill. He said, I do not know, I know of few political campaigns where someone, with or without the knowledge of the candidate, has not gotten involved in something that was improper, at least, if not illegal. He said, I think it might be a good idea if someone responsible would invite or suggest that the committee that was about to investigate campaign practices voluntarily offered to submit each of his most recent Senatorial campaigns to a full field investigation by the FBI.

Mr. THOMPSON. He suggested this to the President in your presence?

Mr. MOORE. He did. Yes.

Mr. THOMPSON. What was the President's reaction?

Mr. MOORE. First, he gave him what I regarded as a puzzled look. And he said, what would that do? Why that? And I think he used the words "I don't understand."

Dean then said, well, sir, people who live in glass houses shouldn't throw stones. Then he repeated that he had been here on the Hill and he knew politics and knew campaigning.

And the President sat there shaking his head. Then the President said, well, let us think about that.

I took that as a complete dismissal of the suggestion, and of course, nothing was done about it, it was never heard of again.

Senator ERVIN. There is a vote on in the Senate, so the committee will have to stand in temporary recess for the committee to go and vote.

[Recess.]

Senator ERVIN. The committee will come to order.

Counsel will resume the interrogation of the witness.

Mr. THOMPSON. Thank you, Mr. Chairman.

Mr. Moore, we were discussing the various meetings you attended with the President and Mr. Dean. We got to March 19. You were telling us about a proposal Mr. Dean had concerning possibly asking members of this committee to submit their campaigns to FBI investigation. Was there any discussion about comparing the use of the FBI by this administration with other administrations?

Mr. MOORE. Yes, sir.

Mr. THOMPSON. Tell us who brought that subject up and what was said?

Mr. MOORE. Mr. Dean said that he had, it had come to his attention that at least one preceding administration, perhaps two, that this previous President or Presidents had used or attempted to use the FBI for personal or political purposes in ways that the President, in ways that were quite inappropriate and whereas the President, President Nixon, had made it a policy personally to avoid that kind of thing, particularly through his friendship with Mr. Hoover, that this would make a good contrast, because Dean had been, in effect, accused of using the FBI by getting reports or sitting in on interviews, and that that information would be quite harsh. And the President simply reacted by saying, well, if you develop anything, let me know. And nothing came of that.

Mr. THOMPSON. Was this on March 20, also?

Mr. MOORE. That was on the 20th.

Mr. THOMPSON. Was anything else discussed at that meeting of March 20 of any importance, any substance?

Mr. MOORE. No; I think my summary yesterday would cover it, anything talked about.

Mr. THOMPSON. During these meetings on March 14, 15, 19, and 20, during this period of time, did you have this information from Mr. Dean concerning the meetings in Mitchell's office and the things that he told you about?

Mr. MOORE. Yes, sir.

Mr. THOMPSON. And you were there, in the President's presence?

Mr. MOORE. Right.

Mr. THOMPSON. Along with Mr. Dean. You did not tell the President, did you?

Mr. MOORE. No, sir.

Mr. THOMPSON. Have you related your reason for that? Would you like to expound on that a little bit further? What went through your mind as you kept attending these meetings, knowing what you knew and in your mind, the President not knowing?

Mr. MOORE. What I knew up till the meeting of the 20th, which is the one I described as the moment when I thought somebody had to tell him, was that it was essentially rumor, gossip. I did not have one shred of evidence, had nothing at that point that involved the White House, that the suggestion that arose in my mind was from his discussions of the meetings in Mr. Mitchell's office was, at most, that that meant somebody else in the committee might have been involved. There was nothing to tie any of this activity to the White House and these things had now been reopened, I believe. Judge Sirica had already—and I did not like to have any—one does not like to go to the President and say, I think something is wrong, particularly wrong across the street at campaign headquarters. But I will say this. I was growing increasingly concerned and I was wondering what my role would be and I did not want to trigger the course.

Mr. THOMPSON. During this period of time, did you really wonder in your own mind as to whether or not the President did know these things?

Mr. MOORE. I suppose I did. I am trying to recall my state of mind. I had not thought of his—I will put it this way. I knew in my heart, if you will, I was totally convinced that the President knew, believed that no one in the White House had been involved, as he had said and was, and still, I know, believed right up till he learned differently, I guess March 21.

But until I heard of the Howard Hunt matter, I did not connect it in my mind with—the point about the Hunt matter was that Mr. Hunt was demanding money or the White House would be embarrassed. That was something of a difference of degree, a quantum and quality difference, in the kind of guarded things which Dean had been suggesting. And that resolved the doubts.

And let me say right here in front of anybody who is watching, I certainly wish that the minute I began to get suspicious, I had gone to the President. One does not go to him lightly, one does not go to him and say, I think something may be wrong. Maybe there are times when one should. I came to that conclusion, and all I know is that before the phone rang on the night of March 20, Mr. Dean's happy and committed call that the President had called him and was going to see him in the morning, I think maybe I would have gone in the next day.

I am not reciting this to take credit, because Mr. Dean felt that he wanted to go and I encouraged him. And I accept that as his ver-

sion totally of the conversation. This goes back to our discussion of yesterday, you hear things differently. It was on his mind. He probably believes he said to me, I think I ought to go see the President, and that I, you know, said, by all means, that I gave him that speech.

It does not matter. He did go and it was done.

Mr. THOMPSON. I think it may matter and I want your recollection on that a little bit later.

Mr. MOORE. Mine is clear.

Mr. THOMPSON. Let's talk about that just a minute. Yesterday you were asked several questions about the meetings, some of them in the early part of 1972, on Mr. Kleindienst, about his confirmation hearings, and the dates of some later meetings and more significant meetings. And you could not remember many of those things. You had trouble with those things. What makes you think your mind is so clear on this?

Mr. MOORE. First of all, I want to say I have had telegrams and phone calls from people who say that, God, for someone who does not remember where he was on the night of August 13, I have been astonished by this wonderful reaction. When people are a little too precise in their memories of dates—for example, I was cast a cold question, what did I talk to the President about on June 30, 1972, a year and a month or 2—or more ago. June 30 was a date on a bare page that had no point of reference. I was a little slow. Then it came into my mind that July 1 was the day John Mitchell resigned as campaign director. That was the day that the President called me over to talk about that. I didn't pin that to a date.

Mr. THOMPSON. How long have you been preparing for your testimony here? How long have you known that you were going to be here?

Mr. MOORE. May I ask counsel? He got the request.

Mr. Miller says he received a call at 6:15 Monday night and there were quite a few interruptions between then and now.

Mr. THOMPSON. Monday night of this week?

Mr. MOORE. Pardon me. I had better get the date. What's the date of Monday? We want to be firm about dates in this hearing.

Mr. MILLER. Counsel was saying he cannot recall what date Monday is.

Mr. THOMPSON. In preparing for your testimony, did you limit your preparation to what you put in your statement?

Mr. MOORE. In what time for preparation I had. I tried to concentrate on what I regarded as the central issue and the significant testimony I could give. I had forgotten that a young man tried to investigate whether Dita Beard knew Jack Anderson's secretary a year and half ago, and when that so-called investigation of the ITT, as it was put, came up, apparently, I had been able to recall it at June 7 when I think it was explained what it was about. But at this hearing, to suddenly be asked out of the blue about that kind of thing, I was not ready for it, I hadn't prepared for it. And also, frankly, I didn't think it was very relevant until I was told it was going to be the decision——

Mr. THOMPSON. It may not be over, Mr. Moore.

Mr. MOORE. It may not be, and I know I have been told I would not have been asked if it didn't have a purpose. I think Mr. Lenzner—I

have spent 4 hours or 5 hours with a different group the day before when I should have been preparing. I didn't get——

Mr. THOMPSON. What different group were you with?

Mr. MOORE. I went over to see Mr. Cox's group at this invitation.

Mr. THOMPSON. Did they ask you for an interview also?

Mr. MOORE. Yes.

Mr. THOMPSON. What time did you spend with them?

Mr. MOORE. I spent 5 hours with no lunch.

Mr. THOMPSON. All right.

Let's get back to March 20. Was this meeting in the official office?

Mr. MOORE. The official office.

Mr. THOMPSON. Did you leave with Mr. Dean?

Mr. MOORE. I did.

Mr. THOMPSON. What happened when you left the official office with Mr. Dean?

Mr. MOORE. Well, we closed the door and as we turned into the hall—I said very little at that meeting and I had been listening. I remember that I pointed, and I said, "John, I don't think the President has any inkling of the things that you have been talking about, worrying about. Have you told him anything?"

And he said, no, he hadn't.

I said, "Do you know whether anybody else has?"

He said, "I don't think so."

And that is when I—and he has testified that I was sort of a fatherly adviser. He and I worked with mutual respect on these things. And I said, "John, you should tell him. He is entitled to know. He is not being served. It will be good for you if you are concerned about your own role here. It will be good for him." And I think I said it will be good for the country.

And I think that without any question, as I said yesterday, he was receptive to that. He might have made that move on his own. If I gave him a little needed encouragement, I am happy, but that isn't important. The important thing is that he did go, he did ask the President that very evening, and the President immediately said, by all means, come in tomorrow morning.

Mr. THOMPSON. But you made this statement to him and you say while he didn't indicate or while he didn't make any definite response one way or the other, in your mind, he was receptive to that idea sometime?

Mr. MOORE. Yes, indeed.

Mr. THOMPSON. You mentioned this business about adviser and this sort of thing. We will get into specifically what Mr. Dean has testified about that conversation and who brought the subject up and who agreed with whom, but to backtrack just a little bit, did Mr. Dean ever come to you with any kind of problems that might have been brought on of a personal nature or anything like that? What was your relationship?

Mr. MOORE. First, my relationship was basically professional and official, but he did—for example, he called me, after he had been called a liar, after everything else, he called me in the afternoon and said, can you come down here, there is a new low blow.

Mr. THOMPSON. A new low blow?

Mr. MOORE. Yes, and I said the world is full of surprises and I will come right in, and he told me about this news by Jack Anderson.

Mr. THOMPSON. Was that the Anderson column?

Mr. MOORE. It was an Anderson column which dug into a file and said that he had been discharged as a young lawyer for unethical conduct. I could tell obviously how important this was to him having remembered changing my trip to come from the south of California, my wife arrived in a long dress about now, we were going to Kennedy Center, and I had to say "Here is a taxi, go on home, we simply have a problem."

We sat talking all evening about it as to the merits of it. He managed to collect papers on the thing. I called at night a radio lawyer friend of mine to see if he could help on this sort of thing. Then that went on to further discussions the next day, and we did, we did manage to defuse it. It turned out, as I said, the charge had been softened, or actually withdrawn. It was——

Mr. THOMPSON. I understand he had found out that the story was going to be printed very shortly.

Mr. MOORE. Yes, someone, I think he had been called by a representative of Mr. Anderson saying "We are going to print the following, do you have any comment," and at that stage in his life that clearly was a very, personally a very, serious thing and he did come to me and I think I was helpful because the papers did print the softening of it and they printed that very fine letter that a lawyer had written on his behalf at the time saying his conduct was not unethical.

Mr. THOMPSON. He probably did not consider it very soft when he finally read it.

Mr. MOORE. I agree, Mr. Thompson.

Mr. THOMPSON. Let me ask you, again going back to March 20, you say you told him this and he seemed receptive?

Mr. MOORE. Yes.

Mr. THOMPSON. Did you go home?

Mr. MOORE. Did I go home?

Mr. THOMPSON. Yes.

Mr. MOORE. Yes.

Mr. THOMPSON. What I am asking you, you mentioned a phone call, did you receive a phone call that day?

Mr. MOORE. Yes, a telephone call at home. I think it was around 8 o'clock or after dinner or at that hour and the phone rang and it was Mr. Dean calling and again being careful about using quotation marks but it is my recollection that this is an accurate summary, he said, "Guess what just happened," and I said, "Well, no, tell me." He said "I just had a call from the President" and he said "I decided that this is the moment to take the plunge or bite the bullet," not those phrases necessarily but to step forward, whatever it was, and he said "So I said to him, 'Mr. President, things have been going on that I am sure you do not know about, and I think it is terribly important that you do and I would like to come in and see you alone and tell you about it,' " and he said the President said "of course" or "by all means" and did not say "Call my secretary for an appointment" or "I will look at my calendar," he said "Come in tomorrow morning," and Mr. Dean did go in the next morning.

I made some remarks about "Hallelujah, John, that is great; congratulations."

Mr. THOMPSON. Why did he call you to tell you this?

Mr. MOORE. Because I think that we had shared this discussion just a few hours ago after we came out of the Oval Office, it was obviously deeply on his mind. It is entirely possible he had been looking for a little opportunity—now, you will note that it was the President who called him. Here was a chance now, we talked about it that afternoon, and I gave him what, a stiff fight talk, a fatherly talk, if you will, and friendly, assuring him that he would feel better when he had done it, and that is why he called me because I do not like to characterize conversations but he was, if not excited, he was up on that call. He said "Guess what just happened?" He was pleased and the event meant something to him.

Mr. THOMPSON. He said he was going to see the President the next day.

Mr. MOORE. That is right.

Mr. THOMPSON. Did he go see the President?

Mr. MOORE. He told me he did.

Mr. THOMPSON. That was on March 21?

Mr. MOORE. Yes.

Mr. THOMPSON. Did you talk to him after he said he called the President?

Mr. MOORE. Yes, and I saw him, I cannot place that conversation, whether it was his office or mine or it could have been that I ran into him, this was a short conversation, in the hall but I said "Well, John," you know, "did you see him?" And he said "I sure did for 2 hours, I had 2 hours with him." And I said "Well, did you tell him everything" and he said, I think his phrase was, I cannot remember, "I let it all out," and I said "Did you tell him about that Hunt matter," because that was the one I thought was the serious thing and he said "I told him everything," and then, I said I think in one of the interviews perhaps to Mr. Lenzner or to you, Mr. Thompson, I want to be very careful about this because I asked him was the President surprised, and that he replied he was or he sure was or perhaps he volunteered, but in any event, that there was a final touch to that conversation which, where he either concurred or volunteered that the President had been surprised by the things he told him.

Mr. THOMPSON. You came away from that conversation feeling like Dean had indicated to you that the President was surprised when he told him on the 21st?

Mr. MOORE. Yes, indeed.

Mr. THOMPSON. Backing up just a moment, you mentioned that Hunt situation, had he told you shortly before that meeting that he had with the President that Hunt had made increasing blackmail demands? I am not sure we went over that on the 19th or the 20th.

Mr. MOORE. He told me he had made—now, the word "blackmail" was mine. He said "I have just learned"——

Mr. THOMPSON. Dean said this?

Mr. MOORE. Dean said to me, and I place this as very late in the day Monday, the 19th, and I say that because we met with the President on the afternoon of Monday the 19th, and I am certain I did not know about it at that time, but I could not be sure, but I do not think so, and I think there also has been, perhaps Mr. Dean testified he heard about it on the 20th but so I——

Mr. THOMPSON. Just stick to the date.

Mr. MOORE. All right, either late the 19th as I testified or early on the 20th so it was quite fresh in my mind when we met with the President, in the early afternoon of the 20th.

Mr. THOMPSON. What did he tell you about what Hunt was doing then?

Mr. MOORE. He didn't. He just said that if he didn't get this money by Wednesday, the 21st, he started out by saying and he wants it before, he wants it deposited or put into his account or something before he gets sentenced, in fact he wants it by Wednesday, that would have been Wednesday the 21st because the sentencing was on March 23, and——

Mr. THOMPSON. Is this new Hunt situation the thing that finally caused you to tell Dean what you told him?

Mr. MOORE. It was the first penetrating, illegal, clear situation because, first of all, a demand, and the money amount that he mentioned was enormous, I don't remember the numbers, I have heard since that it was in excess of $100,000, and that it had been communicated to Dean, he didn't tell me who communicated it to him nor did he tell me what the nature of it was.

Now, I had a pattern with Mr. Dean, as I said, who was very, who always had been very restrained in giving me any details and that he was doing that for my benefit and I appreciated it. But I had a habit of not probing because I got nowhere, I got turned off. In this case I didn't have to probe, I already was aware that something was going on, and I had thought of it in terms of possibly committing people or outside people, still didn't believe it had reached the White House, that here was a case where this was coming, this blackmail effort was being aimed at the White House and the information, whatever it was, was going to presumably involve the White House and I said no matter what he says it can't be worse than getting into a blackmail.

Mr. THOMPSON. All right, did you ever talk to the President yourself about these matters?

Mr. MOORE. Yes, sir.

Mr. THOMPSON. When?

Mr. MOORE. I had a conversation with the President about that on April 19.

Mr. THOMPSON. All right.

Mr. MOORE. By the way, I had five meetings with the President and I have got the dates in mind, you know, in this period so this was April 19.

Mr. THOMPSON. All right.

Mr. MOORE. Five, and with Dean and this one is a later one, April 19.

Mr. THOMPSON. Tell us about the conversation you had with the President on April 19.

Mr. MOORE. Well, when I came in to see him, he had issued his April 17 statement that serious new charges had come to his attention, and so on. So when I came in I said, and he had said that they came to him March 21, I said "Well, that was"—I paid him a compliment about the statement in terms of what the reactions I had heard and I said "I note that March 21 date. I, John Dean, must have been the source of those charges," and he said something to the effect "Oh, did you know about that" and I said "Yes." I said "After

we met with you the day before John and I talked about it," and I said "I urged him to go in and tell you," and he said, "In fact he told me you called him that very night." He said "Yes, I did," and I said "Now the thing that got me committed was that blackmail business with Hunt, did he tell you about that?" He said "Yes, yes, he mentioned that, that is what he said," and he said "Imagine," and again no quotation marks please, I have to give you my recollection, and he said, I think, "Imagine" or "just think of that," he said "I told him it was not only wrong but stupid. That you can't do that. First of all the demands never stop" and he said "Dean said this could go on," and the words "to a million dollars." The President said: "That isn't the point. Money is not the point. You could raise money, money is not the point, it's wrong, we could not, shouldn't consider it and it's stupid because the truth comes out anyway."

Now I don't know, he didn't—that was his comment to me.

Mr. THOMPSON. These will be further explored.

Mr. MOORE. Yes.

Mr. THOMPSON. But to go on as succinctly as we can, lets explore the other meetings briefly that you had with the President after that.

Mr. MOORE. I had a brief meeting with him the next day, April 20. And then I had another meeting with him——

Mr. THOMPSON. What did you talk about on April 20?

Mr. MOORE. On April 20 I sought this meeting, and I——

Mr. THOMPSON. You sought this meeting?

Mr. MOORE. Yes.

Mr. THOMPSON. The only meeting which you sought is the one we are talking about with the President?

Mr. MOORE. Yes.

Mr. THOMPSON. Go ahead.

Mr. MOORE. And he was leaving for Key Biscayne at 12:15, I think, and I sought it by going to Mr. Ziegler's office because I knew Ron was going to go in to see the President and I said, "Would you ask if he could give me 5 minutes before he goes to Florida," and Ron came back and said, "Stand by. He would like to see you."

And I went in and I said, "Mr. President, I have been thinking about the whole thing."

Mr. THOMPSON. Was this in the Oval Office?

Mr. MOORE. Oval Office standing by the door and the helicopter at one point the whirling started.

Mr. THOMPSON. Was he getting ready to go?

Mr. MOORE. He was standing up just the two of us.

Mr. THOMPSON. Do you know whether or not you were logged in?

Mr. MOORE. Yes, sir, I believe I was——

Mr. THOMPSON. All right. Go ahead.

Mr. MOORE. And he said, "Dick, I understand you wanted to see me."

I said, "Yes, sir. You are going down for that Easter weekend and it is a good time to contemplate," and I think I made a reference about, "Maybe this is the sort of a resurrection of the whole thing we are talking about."

At least I gave him a little, just that comment. Then I said, "The reason I wanted to see you, sir, is I have been thinking about this whole

thing. You now have facts," and I said, "You know and I know and I am convinced the country will accept that you did not know about the coverup."

I said, "But you do now," and I said, "If you don't take action and get the facts quickly then it will be—you will be accused of a coverup, and that, sir, will come into this Oval Office and affect you. Now, you are involved," and I said, "And my other message I wanted to see you, I just hope that as you assess the facts you will get the benefit of outside counsel because everybody in this building has his own relationships, his own bias, and perhaps his own involvement and when you are assessing the legal and factual issues please get someone, wiser head from outside," and that was it.

He thanked me, and went out and got in the chopper.

Mr. THOMPSON. What did the President say to you?

Mr. MOORE. He said, "I understand. I understand and thank you."

Now, the sequel is that I went to see Mr. Ziegler because he had a couple of minutes and I said, "Ron, if you get the question," because he was extremely interested in getting the truth out, he was going in all the way and helping the President to move, wherever the chips may fall, and I guess it is all right for me to now say that indeed Mr. Ziegler took this matter up on the airplane with the President and a prominent lawyer did visit Mr.—the President down at Key Biscayne.

Mr. THOMPSON. About what?

Mr. MOORE. I don't know what came of it. All I know is that the suggestion that he—it was a short time after that, that the April 30 speech resulted, and all I know is that outside, that outside counsel did talk to him. All I know is he went to Key Biscayne. I don't know, I know no more than that.

Mr. THOMPSON. Why did you think he needed outside counsel?

Mr. MOORE. For the simple reason that any fact that he asked of anyone—or any legal opinion—who worked in the White House was either too close himself in some way or had preopinions or would be in the position possibly of having to comment adversely about other people, and it is very difficult, human nature—to talk about your friends and coworkers. If there were people in the White House who had been involved in matters that were improper or illegal, I felt that the President should (a) not be his own lawyer because at that point—I should emphasize he was going at this critical time on an Easter weekend with no staff except Mr. Ziegler, and of course his physician, who travels always, and that was about the size of it and I just felt that during this long weekend, as he contemplated and examined whatever it was he learned, and I did not know other than what Mr. Dean knew and I told him, that he was entitled not to be his own lawyer and he was entitled not to rely on people who might have either a personal bias or a preconception. Right.

Mr. THOMPSON. All right. This consideration was April 20, 1973. The President made his speech April 30 announcing the resignations of Haldeman, Ehrlichman, and the fact that Mr. Dean had also left.

Mr. MOORE. Right.

Mr. THOMPSON. Did you see the President after April 20?

Mr. MOORE. Yes, sir. I saw him on May 8.

Mr. THOMPSON. May 8?

Mr. MOORE. Yes.

Mr. THOMPSON. What was discussed at this meeting?

Mr. MOORE. That was a rambling discussion. The best way, if I may make a little prolix, if I can get started at the beginning. He had called me, sent for me the weekend of April 30, the Camp David weekend. I was on my way to my son's wedding in May. I got a message; do not turn around, the President said, enjoy the wedding.

So when I saw him, he wanted to know about the wedding and we got talking about my family, which was fine.

He had just come for a weekend after biting a pretty good bullet in that April 30 situation. He looked fine. He had been in the sun and he looked to me much more relaxed than when I had seen him in these previous meetings I saw him in. I talked to him a little bit about that, in a sense that, I used the words, you look like your hand's back on the tiller and you are getting back into serious things and so forth, that sort of thing.

I had not seen him since the April 30 speech and I talked about that. He always kind of liked to ask me about what some of our mutual friends in California thought. I relayed some of those reactions to him, not all favorable, by the way. I will not go into detail what the comments were about, but this is what we were talking about.

Then, I talked about—oh, I reported what I had heard myself, about the nomination or appointment of General Haig as the at least Acting Chief of Staff, and of course, it was all favorable, and I felt that that helped give a new lift, that things were getting back on the track. He talked then a little bit about the future again, that he thought that—but he said, do I think that this knowledge matter—he said, you told me, and he said—very early, he said, now, by the way, I remember your comment about the coverup of the coverup and I take it you think we are going in the right direction?

And I said, I certainly do.

And he said at that point—let me just recall—he said, well, now, I am only wondering now, or I wonder now, about—and he had said this once before, but he said it with greater conviction, he said, I have racked my brain, I have searched my mind. Were there any clues I should have seen that should have tipped me off? He said, maybe there were. He said, I know how it is when you have a lot on your mind, and I did, but he said, I still wonder. And he said, what do you think?

I said, Mr. President, I did not have that much on my mind and I did not see any clues. If that is all that is worrying you, you can get back to business as far as your role is concerned, and I think that was that.

Mr. THOMPSON. All right, Mr. Moore. Let me go over a couple more things with you. I have already taken up more time than I should, but I do want to pursue this matter as long as we are on this general subject matter.

The conversation, of course, you had with Mr. Dean and what happened around March 21, of course, is important, and as to what the President knew from September 15, 1972, is important. I would like to compare some of the testimony that Mr. Dean has given us with some of the statements you have made to see if you can resolve some of these matters for us.

Mr. MOORE. Yes.

Mr. THOMPSON. First, he said, at the La Costa meeting, "Ehrlichman raised the bottom line question, would the seven Watergate defendants remain silent through the hearings?"

Do you recall that being discussed?

Mr. MOORE. No; and if you read that carefully, he did not say that was discussed. He said, what I call the bottom line question. He was talking about his own impression, his subjective evaluation.

The question, he said, was raised. I do not know what he said, but I want to clear up that he did not say it was said.

Mr. THOMPSON. You made the statement that you said he had made to you after leaving one of these meetings. I would like to read what he said about that. I would like to have your recollection.

He said "The meeting concluded on this item and Moore and I departed together. I told him as we walked back to our rooms that I was very distressed that this matter had come up in his presence, but now he had a very real idea of the dimensions of the situation. I told him I did not think he should get involved in carrying such a message to Mitchell. Mr. Moore was concerned, but felt that he had an obligation to do what Ehrlichman and Haldeman expected of him, but he did not understand why they thought that he could change Mitchell's mind. Shortly after Moore and I departed, I went to Los Angeles to join my wife," et cetera.

Did that conversation take place?

Mr. MOORE. No, sir.

Mr. THOMPSON. Could you remember that conversation?

Mr. MOORE. If I had remembered it—well, first of all, if it took place, and he said what he described, I would have taken his advice. I would have gotten around to—a lot of things might have been learned a lot sooner.

Again, this goes, sir, to the question, I am not here, you know, to impugn anybody's truthfulness. At a later point, at one point, he made a remark to me, very late. It might have been as late as the 13th or 14th, when I was talking about how did people get drawn into this thing? He said, you know, you came awfully close to getting drawn in in that trip to New York.

Now, whether he thinks he said it then, and I do not——

Mr. THOMPSON. Well, then——

Mr. MOORE. You asked me to explain, and I cannot explain it except that A, I do not remember it happened; if it did, at my age and at this stage of the game, whatever record, I would have made further inquiries and I would not have gotten———

Mr. THOMPSON. Mr. Moore, if you could keep your answers as brief as possible, accurate and as brief as possible, because of the time consideration.

He testified on page 195 of his statement, that after the conversation that you had—first of all, let us discuss this conversation. He said: "It was during the afternoon of March 20 that I talked again with Dick Moore about this entire coverup matter. I told Moore that there were new and more threatening demands for support money. I told him that Hunt had sent a message to me—then Paul O'Brien—that he wanted $72,000 for living expenses and $50,000 for attorneys' fees and if he did did not receive it that week, he would reconsider his options and have a lot to say about the things he had done for Ehrlichman

while at the White House. I told Moore that I had about reached the end of the line, and was now in a real position to deal with the President to end the coverup. I did not discuss with Moore the fact that I had discussed money and clemency with the President earlier, but I told him that I really did not think the President understood all of the facts involved in the Watergate and particularly the implication of those facts. I told him that the matter was continually compounding itself and I felt that I had to lay out the facts for the President as well as the implications of those facts. Moore encouraged me to do so."

Now, that is all Mr. Dean talking and Mr. Moore responding. You have already addressed yourself to that conversation. Do you have anything else to add, Mr. Moore?

Mr. MOORE. Well, only this, that whether he had already reached the end of the line and was ready to go in as a matter within his own mind and I would not dispute it, because all I know is after the conversation that I recited, he did do it. Maybe he would have done it if I had not given that advice.

Mr. THOMPSON. All right, let me——

Mr. MOORE. You asked me, and I cannot comment on that. I can say flatly, though, that he did not say to me anything other than that Mr. Hunt was going to say some things that would be very rough on or embarrassing to the White House.

Mr. THOMPSON. All right, let me move to another point.

Mr. MOORE. Yes.

Mr. THOMPSON. After the conversation you had, "When the President called me"—the President's telephone conversation the night of March 20—and "We had a rather rambling discussion, I told him at the conclusion of the conversation that I wanted to talk to him." And he said meet him the next morning.

"Before going into these things, I decided I should call Haldeman because I know his name would come up in this matter. I told Haldeman what I was going to do and Haldeman said I should proceed in such a situation."

Do you remember any call that was made to Haldeman that night?

Mr. MOORE. No, I do not know of that.

Mr. THOMPSON. All right, tell us briefly what you know about what Dean was doing at Camp David when he went up there March 23. I believe you had a telephone conversation while he was there. What was his frame of mind? What did he say to you?

Mr. MOORE. Well, I had several conversations with him. One that I remember was, you asked about his frame of mind. He said, I just cannot collect my thoughts up here. He said, this thing has gotten to a point where all I am doing is walking around in the woods and trying to think things through and get my own mind straightened out on this whole thing. And he said, I cannot get a pen to a paper. I am supposed to write, I have been asked to write a report. I remember that about his frame of mind.

What day of the visit that was and how long it lasted, I do not know.

The second, I think it was from Camp David when he called me with one more idea of how the Presidency could take the leadership in getting it all out without, as I say, waiting for these hearings and the completion of them in terms of essential facts. It effectively was

some kind of a Presidential arrangement for what would be comparable to a civil arbitration, that everybody who had been named would agree to give testimony in kind of an arbitration proceeding and abide by the—it was more involved than that. I said at least it is original, it sounds—that was the conversation.

Mr. THOMPSON. All right, any other points, any other topics of conversation?

Mr. MOORE. He called me on Sunday night, which would have been March 25, and he said, "Here's another one," or something like that, I can't remember. There is a story coming out of the Los Angeles Times that I knew in advance about, and approved—either knew and/or approved—in advance the Watergate break-in and bugging. he said, now, that is plain libelous. And he said, as I understand the libel law, it's important to get a quick demand for a retraction, and he said, I would like to get it in the same edition that I am putting them on notice.

Mr. THOMPSON. All right, he has testified about that conversation.

Mr. MOORE. Yes.

Mr. THOMPSON. Any other topic of conversation?

Let me explore that a little bit further.

Mr. MOORE. No, I am trying to think now about other conversations while he was at Camp David.

Mr. THOMPSON. I am sure that can be explored later. Let me ask you about two more points, if I may.

Mr. MOORE. Yes.

Mr. THOMPSON. Mr. Dean testified that he showed you a list of people that he thought were probably indictable, people who may be indicted, I believe, on April 14, going back. Could you tell us as best you can remember who the people were he felt would be indicted; in other words, who was on the list and why he thought that any of those individuals would be indicted?

Mr. MOORE. You said would I tell you who was on the list?

Mr. THOMPSON. Yes.

Mr. MOORE. I was wondering if I could see the list.

I can pick them as I remember them.

Mr. THOMPSON. No, sir.

Mr. MOORE. I don't really know—first of all, he didn't—let me start.

Mr. THOMPSON. Who do you know who was on the list?

Mr. MOORE. Well, sir, the list had questionmarks and asterisks on it. I would like to work from that, because I would not like to put a questionmark fellow with an asterisk fellow.

Mr. THOMPSON. We can't give you that. We want to know what you remember about it.

Mr. MOORE. It's part of the record. It's an exhibit. Oh, excuse me. You want my best recollection?

Mr. THOMPSON. Yes.

Mr. MOORE. I thought you wanted to analyze the list. I am sorry.

Mr. THOMPSON. Not at this point. That might be done later.

Mr. MOORE. All right.

Mr. THOMPSON. Who was on the list?

Mr. MOORE. Mr. Mitchell.

Mr. THOMPSON. Who else?

Mr. MOORE. Mr. Dean.

Mr. THOMPSON. Who else?

Mr. MOORE. Mr. Strachan.
Mr. THOMPSON. Who else?
Mr. MOORE. Mr. Haldeman.
Mr. THOMPSON. Who else?
Mr. MOORE. Mr. Ehrlichman.
Mr. THOMPSON. Who else?
Mr. MOORE. Mr. Colson, but I think with a question mark.
Mr. THOMPSON. Anyone else?
Mr. MOORE. Yes, Mr. Stans.
Mr. THOMPSON. Anyone else?
Mr. MOORE. Mr. O'Brien.
Mr. THOMPSON. Anyone else?
Mr. MOORE. And I think—Mr. Parkinson. I think they both had question marks. And there were some others.
Mr. THOMPSON. All right, just working with that——
Mr. MOORE. Right.
Mr. THOMPSON. Did you ask him why he thought Haldeman might be indicted?
Mr. MOORE. Yes—pardon me. What I asked him was—yes, how do you figure Haldeman? You know, what's that? And I did ask him that.
Mr. THOMPSON. What did he say?
Mr. MOORE. He said, I think he may have some trouble with that $350,000 which was over here, and I think also, it's a question of how much Strachan told him or gave him in terms of the Watergate.
Mr. THOMPSON. Did he say that he knew what Strachan told him or Dean knew what Strachan had told him?
Mr. MOORE. Once again, in his closing days, he said to me that he was not that, that Strachan may have been aware of him getting information derived from the Watergate, but whether he gave it to Haldeman or not, Mr. Dean didn't say.
Mr. THOMPSON. Any other matters? The $350,000 and what Strachan might have given him?
Mr. MOORE. That is right.
Mr. THOMPSON. Any other reason?
Mr. MOORE. No.
Mr. THOMPSON. Those are the only two reasons he gave you at that time about what he thought——
Mr. MOORE. Yes, the quick one; that is right.
Mr. THOMPSON. What about any of the rest of them? Did you ask about any of the rest of them specifically?
Mr. MOORE. Yes, I think I asked it this way, because it surprised me. I think I said, Ehrlichman? What's he got to do with Watergate? Or how do you figure Watergate?
And he said, his problem may not be so much Watergate. Words—quotes—I do not know. The effect was that Mr. Ehrlichman's problem might not be so much Watergate as the Ellsberg matter.
Now, I have been trying to remember whether he added the break-in of the doctor's office. I am not certain in my mind enough to say so. But the thing that struck me, the only thing that I recall is that the differentiation between Watergate with Haldeman, and Ellsberg with Ehrlichman.
Mr. THOMPSON. Did you ask him anything about how he compiled the entire list, or a more general question?

Mr. MOORE. Yes.

Mr. THOMPSON. What did he say?

Mr. MOORE. He said my counsel—and I want to say this carefully because I do not want to reflect wrongly. Let me preface it by saying that I did not know at that time that he and his counsel had been talking to the U.S. attorney. So what he said to me was, my counsel has better sources at the U.S. attorney's office than anybody around here has, and on the basis of what he told him, what he knows, this looks like about the list.

Mr. THOMPSON. All right, Mr. Moore. Let me ask you a final question. It is very important, of course, as to what the President told you and as to what the President told Mr. Dean, and vice versa. And we know about Mr. Dean's relationship with the President, how long he knew him, and so forth. How long have you known President Nixon?

Mr. MOORE. I met him in 1950, but I did not know him well until 1962.

Mr. THOMPSON. 1962?

Mr. MOORE. Yes.

Mr. THOMPSON. When did you get acquainted? During a campaign situation?

Mr. MOORE. Yes. In 1962, I think I was chairman of a little media advisory committee that——

Mr. THOMPSON. Did you ever travel with him?

Mr. MOORE. In the gubernatorial campaign, I do not—I did not travel with him, but I visited with him often in his headquarters or in his law office.

Mr. THOMPSON. Did you have private conversations with him?

Mr. MOORE. Yes.

Mr. THOMPSON. You mean from 1962 to the present date?

Mr. MOORE. Yes. Now, it was actually—I got to know him best, we got well acquainted really in the 1962 campaign. Then while he was out of office, I perhaps saw more of him and on a more intimate basis. So that is when I knew him.

Then, when he went to New York, my contacts with him were slight, and it was not until the summer of 1968, when I got a message from him; would I be willing to travel around, available for the campaign.

Mr. THOMPSON. Thank you, Mr. Moore. I want to apologize for taking up this amount of time.

Senator ERVIN. Senator Inouye.

Senator INOUYE. Thank you very much, Mr. Chairman.

Mr. Moore, I am certain that you are aware that your appearance here as a witness, and more specifically as a witness to follow Mr. Mitchell's testimony, was requested by the counsel to the President, Mr. Leonard Garment?

Mr. MOORE. I have no direct knowledge of that. I have heard it, I have read it. Mr. Garment never told me that.

Senator INOUYE. Have you discussed this testimony with Mr. Garment?

Mr. MOORE. No, sir. My only discussions—let me say, I was asked by a reporter——

Mr. INOUYE. Were you briefed on this discussion?

Mr. MOORE. No, sir. But I would like to make a footnote on that. I met—and I think Mr. Miller was with me—to determine what the executive privilege and attorney-client privilege situation was, and we discussed that aspect. And since the question has been raised, I was asked by a reporter, has my testimony been reviewed in the White House? The answer is no one ever sought, no one ever knew what I was going to say, and I was not advised by it.

Senator INOUYE. Did you ever discuss this with anyone in the White House?

Mr. MOORE. The content of my testimony?

Senator INOUYE. Is it not strange——

Mr. MOORE. Excuse me, occasionally, just to get a fact or a date that I can recall.

Senator INOUYE. Is this not rather strange? I thought it was the general practice in the White House to brief people before they appeared before the public, such as Mr. Ziegler, and you were one of the briefers. No one briefed you before this most historical proceeding?

Mr. MOORE. Well, I am not exactly in Mr. Ziegler's role. No, sir, no one briefed me before this important proceeding.

Senator INOUYE. Now, your testimony is that you are not aware that Mr. Garment requested your appearance here?

Mr. MOORE. I am now aware that it has been said. I had frankly hoped to get a little more time before appearing, when I heard—what was that again, Monday—Monday night. Then I was told by—perhaps Mr. Miller could help me out on this, because they might have informed him.

Mr. MILLER. Senator, perhaps I can clear this up. I was informed, and Mr. Lenzner can correct me on this, I was informed, I think—I cannot place the time, but I was informed by Mr. Lenzner that the White House had requested that Mr. Moore's name be on a witness list to appear before this committee. I believe that was approximately 2 weeks ago.

Subsequent to that, a list of prospective or possible—and possible witnesses appeared in the papers and I noticed that Mr. Moore's name was listed as a possible. That is my only knowledge of a White House request.

Senator INOUYE. Did you ever discuss it Monday evening?

Mr. MILLER. Pardon me.

Senator INOUYE. Did you have a discussion with the counsel Monday evening?

Mr. MILLER. Oh, yes. Mr. Lenzner talked to me on the telephone at approximately 6:15 of Monday evening of this week. In that conversation, I can't recall if he told me—I think what he told me was that the minority counsel had requested Mr. Moore's appearance. I don't recall him telling me that the——

Mr. LENZNER. Did you say majority counsel?

Mr. MILLER. No, I said minority.

I believe he told me Mr. Thompson had requested that Mr. Moore appear to testify Thursday morning. I don't recall Mr. Lenzner saying anything to me about the White House requesting that he appear at this particular time on Monday evening at 6:15.

Mr. MOORE. Senator Inouye, I should also add for completeness that Mr. Parker of the White House attended, did he not, the interview

with the staff on June 7. I will also say that the first time I saw his report of that was when it was handed to me yesterday on that Dita Beard matter. So there was no—now, I should also say that before these proceedings, before, that I had talked with Leonard Garment about the facts of the situation back in early April. He was invited to come in as a complete new face in this matter at that time and I had told him of my discussions with the President as I have described them here as a matter of filling him in, since he at that point had become the primary coordinator. But that was not in connection with—at that time, I did not know I was going to be a witness, so it was not in connection with the testimony. But I have discussed with Mr. Garment in that sense some of the facts which I am now testifying to, but he didn't know whether I was going to testify to them or anything else.

Mr. DASH. Senator Inouye, I think I can clear this up for the record, because the conversation was actually between me and Mr. Garment and I don't know whether Mr. Moore knew of it. But sometime during the Dean testimony, when I was in contact with Mr. Garment with reference to getting White House papers, Mr. Garment, not making an official request and indicating that it was not his position to tell us what witnesses to call and what our witness order should be, did say as one lawyer to another lawyer that he felt it would be fair to have people testify shortly after Mr. Dean who were knowledgeable of the same matters that Mr. Dean had testified to and did mention Mr. Moore as a possible witness. And I did indicate to him that we had intended to call Mr. Moore anyhow and that I also felt it was a fair procedure to call somebody who was knowledgeable of Mr. Dean's meetings and testify soon after Mr. Dean had testified. That was the extent of the conversation between Mr. Garment and me.

Senator INOUYE. Thank you very much. I thought the record should be clear, because insinuations have been made.

Mr. MOORE. I am very glad to have it clear, sir, thank you.

Senator INOUYE. Mr. Moore, you are the special counselor to the President of the United States. You have in your words described yourself as a source of white-haired advice and experience whenever the President or the younger men with line responsibility seek my help.

You have also suggested to the committee that you are a media, press, and TV expert, and undoubtedly, a very important person, because at the San Clemente and La Costa meetings, you were invited to attend these meetings by two of the most important and influential men in the Government of the United States. Mr. Haldeman and Mr. Ehrlichman. At that point, you have testified that you had no idea of the involvement of the White House or any of its staff members in the Watergate break-in or the aftermath. Isn't that correct, sir?

Mr. MOORE. That is correct.

Senator INOUYE. Didn't you feel that it was rather strange, if the White House had not been implicated, to be discussing, among other things, how to get members of this committee?

Mr. MOORE. How to get them, sir?

Senator INOUYE. Yes.

Mr. MOORE. I am not sure——

Senator INOUYE. Didn't you discuss the membership of this committee?

Mr. MOORE. Yes. I think I was in the room for that discussion.

Yes, go ahead. Yes, I remember.

Senator INOUYE. Weren't you looking for weak spots in all of us?

Mr. MOORE. I don't think so, Senator. I don't recall that. I heard Mr. Dean say that question came up and I don't think—I know of no search for weak spots. In fact, that suggestion I testified to earlier, you will note, never went anywhere. No, sir.

Senator INOUYE. You had been involved in the campaigns of 1962, 1964, 1968, and 1972, now. Weren't you at least a bit curious when the matter of money was being discussed?

Mr. MOORE. In the context of at least 8 hours of discussion and the frame of reference in which it came up and the switch of emphasis to let John do it, I merely thought to myself, they need money and they want me to ask Mitchell; I know what's going to happen, I will——

Senator INOUYE. This was February 9. The Committee To Re-Elect the President had filed a report with the Government Accounting Office indicating that the committee had a surplus of $3.5 million. At the end of May, another report was filed indicating a surplus of $4.5 million. Weren't you curious as to why more money had to be raised, even with the surplus?

Mr. MOORE. Well, under the circumstances, I mean looking back, I should have been curious. I don't recall thinking about it, but here was a variety of lawsuits, including individual defendants. I didn't know, I didn't examine the question, but in the context of hindsight, it could easily have been a matter of financing—we had a lot of individual defendants here. I don't know whether the committee felt it was proper to use money contributed to the reelection of the President for personal defense funds or personal suits by members or employees. But I did not think about it. I did not examine that question, because with reflection and with hindsight—I had been called the night before. It was the first time I had been in a committee to start examining what would be the Watergate phase. Whatever was said, and I recall it was I have stated, did not raise curiosity in my mind. What was raised in my mind was, who is kidding who? John Mitchell is not going to do this, I am not going to make an issue of it with him; I will tell him. As I did tell him and as indeed, he did refuse it. Nothing came of it.

You say I should have been curious. I guess I will have to acknowledge I should have been.

Senator INOUYE. As a man whose advice is sought by the President and other members of the staff, and one who is an expert in the media and the press, one who has participated in the briefing and trial runs of Mr. Ziegler's press conferences, I am correct to presume that you do follow the news accounts of the day, don't you, you read the papers?

Mr. MOORE. Yes, sir.

Senator INOUYE. And as one who is well-versed in the business of news reporting, didn't you get a bit curious about these reports coming out from the New York Times, the Washington Post, and for that matter, most of the papers of the United States directly implicating members of the White House staff?

Weren't you a bit curious when articles about checks directly linked to the Committee To Re-Elect the President were being presented?

Mr. MOORE. I was curious about that. That is one of the matters.

Senator INOUYE. How did you expect to advise the President if you didn't do any research on this?

Mr. MOORE. Well, should I start with the checks? Yes. As I think I testified, yes, I testified to Mr. Lenzner, I was in a series of meetings at that time, I mentioned the checks yesterday when Mr. Stans and the finance committee were being severely criticized and I heard Mr. Stans' recital of how those checks came to him and what happened to him. When I heard about the first one and, as he recited it to me, I said to him "I think you ought to"—I think it was Clark Mollenhoff who is probably here in the room—I said "I think you ought to get a good reporter to hear that story and put it out because from your standpoint your story is perfectly legitimate, in my opinion." And I think you know the story of that check, of how Mr. Dahlberg and so forth. I don't know what this has to do with the February 10 meeting. But, gentlemen, I did know about that and the answer is that I do read the newspapers, and in this case I told Mr. Stans that is something that belongs in the newspapers so that the people could hear about it and what happened.

But what I would ask you to think about, you mentioned what honor it was to be invited to sit in the room with the two men at the pinnacle of this Government, and to think or with the thought, I was not prepared, Senator Inouye, obviously by frame of reference or attitude certainly by knowledge or background to make an assumption that the two men closest to the President back in February when there had been no publicity about any coverup or any payments at all, were engaged in some illegal enterprise.

Now, that takes quite a jump in a person's mind, and I was not prepared to accept that suspicion apparently because it didn't enter my mind and if it had I would have pursued it and I was there as I have explained on the issues of the hearing as relate to presenting our side in a way where it puts across in an equal fashion to the other side and, as I think I was talking to Mr. Lenzner in his office the other day about these lawsuits in this conversation that was going on, he said, "It sounds like you weren't paying much attention," and he is right, I wasn't paying much attention to the status of the lawsuits over at the committee, if that is where it was, and I was not concentrating on the fact of anything except that once again I am in the position of, as I used to be 2 years earlier of communicating something from Ehrlichman to Mitchell where Mr. John Mitchell would sometimes answer in very short words and I just thought I will let that rest and get on to these other things, and we did.

Now hindsight, yes, indeed, Senator, I wish I had thought it through and, of course, I began, as I testified, in my statement, this in March as things began to fall in place.

Now, you know I went back and looked at the clippings and wondered what my state of mind was and back in February all these things we're all so familiar with now were not being pursued. A lot of things were but not this.

Senator INOUYE. In other words, you did not take seriously some of the charges which were being made by responsible Americans.

Mr. MOORE. I think I would have taken any charge seriously that was made by responsible Americans but I don't know which charges you are referring to. If you will give me one——

Senator INOUYE. The Presidential campaign, the Democratic candidate for the Presidency on several occasions directly accused the White House. You were not concerned about that?

Mr. MOORE. Accused the White House of what?

Senator INOUYE. Involvement in the Watergate coverup.

Mr. MOORE. Yes, I am aware. You are speaking of the White House, although it is a very general term, yes. I guess Mr. O'Brien or Mr. McGovern, I don't know, I suppose they would say there must have been knowledge over there. That was, if I may use an old Wendell Wilkie phrase, I took as campaign oratory because the President of the United States had said on August 29 that he was completely satisfied that no one in the White House was involved or had knowledge and I knew of no one in the White House who was involved or had knowledge, and if it has been proven, what has been proven I won't comment on because we have a jury of 20 million people watching and I am not going to say what was proven, I will say then that I had no knowledge that would justify support of that these political charges you are talking about.

Senator INOUYE. Mr. Moore, as a lawyer, I am certainly aware that oftentimes when one is accused of improper activity the person accused would use as his defense similar improper activities of the accuser.

Now, when Mr. Dean suggested that we should request that all of the panel members discuss their political contributions, why was that necessary? Am I to interpret this to mean that there was some validity to the accusation? What I am trying to say is that if the White House was clean——

Mr. MOORE. No, sir——

Senator INOUYE [continuing]. If all of you were clean why come up with a defense of this sort or why did you consider that?

Mr. MOORE. Well, let me put it this way: First, we did not come up with that.

Second, take the date, the date was March 20. This was long after these discussions about the hearings, and this suggestion, so far as I know, and it certainly appeared that way, was being made to the President for the first time so if there had been a plan, a coverup plan, coming out of La Costa that involved undermining this committee, this was the first time it was coming, it was surfacing, and it didn't happen.

Also, in fairness to Mr. Dean he didn't say that you should all be investigated. He said it would be good for us to take the initiative and for the public to know that this, the seven members of this committee were willing to subject themselves to the investigation, and if they didn't that is going to sort of, yes, he did then say that would sort of take, that would help the issue how about them.

Now the important thing is that the President didn't show interest in it. I said nothing, I felt it was not necessary, and got one of those things—leave your name and address outside, and you know, that kind of thing, "Well, let's think it over or maybe that is something we can think over," and nothing came of it.

And it wasn't until that point—in fairness to Mr. Dean this wasn't an undercover thing, he wasn't suggesting that you Senator be investigated. He was suggesting that someone say in order that this hearing be totally like Caesar's wife that if the committee would agree to it it would be good, and he felt that it would make us good to make the offer. So I wanted to get that in context.

Senator INOUYE. Fine, sir.

Mr. Mitchell, during 3 days of testimony, suggested to the committee that he decided not to advise the President of irregularities because he was afraid that if the President learned of these irregularities on the involvement of White House staff members he would immediately lower the boom.

In fact, you used a phrase here "immediate dismissal." This was one of those matters discussed. And if immediate dismissal or immediate lowering of the boom had occurred the lid would have been lifted, the scandal would have been exposed and the election would have been endangered.

Do you agree with this also?

Mr. MOORE. It is a long comment. I think my answer is no. But are you asking me whether the election would have been endangered or the philosophy expressed?

Senator INOUYE. Do you agree that if the President had been advised he would have immediately lowered the boom on those involved?

Mr. MOORE. I didn't hear or read Mr. Mitchell's testimony. Are you talking now about the scandal being the break-in or what is the context?

Senator INOUYE. The former Attorney General advised this committee that he had decided not to advise the President.

Mr. MOORE. Of what, sir?

Senator INOUYE. Of the involvement of certain White House staff members in the aftermath of the Watergate because he knew that the President, upon learning of this, would immediately lower the boom, and if he did so the lid would be off.

Mr. MOORE. Now what portion of that would you like me to respond to?

Senator INOUYE. Would the President immediately have lowered the boom if he had learned about the involvement?

Mr. MOORE. I think so and I think the events of April 30—take the word "immediately," I don't think the President is so precipitous that he would act immediately, that he would act without careful investigation, study of the matter.

Senator INOUYE. In April? On March 21 he learned about the heavy involvement of Mr. Dean, didn't he?

Mr. MOORE. Yes, sir.

Senator INOUYE. Well——

Mr. MOORE. Pardon me, I don't know what he learned. Mr. Dean told me that he told the President everything or let it all out.

Senator INOUYE. Didn't the President make an announcement——

Mr. MOORE. I have no knowledge of what he told the President because I was not there.

Senator INOUYE. Didn't the President make the announcement that he had startling new evidence?

Mr. MOORE. I don't know that—no, he did not.

Senator INOUYE. Did he make an announcement on or about that time?

Mr. MOORE. He made an announcement on April 17.

Senator INOUYE. That he had learned on March 21?

Mr. MOORE. That is right.

Senator ERVIN. A vote is in progress. I don't know whether the Senator wants to proceed but there is a vote now.

Senator INOUYE. I will finish this.

Senator ERVIN. I will let you preside and I will go and vote.

Senator INOUYE. Well, the President didn't fire John Dean, did he?

Mr. MOORE. I am sorry, in the commotion I couldn't hear that, sir.

Senator INOUYE. On March 22 didn't the President designate Mr. Dean to be our liaison man here?

Mr. MOORE. To be——

Senator INOUYE. Liaison with the committee.

Mr. MOORE. Of the committee?

Senator INOUYE. The White House liaison to this committee.

Mr. MOORE. Oh, excuse me. I don't now. That escapes me. In terms of working out executive privilege you mean?

Senator INOUYE. Five and a half weeks later the President announced that resignations of Mr. Haldeman, Mr. Ehrlichman, and Mr. Dean. He accepted the resignations of Haldeman and Ehrlichman with reluctance, and announced to the world how great they were, and they were on the payroll until the end of May.

Was this your idea of immediate dismissal and lowering the boom?

Mr. MOORE. Well, when you say immediate, Senator Inouye, the President is a lawyer, he is a man of judgment and compassion, and I think that to have acted on the word of one man to immediately take action against men of the stature and the service without an opportunity for study or investigation would have been totally wrong and he wouldn't have done it.

Now, I should say that, in that connection, this recalls that in the April 19 meeting, he had made a statement on April 17, he asked me, "By the way, do you think I waited too long for that statement?"

And my reply, was "From what I know certainly not, sir. You couldn't go plunging ahead with public announcements that would jeopardize people and ruin reputations."

Bear in mind this was April 17.

I said, "I think the country would expect you to take that much time. I think you are on target but I think from now on."

That is why, because I wasn't sure, that that is again I requested that meeting in the Oval Office the next morning with that 3 minute interview I recited because I wanted to be sure he understood my thoughts that having studied it he certainly should have, in fairness to all concerned, that he now not delay because now the ball was in the Oval Office.

Senator INOUYE. May we pause at this moment to take a short recess until 2 o'clock.

[Whereupon, at 12:25 p.m., the committee recessed, to reconvene at 2 p.m., the same day.]

AFTERNOON SESSION, FRIDAY, JULY 13, 1973

Senator ERVIN. The committee will come to order.

Senator Gurney.

Senator GURNEY. Thank you, Mr. Chairman.

Mr. Moore, your testimony certainly is of very vital importance to these hearings, I think for a number of reasons. You are about

the only witness who has come before us who had no involvement in the planning or break-in of Watergate or the coverup of Watergate either until you came to know something about it in the meetings that we have heard discussed here in March. I think also you are one of the few witnesses who have, as I would put it, no axe to grind either. Most of the other witnesses, of course, who have appeared or will appear, some have been convicted, some indicted, other indictments will flow but that is not in your case.

And then, too, you are also one of the very few people who have personal knowledge of Watergate in the meetings that you had with the President either with Mr. Dean or by yourself. So I think it would be fair to say that really no other witness that we are going to have in these hearings has testimony which is more important to offer the committee than you have.

As I see it, just before every facet of what you know about Watergate has been covered by the interrogation of the two counsels, and Senator Inouye and I do not intend to repeat all those. I would like to bring out though, what I think is important.

In any kind of a hearing of this sort obviously the credibility of a witness is important and your credibility is of enormous importance.

You brought out a little bit about your background but I think it would be well if we heard more about it.

As I recall, you mentioned that you had graduated from law school and then you described very briefly that you practiced law in New York and then moved to California but let us start in New York and outline to the committee rather fully what your career has been.

Mr. MOORE. Yes, sir. I graduated from both Yale College and Yale Law School and took and passed the bar in 1939 in New York. I practiced with the firm of Breed, Abbott, and Morgan. I later took some months off to work on a separate matter and then came back and joined the firm as an associate of Cravath, then Cravath DeGersdorf, Swaine, and Wood, they put the Moore in it, it is now Cravath, Swaine, and Moore, that is another Moore, they put that on after I left. [Laughter.]

And I enlisted in 1942 as a private in the Army.

Senator GURNEY. I might say at that point that I began my legal career, as you did, in New York City, the year before 1938 and I am well familiar with those firms, and if you perhaps would not like to say it I would, that they are two of the finest law firms not only in New York City but in the United States.

Mr. MOORE. Thank you very much, Senator. I am very proud to be there.

I spent just about 4 years in the Army, I went as usual, through OCS, served in the 11th Air Force and served as an intelligence officer in Alaska, came back and worked in military intelligence, and G–2, so-called special branch, and I left the Army in mid-1946.

I had become by then interested, as many people coming out of the Army were in changing a career and since I was interested in communications I became assistant general counsel to the then new American Broadcasting Co., with a kind of understanding when television came over the horizon would be allowed to go into that area which

was duly done and I worked, I became their television business manager, and in 1949 I was invited to go to the west coast to inaugurate and prepare the west coast part of the American Broadcasting Co., in television.

We loved it there in southern California; we were invited to stay on and head the west coast operation, and after 2 or 3 years of that, one of our competitors, the Los Angeles, the Times-Mirror Co., invited me, Mr. Norman Chandler invited me, to come over and run his television enterprise, which I did for 12 years.

Senator GURNEY. What were your duties there?

Mr. MOORE. Well, I was president of the Times-Mirror Broadcasting Co., which operated the television station KTTV, which was a nonnetwork, independent station which, and we also got into the distribution of programs and production and that sort of thing.

I also was a member of the board of directors of the parent company, the Times-Mirror Co., where I was on one or two of the committees in acquisitions and in the general area, but primarily my activities were entirely in, 90 percent in broadcasting and mostly television broadcasting.

Senator GURNEY. When you say parent company does the Times stand for the Log Angeles Times?

Mr. MOORE. Yes. The Times-Mirror Co., is the publisher of the Los Angeles Times.

Senator GURNEY. Go on.

Mr. MOORE. After about 12 years of that it struck me I could either stay and make a full, lifetime career in a family company or get into some of the new aspects of communications, and I did that.

I left and I joined with some others in mostly in cable television, and I was also retained by other broadcasters and I had several years of that, and we founded, or I was a founder of several cable television enterprises and as it happened in 1968 I had——

Senator GURNEY. In this work of founding companies, were you sort of a consultant as an expert in the television field, was that it?

Mr. MOORE. Yes, I was both. I was consultant to the Storer Broadcasting Co. We were also interested and there was a great deal of interest then in some form of subscription or pay television which would add, broaden the choice of services available to the American people, and provide for minority programing, they would not have to get a high rating, as we say nowadays, in order to remain on the air because 25 cents or 50 cents, if there were a number of them in the coinbox, would support a cultural program or a special interest program. That never quite came about but cable television did and I had an interest in, I think, three or four systems, minority in most cases but one in San Diego was, I was the primary founder of that, and that was later acquired by the Time-Life people about 1968. I was active in the industry. I was vice chairman of the National Association of Cable Television, I have been active on the broadcast side in my days there and just about in the summer of 1968 that matter was consummated, and just about then I got a phone call from Mr. Bob Finch, who said that the then Mr. Dick Nixon, as we called him, would like to talk to me or inquire whether I would like to ride around on the airplane with him and be kind of a general helper, and I said I just

happened to be available, and I had a very exciting 90 days. My first direct involvement in anything political was the day I stepped aboard the Tricia and we went off to Chicago for the first rally.

Senator GURNEY. What campaign was this?

Mr. MOORE. This was 1968.

Senator GURNEY. Go on.

Mr. MOORE. And I still had, I was—well, I was invited to come into the administration very much in the role I now have. I still had one matter pending which I had to—there was an interest in a radio application and I waited until I could dispose of that, and then I came back here and at that invitation but meanwhile Mr. John Mitchell had heard of my coming and he asked, he said—I sometimes think this is why I went to the White House—"I would like somebody around the Department my own age that I can talk to and don't have an ax to grind and advise me," and, if I may say so, at that time he was having a pretty hard time in getting with his media image, as people call it, and so he asked me if I could help him on that, and anything else, he said "I would just like one guy next to my office that I can call him in or he can walk in and we can talk about anything he pleased."

So I had a very rewarding year and busy year.

Then when the invitation to come to the White House was renewed——

Senator GURNEY. Your work with the President in 1968 and with Mr. Mitchell in the Justice Department in 1970 and 1971, as I understand it then was merely or mainly advisory work on television and public relations, is that right?

Mr. MOORE. Well, it didn't quite work that way, not television per se, although I was called in on—Mr. Frank Shakespeare was the television director, and a fine one, and actually what the President said to me was he wanted a generalist, as he put it, who would be available to analyze any problem or, let's say, opposing statement or event that happened that day that would come in with suggestions as to how to respond.

Senator GURNEY. Sort of an idea man?

Mr. MOORE. Yes. I ended up doing a lot of writing of the material for I think we had 90 stops on that airplane for his local rallies, speeches which—where we would try to update them and make them topical and he asked me to sort of worry about that. He had, of course, basic issues he talked about.

Senator GURNEY. Yes.

Mr. MOORE. Anyhow or he might just say "Can you come in" and there might be others there or not or "What do you think about this problem coming up," this kind of thing. I was just a utility infielder, if you will.

Senator GURNEY. What did you do with Mr. Mitchell in the Justice Department?

Mr. MOORE. I was a general, a general assistant and someone that he could bound ideas off, and also most certainly, and primarily, concerned with the, No. 1, when he should respond, when he should issue statements, when and what problems were and we were getting, in terms of this would be more in the public relations area, although we would sit and talk about, I used to sit in on, legal matters, too, but not as an official member of the legal team, but to get to be familiar with the problems, and it's a good combination in the Department of

Justice when a man is both a lawyer and also charged with the communication.

So I traveled with Mr. Mitchell. I met with him every day, certainly usually at the end of the day or in the morning, to see what problems there might be that day I could help him on.

Senator GURNEY. I wonder if we could go back to Los Angeles just a moment——

Mr. MOORE. Yes.

Senator GURNEY [continuing]. In your private life. Could you describe for us some of your community activities there? You mentioned that you were prominent in the cable television industry. What about community activities? Did you have any duties or missions there?

Mr. MOORE. Well, yes, I was active in the community, Senator Gurney, constantly. I put my whole time there. I suppose my principal area was I was a director of the Los Angeles Chamber of Commerce for many years; I was a director of the Hollywood Bowl; I was active and had a sort of special interest in the Arthritis and Rheumatism Foundation, which we used to put on, I think we put in one of the first telethons—way back. I am talking about 1949 or 1950 in early television. We developed a fundraising technique.

One of my friends had a health problem—well, no need to go into that. Also, for my Irish friends that are looking in, I was a member of the Friendly Sons of St. Patrick and a past president.

Senator GURNEY. I am not familiar with their activities, but I have heard of them.

Mr. MOORE. I was also on the mayor's——

Senator GURNEY. Does your brother have anything to do with the Sons of St. Patrick?

Mr. MOORE. He is not unknown to them, Senator. The Ambassador to Ireland, you are speaking about?

Senator GURNEY. Yes.

Mr. MOORE. Yes, his grandfather and his father were members.

Is that not true, Mr. Ambassador?

Yes, they were members of the Friendly Sons.

Senator GURNEY. Did you do anything in the field of human rights?

Mr. MOORE. Yes, sir; I was on the mayor's committee on human rights. It was not as active as I thought it would be, but also, we initiated a good deal of that kind of programing in our television station, some of the early ones, that we like to think set patterns for some of the formats you see today.

I am doing a little bragging, I suppose, but you gave me a good opportunity.

Senator GURNEY. Well, that is what I wanted.

What I really wanted to bring out, and this is no intent to judge any of the other cast of characters that has been before the committee, but you don't really impress me from your background as being any kind of a Watergate rascal.

So, I wanted to bring that out.

Mr. MOORE. That is a compliment.

That is taken down in the transcript, I take it.

Thank you for making that part of the record, sir.

Senator GURNEY. That really was a total joke on my part.

Mr. MOORE. I understand.

Senator GURNEY. I am not judging anybody here. It is not my job to do that.

Now, do you have any other activities you would like to mention, or shall we move to the White House?

Mr. MOORE. I think—I am sure I can think of a couple, but I think it is time to move.

Senator GURNEY. Well, thank you, Mr. Moore.

Now, what were your duties at the White House? Just briefly?

Mr. MOORE. Yes.

Quite similar to the duties and back on the airplane and back on the—I was, if you will, I had no line responsibilities, no staff. I had a secretary. I was available to get into any particular issue, program, project that came along where an extra hand was needed or extra head. I really developed kind of a clientele. I was something of an independent practitioner. Some of the younger men would come in and ask my ideas on substantive problems. I was active in the—they had a news planning committee that used to meet regularly. They would review what kind of news we would be making this week—by "we," I mean the administration, including the agencies and departments.

I helped many of the statements and messages of the President and even occasionally—rarely a speech, but even including the speeches, the less than major speeches. I circulated them to groups for their suggestions and criticisms and editorial suggestions. I have been on that committee most of the time.

Senator GURNEY. I take it even though your title is that of special counsel—this is what I am trying to bring out—you are less of an attorney——

Mr. MOORE. Yes, sir.

Senator GURNEY. Or legal adviser than you were in other duties as you have described them?

Mr. MOORE. That is right. You see, I stopped practicing law as such in 1949, I guess. But nevertheless, I find myself working as a team member sometimes where my legal background is either useful or the reason for my being there. But primarily, I would say it was more in the communications field.

Senator GURNEY. Now, let me go to, just to touch upon your relationship with Mr. Dean again. That has been gone into at great length here, and I don't intend to go into that again. It has been covered most thoroughly.

Mr. MOORE. Yes, sir.

Senator GURNEY. However, in previous testimony before the committee when Mr. Dean was here, in response to a question by Senator Inouye, he had this to say: "Well, Richard Moore, to me, is a wonderful man. I often went to him for counsel. He is an older man and I respected his judgment very much."

Would you say that—that is Mr. Dean talking. Would you say that that would characterize your relationship, at least part of your relationship, with Mr. Dean?

Mr. MOORE. Yes, sir.

Senator GURNEY. He was, he did regard you as a friend and a confidant and, as you have mentioned here before, he did go to you at times when he had trouble on his mind? Is that true?

Mr. MOORE. Well, he came in that one incident I mentioned. But I was, of course—you are always flattered to hear comments like this. I began to see more of John Dean, really, in the recent weeks, where we saw a good deal of each other and where his own life and role took on a very different style and situation, starting basically with the Gray nomination hearings.

Senator GURNEY. By the way, you know there has been a good deal of speculation here surrounding this Watergate affair as to whether Mr. Dean ever conducted an investigation or not. Now I am talking about the summer of 1972 following the break-in, and of course, prior to the President's statement in August about the fact that Mr. Dean had conducted an investigation and no White House personnel were involved. Do you have any knowledge of what Mr. Dean was doing in this so-called investigation?

Mr. MOORE. No, I don't. And of course, that went back to, presumably to post 17 June or that area——

Senator GURNEY. That is right, in that area.

Mr. MOORE. When I was not seeing Mr. Dean particularly and would not be aware of what he was doing.

Senator GURNEY. I would like to cover one point here of Mr. Dean's testimony when he was before us. I think it is extremely important. That was his description of a March 13 meeting which he had with President Nixon. This is really the first time, as I see his testimony, that he has any real hard evidence on discussions with the President about Watergate. And I would like to read from his statement, which describes pretty accurately, I guess, what transpired in his mind.

Toward the end of the conversation—

I am reading from his statement now about the meeting of March 13.

Toward the end of the conversation, we got into a discussion of Watergate matters specifically. I told the President about the fact that there were money demands being made by the seven convicted defendants and that the sentencing of these individuals was not far off. It was during this conversation that Haldeman came into the office. After this brief interruption by Haldeman's coming in, but while he was still there, I told the President about the fact that there was no money to pay these individuals to meet their demands. He asked me how much it would cost. I told him I could only make an estimate, that it might be as high as a million dollars or more.

He told me that that was no problem, and he also looked over at Haldeman and repeated the same statement. He then asked we who was demanding this money and I told him it was principally coming from Hunt through his attorney.

The President then referred to the fact that Hunt had been promised Executive clemency. He said he had discussed this matter with Ehrlichman, and contrary to instructions that Ehrlichman had given Colson not to talk to the President about it, that Colson had also discussed it with him later. He expressed some annoyance at the fact that Colson had also discussed this matter with him.

There is a little more, but that is the important part. In other words, Mr. Dean has testified that at this meeting on March 13, this whole business of Hunt's demands for blackmail—that word isn't used, but certainly, $1 million must be that—as well as Executive clemency were discussed. Now, then, you, of course, had a discussion with Mr. Dean about Hunt's problem and blackmail and—not Executive clemency, but the blackmail thing. As I recall your testimony, you were startled and horrified at this when you first learned about it.

Now, then, here's what I want to ask: Did Mr. Dean ever tell you when this matter came up between you and him, or, for that matter,

at any time later, I suppose up to March 21, that he had discussed this matter of $1 million and Executive clemency with the President?

Mr. MOORE. He never told me that.

Senator GURNEY. Now, don't you think that he would have told you about that if it actually had come up?

Mr. MOORE. He was telling me a great deal, Senator.

Senator ERVIN. I think we ought to allow a little freedom but I don't think that is quite a proper question.

Senator GURNEY. Well, I must say, Mr. Chairman, that I think that question is less free wheeling than about a million I have heard in this committee room today.

Senator ERVIN. If you insist on it, I will permit it.

Senator GURNEY. I do insist on it.

Senator ERVIN. You are asking him if he doesn't think if Mr. Dean had talked to the President about something, he would have told him?

Senator GURNEY. That is exactly what I asked and would the witness please answer?

Mr. MOORE. There is a ——

Senator GURNEY. If he desires to.

Mr. MOORE. Well, it is a very key question and that is why I am hesitating, because I am giving my thought to what he might have done.

Senator GURNEY. You see, one of the reasons I am asking this, and I am sure the chairman knows this, is that a lot of Mr. Dean's testimony had to do with impressions he got——

Mr. MOORE. I understand.

Senator GURNEY [continuing]. That the President might know something about Watergate, what was going on in the President's mind. What I would like to know from your deep association with him, at least in this period of time, what you might have known what went on in his mind—Mr. Dean's.

Mr. MOORE. Well, I would have to say this, that inasmuch as he, that he might well have told me if that had happened, but that the fact that when I asked him on March 20 and he said no, he had never told the President any of these things, that might explain better why he didn't tell me, because at least on March 20, the indication that he made to me was that he hadn't told him. So, I would have to say this. Senator, that either John Dean felt that he shouldn't tell me on, at that time if that happened, in which case, he would have persisted in that when I asked him on March 20.

So, I kind of go along with the notion that if that had happened, he might well have told me.

Senator GURNEY. This occurred, as I recall, either a day or two before the March 21 meeting, did it not? When he told the President everything?

Mr. MOORE. Well, my conversation with him, in which he said that he had not told the President any of the things that were bothering him or that he had been hinting at, that conversation was on March 20.

Now, the conversation you are referring to was March 13?

Senator GURNEY. Well, no, that is the one he had with the President.

Mr. MOORE. I mean the conversation where he testified that he had told the President these things.

Senator GURNEY. All I am pointing out there is that your discussion with him about the blackmail and Mr. Hunt was very close to the March 21 meeting, when he told the President everything.

Mr. MOORE. Oh, yes.

Senator GURNEY. I see we have a vote here and we are going to have to adjourn until the vote is completed.

[Recess.]

Senator ERVIN. The committee will come to order.

Senator Gurney will resume the questioning.

Senator GURNEY. Mr. Moore, if we may just return for a moment to that very important business of Executive clemency which first came up in the meeting between Mr. Dean and the President on March 13, again, I simply ask the question of you, did Mr. Dean ever discuss this with you at any time that he and the President had talked about Executive clemency?

[Mr. Moore shaking head.]

Senator GURNEY. And your answer to that is "No."

Mr. MOORE. No, sir.

Senator GURNEY. Let us turn again to the very important meeting that you had with Mr. Dean on April 14. That is the meeting that he mentioned to you the indictment list, and that is an important meeting because, as I recall, you said that you were pretty shocked when he had this long list of people. That, of course, was well along into the period when Mr. Dean was making his plans about what he should do about his future in Watergate, the testimony, as I recall, that indicated that he had engaged counsel by that time, and that they too were in process of discussing this matter with the prosecuting attorneys, so, as I say, he was well along with his plans. Did he ever mention to you in this meeting that he intended to say at some time in the future and, of course, as he has said, that the President did know about Watergate and did know about the coverup?

Mr. MOORE. No, sir.

Senator GURNEY. Did he ever discuss with you at any time, to your knowledge, about the fact that he was going to make the case that the President knew about the coverup?

Mr. MOORE. No, sir.

Senator GURNEY. Can you give us any reason why he went ahead on this course?

Mr. MOORE. Well, I would not really want to——

Senator GURNEY. No, I am just asking——

Mr. MOORE. I would not get into that, Senator Gurney, try to—one of the obvious reasons suggests itself, that he did not have any basis for that and he had no intention at that time of going in that direction, and whether these thoughts came later, but I really should not comment because it would really be——

Senator GURNEY. That really is the question that I was going to put to you after the one I just put to you and that is that there was no indication to you from any conversations with him at any time during this period of time that he thought the President actually knew about the coverup of Watergate; is that not correct?

Mr. MOORE. That is correct.

Senator GURNEY. So that at least in your mind from your conversations with Mr. Dean and also your meetings with Mr. Dean and the

President, and the President himself, alone, there was nothing to indicate to you that Mr. Dean actually knew that the President was involved in or knew about the coverup of Watergate?

Mr. MOORE. That is correct.

Senator GURNEY. Well, I see we have got another vote here so we are going to have to cancel out.

[Recess.]

Senator ERVIN. The committee will come to order.

Senator GURNEY. Mr. Moore, I think you mentioned in your statement or your testimony that you were also involved in the White House responses on the Segretti matter; is that correct?

Mr. MOORE. Yes, sir.

Senator GURNEY. I do not particularly want to go into that. I think we are going to look into those things later on. However, you did make a statement in connection with that, and I quote, "indirectly with the President," what did you mean by that?

Mr. MOORE. I had better—are you asking me a question, sir?

Senator GURNEY. Yes; well, I was asking——

Mr. MOORE. I am sorry, I did not mean to be——

Senator GURNEY. I was looking for the precise quote in the statement but I recall you mentioned that you were working on White House responses to the Segretti matter, and you mentioned you talked to Chapin, and then you had a quote.

Mr. LENZNER. Senator, that is page 3827 of the transcript where he discusses——

Senator GURNEY. And you used the words "indirectly with the President," and that is what I was asking you about, what you meant by that.

Mr. MOORE. May I just look at that?

Mr. MILLER. What page is that, Mr. Lenzner?

Mr. LENZNER. Mr. Miller, there is some reference on page 3827, I do not see reference to the President there.

Mr. MOORE. I have not found it.

Senator GURNEY. I think your inability to find it was that it was in one of the early interviews. I may find it later. Let me go on.

Mr. LENZNER. It is in the staff interview, Senator.

Senator GURNEY. During all this—here it is in the staff interview here. The statement that "Moore said that he had discussed the Segretti matter indirectly with the President."

Now, this is the staff witness summary. It is not a quote by you, it is simply a summary that you said that you had discussed the Segretti matter indirectly with the President and that is what I would like to ask about. What does that mean?

Mr. MOORE. It perhaps was a—it would have referred to—probably what I was doing there was to make certain that I did not answer incorrectly. For instance, in the discussions of the press conference, those 20 questions, undoubtedly, in fact I do recall Segretti's name would be in there so that in any general discussion of the Watergate I might have in the discussion of answers might have said "Well, you know that goes for so and so Segretti, in the Segretti matter," some reference, perhaps the word "indirectly" is not what I said or if I did then I did not intend it but some oblique reference that was really embraced within——

Senator GURNEY. Talking about the briefings primarily?

Mr. MOORE. Let me put it this way, he never had a specific discussion with the President about the Segretti case.

Senator GURNEY. Now, tell me, Mr. Moore, do you have any knowledge on your own of any involvement by Mr. Haldeman in the Watergate coverup?

Mr. MOORE. No, sir.

Senator GURNEY. And do you have any knowledge of your own of any involvement of Mr. Ehrlichman in the Watergate coverup?

Mr. MOORE. No, sir.

Senator GURNEY. Do you have any knowledge on your own of any person in the White House other than what you have told us here about Mr. Dean of any involvement in the coverup of Watergate?

Mr. MOORE. No, sir.

Senator GURNEY. Now, just one final line of questions because, as I said at the outset, I think that all of the salient points have been pressed with you by the other members of the panel. But yesterday you started off with a very clear and what I thought was a forthright statement about the events as you knew them, surrounding the Watergate, your meetings with the President, and Mr. Dean and your meetings with Mr. Dean and your meetings with the President, and again, of course, this testimony is of extreme importance because, as I pointed out earlier, you are one of the very few witnesses probably that will appear before the panel who was not directly involved in the Watergate in one way or the other.

Then, of course, when you completed your statement and counsel asked you on other matters, some collateral to Watergate, some that I do not think were directly connected with it, your memory was rather hazy, and we both know as lawyers that that is one of the ways of attacking the credibility of a witness. If you remember some things accurately and then he does not remember other things accurately and I am sure you know that as well as I do, and I think a proper question at this time would be to ask why your memory was hazy on some of these other matters?

Mr. MOORE. Well, sir, for one thing, from what I understood the subject matter was going to be at this session I concentrated reviewing the matters which were the substantial matters I talked about.

Second, if you will recall the very first question about a White House report, well, I didn't know what that was; it was a White House report about the ITT investigation, and I simply couldn't recover from that, draw out of that memorandum I was handed any such White House report, about the ITT investigation, and then it did finally come back to me what they were really talking about was a young man who really tried to find out whether the secretary and another lady were acquainted and that was the White House report on the ITT investigation.

It took me a little while, perhaps starting on an assumption there would be more relevance to the question to get there.

Then these bare meetings and dates, again, and bear in mind these dates were 1972, not 1973, I think there was a meeting with the Attorney General or Mr. Kleindienst in early 1972.

That, it took me a moment because I met with the Attorney General or Mr. Kleindienst—if I am not mistaken, Mr. Mitchell was still the

Attorney General then, and I suppose a hundred times, and to ask me with a bare date what was that meeting about, I said I didn't recollect. I think I remember finally saying now to Mr. Lenzner, "If you can give me the dates of hearings on the nomination of Mr. Kleindienst I think I can respond a little more directly and quickly," and I think he did, and we thereupon identified that the series of meetings all related to practically daily sessions about the confirmation hearings.

The question about the—the question about June 30—the meeting with the President, now that was again a bare date, nothing connected with it. It was a log with a great many dates. It had nothing to do with the subject matter. I had no reason to review that particular hearing, that particular meeting, and then I am glad to say that suddenly I recalled that Mr. John Mitchell had resigned as campaign director on the 1st of July, and this was a little personal meeting with the President to discuss that situation.

Now, I don't know, more people have told me in the last 24 hours that it is nice to hear that someone is willing to admit that he does not know exactly where he was at 12:11 p.m. on June 30, 1972, and that was the source of my confusion.

Now, I know that some of these things had been reviewed on June 7, the Dita Beard situation, for example, but my mind and my preparation was on what I considered substance, plus this fact, that in the time available and in the day before we had this 5-hour meeting with the other group, an evening meeting with the staff, short but still—and then we were up until 3 o'clock in the morning finishing this statement.

So, if I was a little slow to pick out these bare dates and I am sure it will happen again. You asked me, you know what was the meeting on September *x* about, without some frame of reference, I am not sure I am going to be able to say that this meeting was there. So that is my explanation.

Senator GURNEY. I am sure you are human——

Mr. MOORE. Thank you for giving me the opportunity to explain it, sir.

Senator GURNEY [continuing]. I think you are human like we all are.

I think, is it fair to say that you did come prepared to discuss those events that you knew about the Watergate?

Mr. MOORE. Yes, sir.

Senator GURNEY. As they pertain to meetings and conversations you had with the President, with Mr. Dean, and with the President and Mr. Dean, and you had not reviewed all of the other meetings that you may have had either this year or last year on other matters that seemed at least collateral and perhaps had nothing to do with what you thought your mission here was yesterday, is that fair to say?

Mr. MOORE. That is precisely the case, sir.

Senator GURNEY. Now just one final question: You have known the President for how long?

Mr. MOORE. I met him in 1950, and but really got to know him first on a first-name basis, you know, in the campaign of, gubernatorial campaign of 1962, got to know him better when he was out of office and a lawyer in Los Angeles, and then while he was in New York, we didn't keep in touch particularly, but in 1968 he was kind enough to ask me to join his campaign airplane, and of course I saw him every

day then. But my best acquaintance with the then Mr. Nixon was in 1962—1961—following the 1960 election, to 1963 before he went to New York.

Senator GURNEY. In other words, your acquaintance has been over a long period of years and you count yourself as a personal friend?

Mr. MOORE. Yes, sir. I am happy to say.

Senator GURNEY. In the White House, of course, you had considerable contact, especially in connection with this Watergate affair?

Mr. MOORE. Beginning March 14. I had not had contact with him about it before then.

Senator GURNEY. And it's your sworn testimony, and I prefer not to put the words in your mouth, but what do you think the President knows about the Watergate break-in or the Watergate coverup. When you say you think he found out?

Mr. MOORE. I think he found out the morning of March 21, 1973.

Senator GURNEY. And that he did not know about it before then?

Mr. MOORE. That is my firm conviction, Senator.

Senator GURNEY. Thank you, Mr. Moore. Thank you, Mr. Chairman.

Senator ERVIN. Mr. Moore, you have testified that you believe that the President knew nothing about the critical facts relating to Watergate at any time between the 17th day of June 1972 and the 21st day of March 1973?

Mr. MOORE. Yes, sir.

Senator ERVIN. That is purely a conjecture on your part, is it not?

Mr. MOORE. Well, he told me he did not, sir. And I have no evidence to the contrary. So it is a conclusion.

Senator ERVIN. Well, it is a conclusion. It is a surmise.

Mr. MOORE. That is right.

Senator ERVIN. Yes.

Now, I would ask you this question. Do you not agree with me that of all the inhabitants of this earth, the one best qualified to testify as to the knowledge the President had concerning the Watergate affair or anything else at any time between the 17th day of June 1972 and the 21st day of March 1973, is President Nixon?

Mr. MOORE. I could agree with that.

Senator ERVIN. Yes. [Laughter.] Now, you knew Mr. Haldeman, Mr. Ehrlichman, Mr. Chapin, Mr. Colson, Mr. Strachan, Mr. Ziegler, and Mr. Dean, did you not?

Mr. MOORE. Yes, sir.

Senator ERVIN. They are all well educated and highly intelligent men, are they not?

Mr. MOORE. Yes, sir.

Senator ERVIN. And you knew Mr. Mitchell, Mr. Stans, Mr. Magruder, Mr. Sloan, and Mr. Porter of the political committee, and they are all highly intelligent men and well educated men?

Mr. MOORE. Yes, sir.

Senator ERVIN. Now, is it not true that President Nixon was a candidate for election during the months preceding and following the Watergate break-in?

Mr. MOORE. Yes, sir.

Senator ERVIN. On the Republican ticket?

Mr. MOORE. Yes, sir.

Senator ERVIN. And the national headquarters of his opposition party, the Democratic Party, was in the Watergate?

Mr. MOORE. That was the Democratic Party, yes, sir.

Senator ERVIN. And that the campaign for President Nixon for reelection on the national level was in the hands of two committees, one a finance committee of which Maurice Stans, former Secretary of Commerce, was the head, and of which Hugh W. Sloan, Jr., was the Treasurer?

Mr. MOORE. I believe that is correct, sir.

Senator ERVIN. Yes. And the other committee, which might be called the political committee, was headed by former Attorney General John N. Mitchell, as director and Jeb Stuart as deputy director——

Mr. MOORE. Magruder, yes, sir.

Senator ERVIN. Jeb Stuart Magruder.

Mr. MOORE. I do not know whether there was more than one deputy, but that is true, yes, sir.

Senator ERVIN. The old Jeb Stuart, he is on the parade grounds of heaven. [Laughter.]

Now, you found out on the morning of June 17, 1972, or shortly thereafter, by reading the press and watching television, that five men had been caught red handed in an act of burglary in the Democratic National headquarters?

Mr. MOORE. Yes, I found out the morning of June 18.

Senator ERVIN. Now, I will ask you if you did not state on page 20 of your records that "In one of my talks with the President, the President kept asking himself whether there had been any sign or clue which should have led him to discover the true facts earlier"—that is, earlier than March 21, 1973.

Mr. MOORE. Yes, sir.

Senator ERVIN. I will ask you, during the approximately 2 months after the burglary at the Watergate was discovered if the news media—that is, the newspapers, TV and radio—did not contain many statements concerning the Watergate matter?

Mr. MOORE. That the newspapers when, sir?

Senator ERVIN. During the 2 months following the morning of June 17, 1972?

Mr. MOORE. Yes, they did.

Senator ERVIN. I will ask you if this first fact did not appear in the news media.

First, I ask you, can we safely assume that Mr. Haldeman, Mr. Ehrlichman, Mr. Chapin, Mr. Colson, Mr. Strachan, Mr. Ziegler, Mr. Dean, Mr. Mitchell, and Mr. Stans, Mr. Magruder, Mr. Sloan, and Mr. Porter and the President, read the newspapers? [Laughter.]

Mr. MOORE. I am not an eye witness to that, sir, but I would make that assumption.

Senator ERVIN. Well, you certainly do not know that Mr. Dean did anything to keep those parties from reading the newspapers and watching television and listening to the radio?

Mr. MOORE. No, sir. [Laughter.]

Senator ERVIN. The audience will please be less demonstrative.

I will ask you if during these 2 months, one of the first facts that came out was that of the five burglars caught redhanded in the Watergate, one of them was James W. McCord, Jr., the security officer of the political Committee To Re-Elect the President.

Mr. MOORE. That is right, sir.

Senator ERVIN. I will ask you if the second fact that came out, or the critical fact, was not that McCord had the national Democratic headquarters in the Watergate bugged and had furnished the data obtained by the bugging to some person or persons in the campaign committees of President Nixon.

Mr. MOORE. That is a newspaper item?

Senator ERVIN. Yes. Is that not what the newspapers told everybody in the District of Columbia who read them and everybody who watched TV?

Mr. MOORE. In the summer of 19——

Senator ERVIN. Yes, sir.

Mr. MOORE. Yes, sir.

Senator ERVIN. I will ask you if these same news media didn't present this very critical fact: That somebody had presented $89,000 in four cashier's checks drawn on a bank in Mexico City to the campaign funds of President Nixon?

Mr. MOORE. Yes, sir.

Senator ERVIN. And in addition to that——

Mr. MOORE. Excuse me, Senator—Mr. Chairman, I am not sure I heard that right, that $89,000 was deposited to what account?

Senator ERVIN. No; I asked you if it didn't appear in the news media and didn't proclaim to everybody who would read or listen or watch——

Mr. MOORE. Yes, sir.

Senator ERVIN [continuing]. That $89,000 in four cashier's checks on a Mexican bank and $25,000 in what was known as the Dahlberg check had been furnished or contributed to Maurice Stans' Committee To Re-Elect the President?

Mr. MOORE. Yes, sir.

Senator ERVIN. I will ask you if it was another salient fact that—and if it didn't appear during this period of time—that $114,000 which had been contributed to the Nixon campaign fund had been deposited in a Miami bank to the account of one of the burglars caught in the Watergate, Bernard L. Barker, several weeks before the burglary?

Mr. MOORE. Yes, sir.

Senator ERVIN. I will ask you if the news media didn't proclaim this further salient fact within that 2 months' period, that after some days of these campaign funds reposing in the bank account of Bernard L. Barker, that Barker drew thousands of dollars from that deposit consisting of $114,000, representing these campaign funds?

Mr. MOORE. That he withdrew it, yes, sir.

Senator ERVIN. And didn't these news media further proclaim this critical fact: That a substantial part of this $114,000 of funds contributed to the campaign fund of the President was withdrawn by Barker in $100 bills and that the serial numbers of those bills were kept by the Miami bank in obedience to the Federal law?

Mr. MOORE. I didn't quite hear the end of your question. I am very sorry, sir.

Senator ERVIN. My question is didn't the news media which I have referred to proclaim to everybody in the District of Columbia who was capable of reading and willing to read, or who watched the TV or listened to the radio, that when Barker withdrew the funds that had been contributed to Nixon's campaign fund from his bank account

in the Miami bank, he drew a substantial part of it in $100 bills; and did not the Miami bank, in obedience to Federal law, keep a record of the serial numbers of those $100 bills?

Mr. MOORE. Yes, sir. I am sorry, I didn't hear the last part of your question. Yes, sir.

Senator ERVIN. Now, didn't also during this time period, there appear accounts in the news media that approximately 53 of the $100 bills bearing these serial numbers were found in the pockets and the rooms of Bernard L. Barker and three of the other burglars at the time of their arrest in the Watergate on June 17, 1972?

Mr. MOORE. Yes, sir.

Senator ERVIN. I ask you if during this same time period, these news media didn't contain these further statements: Instead of depositing such funds in banks in accordance with good business practices, that Secretary Stans, as director of the finance committee, kept hundreds of thousands of dollars in cash in safes in the offices of the Nixon campaign committees.

Mr. MOORE. That is what I understand.

Senator ERVIN. And I will ask if the same news media didn't further proclaim this within that time period, that shortly prior to the burglary, Hugh W. Sloan, Jr., treasurer of the Stans committee, delivered various sums totaling $199,000 in cash to G. Gordon Liddy, the general counsel of the Stans committee?

Mr. MOORE. Yes, sir.

Senator ERVIN. And I will ask you if the same news media didn't also proclaim that within that same time period, that Hugh W. Sloan, Jr., treasurer of the Stans committee, made these cash payments to Liddy pursuant to the instructions of Jeb Magruder, the deputy director of the Mitchell committee?

Mr. MOORE. Do you say did the newspapers say that, or did he do that?

Senator ERVIN. I said—didn't these news media—didn't the newspapers and the radio and the television broadcasts——

Mr. MOORE. All right; yes, sir.

Senator ERVIN [continuing]. Give this information to everybody who was willing to read, who did read and watch television or listen to the radio during this 2-month period?

Mr. MOORE. Yes, sir.

Senator ERVIN. Didn't the same news media in like manner present statements within the same period that before making some of the disbursements to Liddy, Sloan expressed his misgivings to Stans in respect to making such large disbursements to Liddy without knowing what Liddy was going to do with the money?

Mr. MOORE. Yes, sir.

Senator ERVIN. And didn't the same news media, within the same period of time, state that Stans told Sloan after Sloan expressed his misgivings, that he, Stans, consulted Mitchell and that after such consultation informed Sloan that Mitchell and he, Stans, authorized Magruder to direct him—that is Sloan—to make these disbursements to Liddy?

Mr. MOORE. I assume so, sir. You are reading from the summary. I assume all these things as——

Senator ERVIN. Well, you read the newspapers?

Mr. MOORE [continuing]. I assume so. I didn't read those exact—I assume they were correctly reported in the newspapers.

Senator ERVIN. Didn't the news media also disclose that within 5 days after the discovery of the Watergate burglary, that officers and employees of the campaign committees destroyed the records of the receipts and disbursements of the cash sums which had been stored in the safes and the offices of the Nixon campaign committees?

Mr. MOORE. Well, I assume the same thing.

Senator ERVIN. Well, don't you know it?

Mr. MOORE. Well, you speak of officers—you know, to characterize those words. When you say officers did—I assume, sir.

Obviously, the chairman is reading.

Senator ERVIN. Well, now, you were a friend of the President, you were then and still are, as I understand it, special counsel to the President.

Mr. MOORE. Yes, sir.

Senator ERVIN. You were interested in his campaign. You were interested in his welfare, did you not keep up with what the newspapers were saying about the Watergate affair and what the radio was broadcasting and what the TV was disclosing?

Mr. MOORE. I agree, sir, and I am just suggesting, a capsule of what was in perhaps several papers, I assume that is properly digested and I go along with it.

Senator ERVIN. I will ask you if the same news media did not proclaim within the same time period that shortly after the burglary was discovered, G. Gordon Liddy, the chief legal adviser of the Stans committee, and E. Howard Hunt, a White House consultant, who had an office in the Executive Office Building, were arrested upon the charge of masterminding and procuring the commission of the burglary?

Mr. MOORE. They certainly were arrested, I do not know about master—yes, sir, they were arrested.

Senator ERVIN. And charged with masterminding procuring the commission of the burglary, were they not?

Mr. MOORE. Well, I do not know, I do not want to go, yes, sir. I do not know the kind of masterminding but——

Senator ERVIN. I will ask you furthermore, if the news media, the same news media did not proclaim within the same time period that Gordon Strachan, and I will ask you if you do not know of your own knowledge that Gordon Strachan was a liaison officer whose duty it was to keep Haldeman, the chief of staff of the President, and others in the White House advised as to what the campaign committee under Mitchell and the finance committee under Stans were doing?

Mr. MOORE. Yes, sir, Mr. Haldeman, I do not know about others in the White House, yes.

Senator ERVIN. Yes.

Now, all of this was either known to you or was proclaimed by the news media within a 2-month period after the burglary, was it not?

Mr. MOORE. Yes, sir, that seems to be the time frame.

Senator ERVIN. And did it not appear, in the Washington Post on the 15th day of January that substantial sums of money had been paid either by the committee managing the President's campaigns or by his supporters to the seven men who had been caught in the Watergate?

Mr. MOORE. January 15?

Senator ERVIN. Yes, sir.
Mr. MOORE. Of?
Senator ERVIN. 1973.
Mr. MOORE. 1973.
I do not recall that article on that date, Mr. Chairman. I would be glad to go along with your statement. I just cannot say yes of my own knowledge. I will accept it if it is—I do not recall such an article, but——
Senator ERVIN. Well, I invite your attention—you take the Washington Post, do you not? [Laughter.]
Mr. MOORE. Yes, sir. You know something, I take two copies. [Laughter.]
Senator ERVIN. Yes. Did you not read one or the other of those two copies?
Mr. MOORE. Yes, sir. [Laughter.]
Senator ERVIN. And was not the thing that you were most interested in reading about at this time were matters that related to the Watergate ramifications, was there anything more important or more interesting to you?
Mr. MOORE. At that time, yes, inaguration of the President of the United States was coming on strong on January 15 and I was quite deeply involved in it. I was one of those who believed as I have said implicitly at that time that no one in the White House had been involved, and yes, it was of interest but not the most significant.
Senator ERVIN. Well, the Washington Post for January 15, 1973, a copy of which I believe that you read——
Mr. MOORE. Yes, sir.
Senator ERVIN [continuing]. Stated that "Sources close to the Watergate case have said that at least four of the five men arrested last June in the Watergate are still being paid—the New York Times reported in its early editions today." [Laughter.]
Mr. MOORE. Mr. Chairman, that is what is called a double whammy.
Senator ERVIN. Mr. Moore——
Mr. MOORE. Yes, sir.
Senator ERVIN [continuing]. Now I have recounted a great many things, all of which except one, I think you admit, were made known by the news media within 2 months after the Watergate burglaries were discovered. Can you imagine any better way on which a person interested in the President's campaign and people who read the Washington papers and the New York Times and listened to the radio and watched television could have had more reason to suspect that something was rotten in the committees to reelect the President than were divulged by these news media?
Mr. MOORE. Well, first of all, as I said, the President told me, I think it was on May 8, that he had racked his brain as to the coverup, and he also told me, sir, that he had, it was his firm conviction which at that time was confirmed by every investigation, the grand jury, the trial, and so forth, that the only culpable persons were the seven defendants.
Senator ERVIN. Well, you are telling me something I didn't ask you about. I haven't asked you about what the President told you. I have been asking what the radio and television and the papers had told you.
Mr. MOORE. And your question is?

Senator ERVIN. Yes. Didn't you learn from the press and the radio and the TV in connection with the matters I have recounted to you—didn't this generate a suspicion in your mind that something was rotten in the Committee To Re-Elect the President?

Mr. MOORE. Yes, sir, in the Committee To Re-Elect the President.

Senator ERVIN. Yes.

Well, George Washington had a very fine aide, and which he was known as Alexander Hamilton, and Alexander Hamilton wrote Jim McHenry on April 5, 1773, "It was my duty to state facts to the President."

Don't you think that you, as a friend of the President, as an aide to the President, owed a duty to the President to go to him and tell him that you were suspicious that something was rotten in the committees charged with his reelection and that something ought to be done about it?

Mr. MOORE. Well, I picked—the Watergate itself had demonstrated that that was a pretty sour operation in that sense, that that could be allowed to happen. The question was, Mr. Chairman, whether that offense went beyond the seven, beyond Mr. Liddy, if you will, and I think most of that evidence you cited there all is consistent with the President's view which was, and my view, sir, at the time, I believed, as I said implicity what the President said on August 29 that this could and probably was an unauthorized action under this what I have described as kind of a James Bond group because they would have——

Senator ERVIN. Well, the President said it was unauthorized. Don't you think somebody close to the President or the President himself should have taken some action to see whether it had happened?

Mr. MOORE. Well, the President, it either happened or the President was told and he believed that it happened and that an investigation was made and that the results were unequivocally that no one in the White House was involved. Clearly two men in the committee were involved.

Senator ERVIN. I am not talking about who told the President something. I am talking about what the news media told everybody in the District of Columbia who read the newspapers and watch the television and listened to radio.

Now, you have admitted that it came out very shortly, that burglars were caught in the headquarters of the opposition political party, and that four of those burglars had in their pockets campaign funds which belonged to the Nixon campaign. Don't you think that it was time for somebody to act?

Mr. MOORE. Sir, that was pretty well established earlier.

Senator ERVIN. Yes.

Mr. MOORE. And the plain inference was that that was money that was used but taken out of that strongbox. When you give a fellow with a romantic nature and a lack of respect the law who is a James Bond and has a safe full of $100 bills to do anything, he can get off of the reservation, and I think that is what happened.

Senator ERVIN. Don't you think it was peculiar and tended to excite anybody's suspicion that here was a burglar, Barker, who had in his savings account $115,000 that belonged to the Nixon campaign fund?

Mr. MOORE. Yes, sir, yes.

Senator ERVIN. And don't you think it was a suspicious circumstance that ought to be investigated that five burglars were caught in the Democratic headquarters in an act of burglary with money that belonged to the Nixon campaign funds in their pockets?

Mr. MOORE. Certainly should be investigated.

Senator ERVIN. Yes.

Mr. MOORE. And it had been investigated.

Senator ERVIN. And yet you say you had no reason to suspect that anything was wrong despite all of these things being presented by news media day after day, week after week?

Mr. MOORE. Well, Mr. Chairman, with all respect, the news media at that time didn't provide proof. The President has pointed out that at that time, the FBI was conducting one of the most exhaustive investigations in history, that the grand jury, 23 good and true citizens, had been finding opposite to what you are suggesting, and that he had——

Senator ERVIN. But you have testimony——

Mr. MOORE. You can question the thoroughness of the investigation in retrospect, but the President was convinced it was thoroughly investigated.

Senator ERVIN. But you testified yesterday that the White House didn't trust the FBI. They wouldn't let the FBI investigate the Ellsberg matter.

Mr. MOORE. No, sir, I didn't say that, sir.

First of all, I was referring to Mr. Hoover, who now is not alive at the time you are talking about. That was a very special instance when the President said that Mr. J. Edgar Hoover was reluctant to investigate Mr. Ellsberg because Mr. Hoover was a close friend of Mr. Ellsberg's father-in-law. We are now dealing with a different period of the FBI.

Senator ERVIN. Now, the FBI was under the direction of Mr. Gray at that time, wasn't it?

Mr. MOORE. That is right.

Senator ERVIN. Don't you know it came out in news media later that Mr. Gray himself had burned some of the documents that had been taken out of Hunt's executive offices, in the Executive Office Building and that Mr. Gray had destroyed them at the request of Mr. Ehrlichman and Mr. Dean.

Mr. MOORE. I read that.

Senator ERVIN. Well, now, could you depend on an FBI investigation under those circumstances to disclose the truth?

Mr. MOORE. So far as I am concerned, sir, you were asking me about my curiousity, I first learned about that episode in the latter part of April of 1973. So when you are talking about the investigation in the summer of 1972 that could have had no bearing.

Senator ERVIN. You found out in April 1973 that Mr. Hunt had been an accessory before the fact to the burglarizing of the office of the psychiatrist of Ellsberg in September 1971, didn't you?

Mr. MOORE. I found out that there was a—yes, sir.

Senator ERVIN. Yes.

Mr. MOORE. That is roughly right.

Senator ERVIN. And you found out that Mr. Hunt, you had learned previously to that time, was a paid consultant of the White House?

Mr. MOORE. I learned that in the newspapers that he had been a paid consultant of the White House.

Senator ERVIN. And you found out Mr. Hunt had an office in the Executive Office Building and was on the White House payroll during all of the months from September 1971 until after June 1972.

Mr. MOORE. Well, I think I have read that it was March 1972.

Senator ERVIN. In any event he had been a White House consultant.

Mr. MOORE. You are quite right.

Senator ERVIN. Can you tell me who kept a burglar on the White House payroll during all of those months and allowed him to occupy an office in the Executive Office Building?

Mr. MOORE. I cannot tell you of my own knowledge, no.

Senator ERVIN. Well, there is somebody in the White House who had charge of hiring people, isn't he.

Mr. MOORE. Sometimes—there are a lot of people in charge of hiring people.

Senator ERVIN. And you still tell me, Mr. Moore and I believe you told the Committee, that you had suspicion but you didn't think there was anything at all that ought to have indicated to President Nixon or any of his aides, Mr. Haldeman or Mr. Ehrlichman, prior to the 21st day of March that there was something rotten in the committees or in the White House?

Mr. MOORE. Well, the President has himself said, and I have said in my statement, that I wish I had been more skeptical and I think he is the first one, he said it and he believes it, but in looking back, and it is always easy afterward, certainly Mr. Hunt, I am not defending anything that Mr. Hunt did, I had no knowledge of it, the fact is that the President was operating with the knowledge that he, that was before him, and he had no intimation, nothing direct, no one brought to him is my firm conviction of anything specific that would have triggered or clued the notion this coverup was going on if it involved White House people particularly.

Senator ERVIN. Well, everybody in Washington, D.C., had an opportunity to learn about this except the President, didn't he?

Mr. MOORE. Well, Mr. Chairman, in all fairness, I think that everybody in Washington, D.C., had a different, the people have their own viewpoints and we have a lot of people here who are making a lot of charges.

The President was told, let's start with this——

Senator ERVIN. Told by whom?

Mr. MOORE. Told by his counsel. Now, we know now that the counsel told him apparently—pardon me, I am not sure he was told by his counsel.

Senator ERVIN. Yes.

Mr. MOORE. He was told by one of his two aides that his counsel had reported it, and also if you think back again who would think that—going back to this caper, this burglary, this fellow knew who would think that anybody in his right mind let alone people as you said educated and smart would have authorized it, and all I know is, as I say, up through the grand jury proceedings, the investigation, the trial, and the pleas there was no proof and no evidence, there was plenty of newspaper clippings, but no evidence that it went above Mr. Liddy.

Now, that is a separate question.

Senator ERVIN. Do you know what evidence was produced down there at the trial?

Mr. MOORE. No, sir, I didn't attend the trial.

Senator ERVIN. Don't you know that the evidence shows that Mr. Magruder had paid $199,000 in cash to Liddy before the trial?

Mr. MOORE. Well, yes, sir, I understand that.

Senator ERVIN. And don't you know that the tracks led right straight from the Watergate into the offices of the Committee To Re-Elect the President, just as straight as a martin going to its home?

Mr. MOORE. Yes, sir.

Senator ERVIN. And yet nobody knew anything wrong?

Mr. MOORE. Again in fairness, Mr. Chairman, this track led to a cash supply that was made available to Mr. Liddy with no responsibility of having to account for it and that is always a very bad situation.

Senator ERVIN. Yes.

Mr. MOORE. And whether anybody knew what he was doing was a separate question and, as you know, the investigation and at this time——

Senator ERVIN. Well, you have admitted that the news media carried news within 2 months after this happened to the effect that Mr. Magruder had paid out this money on the authority of Mr. Mitchell and Mr. Stans, and Sloan had, in fact, paid out that money.

Mr. MOORE. Well, Mr. Chairman, one thing I did not know and we have only heard here, and I think everybody knows now, Mr. Magruder has now confessed he committed perjury. So when you ask what happened in the newspapers, that did not come out. And we are here in hindsight. If you put yourself in the timeframe of last summer, and this burglary, which, at the beginning, if you will remember, people thought it was so absurd, so stupid, that it simply could not have been authorized by——

Senator ERVIN. Well, now, Haldeman was not stupid, was he?

Mr. MOORE. What is that, sir?

Senator ERVIN. You told me Haldeman and Ehrlichman are bright people, well-educated.

Mr. MOORE. I agreed with you when you told me that.

Senator ERVIN. And Mitchell is a very highly educated man?

Mr. MOORE. Yes.

Senator ERVIN. When did you first start suspecting that something was rotten in the committees to secure the reelection of the President?

Mr. MOORE. Well, I would say the morning I got a phone call that said, what do you think of that caper—that burglary, on Sunday morning, and I picked it up and read it. I said something like, sure is. This was not Sunday. It was when I learned that McCord and Liddy were involved, within that week, that obviously, something was rotten. I thought that the rotten had been exposed and there was the cancer and there it was. That is what I thought.

Senator ERVIN. You do not have any information that anybody, any aide of the President, kept either Mr. Haldeman or Mr. Ehrlichman or the President from reading the newspapers or listening to the radio or watching television during this time?

Mr. MOORE. I have heard it alleged, sir, but it is not true. The President reads newspapers and—of course.

Senator ERVIN. And even Mr. Dean could not keep him, or anybody up there, from reading the newspapers or listening to the radio.

Mr. MOORE. The grand jury was also reading the same newspapers and—no.

Senator ERVIN. Thank you, Mr. Moore.

Mr. MOORE. Thank you, Mr. Chairman.

Senator ERVIN. Senator Baker.

Senator BAKER. Thank you very much.

Mr. Moore, the chairman in his eloquent way has injected a new legal principle into a theorem that I have tried to propose several times throughout this hearing and it is a valid one. But I would like to define it and see if we can agree on the area of inquiry that is being probed at this point.

Often, I would put the question as the central and key issue in this inquiry: What did the President know and when did he know it?

Mr. MOORE. Yes, sir.

Senator BAKER. And the chairman, as I understand his line of questioning, has now put the question: What did the President know or should have known?

Mr. MOORE. Yes, sir.

Senator BAKER. And when did he know it?

And, of course, it is an established principle of the tort law of the United States that a man is charged with knowing or having constructive knowledge of in that he should have known of certain circumstances under certain conditions. So I interpret, and I do not presume to interpret unduly, the questioning of the chairman to be was not in fact the great body of publicity in the Washington newspapers—the Washington Post, the Star, the New York Times, and the other great daily newspapers of the country that find their way into the White House—should not the President have known?

Now, I judge that to be a fair inquiry. But I would like to explore with you, Mr. Moore, what the state of affairs may have been at that time. Obviously, there were newspapers in circulation at the White House. Obviously, there were press summaries. Obviously, the newspapers were carrying hard news about the arrest of the seven Watergate defendants and subsequent stories about the identification of funds that were found on them. Just as obviously, the newspapers carried reams of copy about the—going and continuing developments of, as the soap operas say, the continuing story of the Watergate.

Now, what weighs and balances against that? Let us try and put ourselves in the situation that existed at the White House from June 17, 1972, until—what was it, March 20 or 21, 1973?

Mr. MOORE. March 21.

Senator BAKER. Because I am sure everybody will agree with me that these hearings will not be determined on the basis of newspaper accounts alone, but rather to take into account of what one should have been on notice of by newspaper accounts.

Well, let us assume that those newspaper accounts were read by the press office, included in the press summary, and reached the President's desk, either in their original form or some summarized form. We also must assume, must we not, from the record that has now developed in this hearing just so far, that very early on in June—if my memory serves me, on June 20, 1972, and I might be in error by a day or two—

Mr. Mitchell told the President, according to his testimony, that he was sorry he had not kept closer rein on matters and that he would let a thing like this happen and that he was sorry he did not know what happened, or words to that effect.

Are you familiar with that testimony, Mr. Moore?

Mr. MOORE. Except that I could say I did not have an opportunity, except when I was sitting here briefly, to read or hear Mr. Mitchell's testimony. But, of course, I accept your——

Senator BAKER. You understand what I am trying to do?

Mr. MOORE. Yes.

Senator BAKER. I am trying to establish what your sources of information might be. The chairman has pointed out that there was a great wealth of newspaper reportage and a great wealth of television and newspaper coverage on this. But there was also input from other sources—that is, the Mitchell statement shortly after Watergate that he did not know what happened, he did not know how it happened, but he was sorry that he had not kept tighter rein on it than that. Would that tend, once again on the idea of should the President have known, as distinguished from whether he did know, would that tend to create some question in your mind as to whether the President should have known—that is, the newspaper accounts on one side and the Attorney General of the United States, or former Attorney General, saying, we do not know what happened—implying that he was not involved—and I am sorry that we did not keep tighter rein, but we will find out? Would that not, in your mind, create a different situation?

Mr. MOORE. It certainly would.

Senator BAKER. Now, what about Mr. Dean? Do you have any personal knowledge of when Mr. Dean, in June or shortly thereafter, may have told the President that he did or did not know of anything that was going on at the Watergate, or whether Mr. Colson or Mr. Ehrlichman or Mr. Haldeman? We know from this record what some of those people say already. But the point in my mind, I am trying to establish the matrix of where the President would find the information on which to know or be charged with knowledge of the Watergate affair and the ensuing coverup. Can you give me any further information in that respect?

Mr. MOORE. Perhaps I lost that last question.

Senator BAKER. Yes; I think I might put it for you again.

Mr. MOORE. I am sorry, Senator.

Senator BAKER. Weighing the newspaper accounts on one side and conversations that the President may have had that you know of, either directly from your occupation at the White House or from testimony before this committee or otherwise, do you know of counterveiling information that would have reached the President that would indicate that the White House was in fact not involved, or at least was acclaimed not to be involved?

Bear in mind that this whole line of questioning is put to you, really, on the basis of a grossly oversimplified summary of the Mitchell testimony. As I understand Mr. Mitchell, and I reserve the right to change my mind when we write the report if I understand or perceive it differently, but the Mitchell testimony, as I understand it, was to the effect that I did not have anything to do with planning it. I

found out about it shortly after it happened, and I spent the rest of my time trying to keep the President from finding out. That in essence is what John Mitchell said, I think.

Well, now, how effective was all that? How well was all that concealed from the President by Ehrlichman, Haldeman, Dean, Mitchell, or by anybody else? And how would that have weighed in the President's mind against these myriad newspapers, television, and radio reports that we are speaking of, on the question of should the President have known as distinguished from what did he know?

Do you understand what I am saying, Mr. Moore?

Mr. MOORE. I do. You say, have known, have known of the activity of somewhat above the level of Liddy at the Committee. You are talking about the break-in.

Senator BAKER. What I am really talking about is what did the President know or what should he have known and when did he know it?

Mr. MOORE. I should state by way of background that during this period, I was quite involved with preparations for the convention. I was not included in any discussions of the Watergate matter that summer. So I do not know what other advisers were telling him. But the fact is—and also, we must remember, this was the season of 1972, and I think many of the newspaper accounts which charged that the White House must have known or that John Mitchell must have known, and which got printed, with headlines, were really quoting Democratic candidates. This was a political year and as some have said, it was the only political issue that the Democrats thought they could do anything with.

Senator BAKER. And in all fairness, political seasons and political campaigns probably tend to blunt one's otherwise healthy skepticism about affairs, is that not correct?

Mr. MOORE. Yes, sir; that is correct.

Senator BAKER. I will not pursue this any further. All I am trying to do is to establish that there was in fact a great deal of reportage on this subject. There was, in fact, a great deal of counterveiling information, apparently, being given to the President in conflict with the reported and printed news accounts, and that it is a valid area of inquiry, what did the President know or what should he have known and when did he know it?

But do you take all that into account when you make the statement that you did make in your opening statement, that you are convinced that the President did not know of the coverup until March 21, 1973?

Mr. MOORE. Yes, sir.

Senator BAKER. Thank you, Mr. Moore.

Senator ERVIN. Senator Talmadge.

Senator BAKER. If you don't mind, Mr. Chairman, Senator Talmadge. I have one more question I wanted to put.

It relates to page 15, the first paragraph, of your statement. It begins on page 14, the last paragraph. For convenience, I will read it, Mr. Moore:

> On March 19, I was called to meet with the President and Mr. Dean in the President's EOB office. The President reiterated his desire to get out a general statement in advance of the hearings. He asked us to be thinking about ways that this could be done. This would include issuing a full statement or white

paper. He was also interested in our thoughts about ways to present our story to the Senate in terms of depositions, affidavits, or possible conferences or meetings which would give the Senate all the information it wished, but which would not cut across the separation of powers doctrine.

You may be aware of my keen concern that we find a way to avoid the rocks and shoals of a constitutional confrontation between the Congress and the White House on separation of powers and still have access to unique information allegedly held by the President on certain depositions, conferences, or meetings. I am tantalized by this. My question to you is was that in terms of the deposition of the President or an affidavit of the President, or a conference between the President and this committee? What was spoken of? I don't believe your statement makes that clear.

Mr. MOORE. That was spoken of in terms of Presidential assistants and advisers.

Senator BAKER. Well, then, I am disappointed. I thank you very much.

Mr. MOORE. Surely. I must come up again.

Senator TALMADGE. Mr. Moore, as I understand it, you were all of last year and are now special counsel to the President of the United States.

Mr. MOORE. Yes, Senator Talmadge.

Senator TALMADGE. Some of your duties, as I understand your testimony, related to public relations, briefing, conferences, press statements.

Mr. MOORE. Yes, sir.

Senator TALMADGE. Taking advantage of trying to get the proper statements in the news media, to get the President's posture before the public in the correct manner. Is that a fair statement?

Mr. MOORE. Yes, sir.

Senator TALMADGE. Now, was a meeting held in the White House following the Chapin-Segretti story to respond to that story?

Mr. MOORE. Yes, there was, sir.

Senator TALMADGE. When?

Mr. MOORE. The late afternoon of October 13, 1972.

Senator TALMADGE. Who was in attendance at the meeting?

Mr. MOORE. Mr. Ehrlichman, Mr. Haldeman, Mr. Ziegler, Mr. Chapin for all or part, and myself.

Senator TALMADGE. What was discussed there?

Mr. MOORE. The subject was a memorandum from the Deputy Press Secretary, Mr. Warren, saying that he had just received a call late that afternoon from one of the reporters at the Washington Post to the effect that they had, they were going to go with a story that they had a signed statement from a man in California who would, who said that Mr. Chapin was, along with Mr. Howard Hunt, the prime contact for Mr. Segretti in his espionage or sabotage activities—I can't quote the memorandum by word, but it may or may not have said that Chapin was responsible for his hiring. But it also said, if I remember right, the reporter said that Mr. Chapin, the source in California had also said that Mr. Chapin had traveled to Miami, where he met with Mr. Howard Hunt and Mr. Segretti and that he had coached, helped coached Segretti on the grand jury testimony.

Now, that was a very serious story to be published. I will say very quickly, much of it was not true, and that is why we were there. They wanted us to, they gave us the opportunity to comment.

Senator TALMADGE. Did Mr. Chapin want to issue a factual statement about the matter at that time?

Mr. MOORE. Yes, he did.

Senator TALMADGE. Was a statement issued then?

Mr. MOORE. A statement was issued that afternoon. Later that afternoon, it was given to the Post and it was included in a story which had happened—we were told it was going to run the next day. Actually, it was held over to run Sunday, October 15.

Mr. TALMADGE. As I see the press statement here, "As a Washington Post reporter has described it, the story is based entirely on hearsay and is fundamentally inaccurate."

Is that the statement you issued?

Mr. MOORE. Well, that is part of it.

Senator TALMADGE. And you stand on the statement that it was hearsay and fundamentally inaccurate?

Mr. MOORE. Well, I think if the statement were read in full, that would give a better flavor of what the thrust of it is.

Senator TALMADGE. You state that it was inaccurate?

Mr. MOORE. Yes.

Senator TALMADGE. Now, did you afterwards write a report to the President about the Segretti matter?

Mr. MOORE. I did not write a report to the President. I wrote a first draft of a report which could be the basis for perhaps further editing and so forth, as a starter for a possible public statement, which was a very rough draft.

Senator TALMADGE. When did you make that report?

Mr. MOORE. I wrote that on March 18—March 22, 1973.

Senator TALMADGE. Why were you so late in writing the report, Mr. Moore?

Mr. MOORE. I was requested to write it 5 days before that—4 days before that.

Senator TALMADGE. As I understand it, the report is already in the record of these hearings as exhibit 34–44.* That is paragraph 7. It is attributed as your report. You may correct me if I am in error.

Mr. MOORE. It was a draft report that would have been submitted to a conference, possibly improved or expanded and enlarged. It had to do with a starting draft for a possible public statement.

Senator TALMADGE. Let me read paragraph 7. This is attributable to you, sir.

Kalmbach states that he made several payments to Segretti, most of them in cash, and that these payments were made during the period September 1971 to March 1972, and the total amount represented, both salary and expenses, is between $30,000 and $40,000.

Would you say now that that statement was hearsay and fundamentally inaccurate?

Mr. MOORE. No, sir, but when I, the statement we issued on October 15 did not reflect this knowledge which we developed and which we are prepared to state.

*See Book 3, p. 1299.

However, I really think in fairness to Mr. Chapin, Senator, and to anybody in the television audience who may be watching, I would like to point out that the statement you read leaves out a very significant—not intentionally, sir, but there is a little bit more to this.

The reporter told us what I said he told us. This was a story which apparently, obviously, had been in the possession of the Washington Post, but they chose to do it in series, apparently, where they had a few days earlier come out with a major story, with a front page picture of a man named Segretti who was presiding over a massive espionage operation. Most of the things that were reported in there were statements attributed to—by someone else to someone else. Yet the impression was of a massive White House or pro-Nixon espionage and sabotage campaign. I really think that I should outline this, because it is a matter of pure fairness.

That story set the stage. Then on the following Sunday, when the circulation is the largest thing out, there was a front page picture of the high White House aide who had this contact, who had been named by a Mr. Young who happened to be—well, a Mr. Young who told the reporter that Segretti had told him that. They were second and third degree hearsay—that Mr. Chapin, and it was linked to Mr. Hunt, were contacts and so on.

The total effect of the two stories was that Mr. Chapin, who sat in the office next to Mr. Haldeman, was indeed that active director of a massive espionage ring, which again, was based pretty much on hearsay.

If you will note that, it says the story described to us by the reporter. Now, that story described by the reporter said that Mr. Chapin had gone to Miami and conferred with Howard Hunt and had coached Segretti on his grand jury testimony. The statement we issued explicitly, firmly denied that.

What happened was the Post then did not print that part, but they printed the denial. So what you had here was Mr. Chapin denying something that never happened and was never even alleged, because they dropped the allegation and left in the denial.

Now, moreover, the splash technique here, yes, it was hearsay. And also, there were a lot of other names in the article, just of people who went to the same college. In fact, some of them were wrong, didn't go to that college, belonged to the same fraternity. So, we felt the total thrust of that Washington Post story was indeed fundamentally inaccurate.

Mr. Chapin went on and admitted he had known Mr. Segretti, known him since college. That was why that, the fact that we had before us at that time, that is why that was issued. This happened to be in that season—this was now October 15, with 3 weeks to go in the election. We thought that timing had something to do with it.

Senator TALMADGE. This statement is dated October 15, 1972, Mr. Moore. You stated that at that time, you didn't have all of the facts. Is that the reason you said it was fundamentally inaccurate?

Mr. MOORE. No, sir. What I said was that the fundamental inaccuracy, first of all, was this most serious inaccuracy of meeting with Howard Hunt, we had heard about that from the chairman, and coaching him on the grand jury testimony, which never happened. In fact, Mr. Chapin never met Howard Hunt, never saw him.

What was done, and Mr. Chapin was in error, was to drag an old classmate in——

Senator TALMADGE. I am afraid I don't understand the thrust of your testimony, sir.

Is your testimony that the October 15 statement was accurate or inaccurate?

Mr. MOORE. I don't know which statement you are referring to.

Senator TALMADGE. I am referring to the one I just read in the Washington Post and as I understand you to say, you stated that you didn't have the full facts at that time and since that time, you have been trying to defend the accuracy of the statement. So, I don't know exactly what your position is.

Mr. MOORE. I haven't made myself clear. I will try to do it briefly.

It was our conclusion that the newspaper story which the reporter said they were going to publish was fundamentally inaccurate and indeed, in many important respects, it was.

Senator TALMADGE. So your testimony now is that the statement of October 15 was accurate when you denied it and said it was inaccurate and based on hearsay?

Mr. MOORE. Well, no, sir; it still is not accurate that Mr. Chapin ever worked with Howard Hunt and met him. That part is still inaccurate. It was a very important, a very serious allegation. So, that statement still was proper in that very important respect and that has never changed.

Senator TALMADGE. So your statement denying the allegation on October 15 was accurate?

Mr. MOORE. I think it was under the circumstances at the time.

Senator TALMADGE. How do you account for your statement that you submitted to the President in your memorandum that Kalmbach states that "he made several payments to Segretti, most of them in cash, that these payments were made during the period from September 1971 to March 1972, and the total amount, representing both salary and expenses, was between $30,000 and $40,000"?

Mr. MOORE. If that was in the Washington Post story——

Senator TALMADGE. I am reading from the memorandum that you submitted to the President.

Mr. MOORE. Yes, but I am talking about—this memorandum was written on March 22, 1973, 5 months later, with the benefit of much more information and much more detail, and was written for the purpose of revealing that.

Senator TALMADGE. I am to understand from your testimony that your statement that you prepared for the President was an amendment or modification of your previous statement, is that correct?

Mr. MOORE. It was treated with new material, it was treated with new material.

Senator TALMADGE. New material?

Mr. MOORE. Yes.

Senator TALMADGE. New modifications, better understanding?

Mr. MOORE. Yes, sir.

Senator TALMADGE. More facts?

Mr. MOORE. Something more than a phone call from the Washington Post.

Senator TALMADGE. More interest in getting—of giving the facts rather than concealing them, things of that nature?

Mr. MOORE. Yes, sir, this was based on a much more complete set of facts.

Senator TALMADGE. Did you discuss this Segretti matter with the President?

Mr. MOORE. No, sir, never discussed it as such. If it got mentioned it might have been mentioned as I think I testified earlier in a sentence about the subjects of this investigation, Watergate, Segretti, campaign contributions; never discussed the case.

Senator TALMADGE. We have had, Mr. Moore, two conflicting versions of the so-called alleged Dean investigation into this whole affair usually called the Watergate in 1972. Was there any such investigation?

Mr. MOORE. I do not know that I know. It is my impression that there was not but I am trying to pin down all that confusion.

Senator TALMADGE. Your thinking is there was no investigation?

Mr. MOORE. By Mr. Dean?

Senator TALMADGE. Yes, sir.

Mr. MOORE. That is my impression now.

Senator TALMADGE. Now, Mr. Moore, Mr. Dean testified that in February, I believe, you and he were summoned to San Clemente, February 1973, San Clemente, Calif., and at that meeting, I believe Mr. Ehrlichman suggested that hearings, that is, these present hearings, be publicly analyzed as similar to the ITT hearings and a waste of time and highly partisan, is that correct?

Mr. MOORE. That is, I think, a fair summary of what Mr. Ehrlichman probably said, yes, sir.

Senator TALMADGE. At that time a policy was adopted that publicly the White House would give the impression of cooperating with the committee and privately hindering it in every way possible, is that correct?

Mr. MOORE. Not really, sir, no. First of all, almost nothing, very little, was discussed there was adopted as a policy. As I think I used the phrase earlier, it was brainstorming. There was that concern that this might be a more partisan situation, just on general principles, because historically the administration is, I think, at the receiving end in the role of a defendant these hearings historically have a partisan flavor. As I said earlier, that has not eventuated and if you will notice that policy as far as I can see, has never been implemented where anybody from the administration has taken a view that this is a partisan political—so that policy never got adopted and never got implemented. It was discussed.

Senator TALMADGE. Mr. Moore, I believe it was also determined at those meetings to send you to see Mr. Mitchell in New York to ask Mr. Mitchell to raise some more money, to give the people who had been indicted, to aid them to keep their mouths shut, is that right?

Mr. MOORE. No, sir; that statement is not correct. What was decided was, and this was decided on the very first day, was that I would indeed get with Mr. Mitchell—nobody said anything about going to New York, no matter where I saw him, but the important thing was that I visit with him and give him a full report and have a full discussion of the role that he and the Committee for the Re-Election of the President, which was still in existence, would have to play in re-

sponding to and preparing for these hearings now on the second day and if it was not of any importance it was not on the agenda on the second day and, by the way, reference, it is in my statement, I have said it many times, this question came up about money being needed and would I—why shouldn't that be something for Mr. Mitchell, "Dick Moore, will you see him and see him and ask him?" I have explained in full what I thought about that suggestion and what happened to it.

Senator TALMADGE. Mr. Dean testified that you were loath and reluctant to perform such a mission; is that correct?

Mr. MOORE. Well, I saw that testimony. That conversation did not take place. I certainly did not see any point in asking John Mitchell to raise money because I did not think there was a Chinaman's chance that he was going to—pardon me, I will have to comment on that—I did not think there was a chance he would in the least be interested in becoming a fundraiser and I brushed it off.

Senator TALMADGE. You did not look forward. I presume, as an attorney at law with any particular relish in making a pilgrimage to the city of New York to ask a former Attorney General of the United States to raise money for some convicted burglars, did you?

Mr. MOORE. You have well stated the situation. Had there been the slightest intimation or feeling that that is what was involved, then the trip would not have been made and I might have got educated a lot sooner and maybe the President would have learned some things before March 21.

Senator TALMADGE. At that point, did not the suspicion arouse in your mind that something was fundamentally rotten about this whole operation?

Mr. MOORE. It does now, it did not then. I think I have explained what my part there was. There was—I did not get any particular message about what Mr. Dean was referring to. I did not know anything, I was not in on the fundraising side, I did not know what funds were used for what or for by the committee or financing, I just did not think it through and that was not my purpose in seeking to meet with Mr. Mitchell, and I also knew, and this was the primary thing that this would look to me like one more, whatever it was, the effort to pass the buck to John Mitchell to raise some money and I knew perfectly well he was not going to do it.

Senator TALMADGE. You were counsel to the President of the United States at that time?

Mr. MOORE. Yes, sir.

Senator TALMADGE. I guess that is about a position of as high trust and responsibility as can be had in the country, is it not?

Mr. MOORE. Yes, sir.

Senator TALMADGE. Did you have immediate access to his office?

Mr. MOORE. No, sir.

Senator TALMADGE. You did or did not?

Mr. MOORE. Did not.

Senator TALMADGE. How did you happen—if you wanted to see the President how did you go about it?

Mr. MOORE. Well, I usually waited to be asked. I did not have occasions to——

Senator TALMADGE. You have requested to see him yourself?

Mr. MOORE. Except on one occasion which I think I described.

Senator TALMADGE. If you would see a neighbor's house burning down would you not try to do something to point out the hazard and the threat to his property?

Mr. MOORE. I sure would.

Senator TALMADGE. Well, when you saw this imminent perfectly to the President of the United States here you were one of his most trusted confidential advisers, why could you not walk in the office and say "Mr. President, there is something rotten here and I want to tell you what it is"? Could you not have done that?

Mr. MOORE. As I said that, I wish I had perhaps become more skeptical earlier or taken more initiative, and yet what I was dealing with, until that moment, when the first criminal action was described to me—the blackmail effort of Mr. Hunt—and if you take this time frame of being called the fight of February 9, and as Mr. Dean has testified, I was not a member. I mean I was a new boy, there was the first time I was hearing anything, to meet with this group, between then and March. I picked up enough so that it occurred to me, and it appears to me, I was the first one in the White House to step up and—if I think—as I said if Mr. Dean would do it, if he had not done it, at that point I would have done it, but that is easy for me to say because he did it at my urging. But that is the period February and into March and it was only in the latter middle—3d of March—where these things began to put together in my mind.

Senator TALMADGE. It seems to me that a man of your background, intelligence, education, experience, character, holding the position of high fidelity and trust that you were, were derelict in your duty that you did not inform the President. I think some way could have been found, if you had to send him a telegram, try to walk in his office, try to write him a letter or telephone him, I think in some manner you should have informed him.

Mr. MOORE. Senator Talmadge, I am not suggesting for one second that I did not try to see the President because I felt that I could not get into his office, of course, I could have. One does not go in lightly, however, and to go in with pure gossip until this thing finally hit there or rumor, I did not think that that was proper or wise, and but in a very short time my mind firmed up on the matter.

Senator TALMADGE. There was a period of 6 weeks from there; the conference at San Clemente of February 10 to March 21 when you were sent on missions to raise coverup money and you sat silent?

Mr. MOORE. Sir, I was not sent on a mission to raise coverup money.

Senator TALMADGE. What is it to raise money for convicted burglars?

Mr. MOORE. I have been through this several times. I was to meet with Mr. Mitchell and I met with him 4 or 5 hours, and if that is all there was to it I could have called him up on the telephone. I went up there to meet with him and fill him in on these things. The thought that at this point in my life, in my situation at the White House, that to be sitting there with the assumption that this reference to money by what Senator Inouye had called earlier two of the top officers of the United States, I put this on an if basis, because they are innocent until presumed guilty and I am not saying there was such a plan, but I was, my frame of mind was not apparently prepared to rise to the suspicion that I was sitting in a room with that kind of thing going on, if indeed it was.

Now, therefore, and I think I have testified earlier, in the next 2 or 3 weeks none of the discussions from the San Clemente, La Costa meetings as far as I am concerned, got implemented. I heard, I knew nothing more about it. There were apparently later meetings at Key Biscayne that were testified to. There were some memorandums which I never saw, I got busy first on this executive privilege thing, you know, that took so much attention and then the Gray hearings started and it was this that period where I began to pick up a little bit more from a deeply, growingly concerned Mr. Dean who began telling me enough or hinted enough so I feel there was something that you could go into that, yes, the moment had come when there was something that could be said to the President that was specific and real rather than surmise and gossip.

Now, I was wrong in retrospect, I am the first one to admit it, and what you say is correct. We would have thought it was not out of fear of the President, it was, just did not register that I had enough here, nothing touching the White House as far as, that I knew of, unless you assume that, you know, that I was aware——

Senator TALMADGE. Thank you, Mr. Moore.

Mr. MOORE. All right.

Senator TALMADGE. I have no further questions, Mr. Chairman.

Senator ERVIN. Senator Weicker.

Senator WEICKER. Mr. Moore, I will try to be brief in my questioning of you. I gather then that from what you have stated here before the committee that it was only in the latter days of March 1973 that you started to suspect that there were matters very seriously wrong both within the White House and the Committee To Re-Elect the President, which matters were not coming to the attention of the President. Is that a correct paraphrase?

Mr. MOORE. Not quite. When it comes to the committee, I think that Mr. Dean had, for instance, told me of the meetings with Liddy and Magruder at Mr. Mitchell's office, perhaps the very first of March or even a day or two earlier, I can't quite date it.

Senator WEICKER. All right. Because you see this is what concerns me, in your statement of yesterday the way the statement reads it at least gives the impression that the rather key dates as far as you were concerned relative to acquiring important knowledge of wrongdoings were around the 19th and 20th of March and I am a little bit confused because as your testimony has come forth here we seem to be backing off that date. I wonder if we just might start at the beginning for a minute. I gather your first suspicions really were as you stated here this afternoon when you read about the break-in by Mr. McCord, that you had a first warning light that you have said was your initial warning, is that correct?

Mr. MOORE. I don't think that, I don't recall that that was my—you talk about the connection with the committee with the break-in.

Senator WEICKER. When you were responding to the chairman's questions that the light, the first——

Mr. MOORE. Yes, Mr. McCord, very quickly, and I think Mr. Liddy surfaced very shortly after that and I guess Mr. Hunt's name was found in somebody's pocket. Yes, it was very quick that one thought that this was related to the committee.

Senator WEICKER. So even back as far as June of 1972 at least you had your first inkling things might not quite be right?

Mr. MOORE. Well, sir, my first inkling that this was a matter, the burglar, of wiretapping that had some connection with the Committee To Re-Elect the President or people in it, put it that way.

Senator WEICKER. All right.

Now, what was your relationship with Mr. Ziegler. In other words, did you work with him in a press capacity?

Mr. MOORE. Not in any official sense. Occasionally he calls me when he wants an opinion on any question that he is going to have to discuss in a briefing, and it used to be rare. In the month of March when things were beginning about then, I saw him a good deal more frequently, and go over and discuss how he should respond to some of these matters that were coming out of the Gray hearings, for example.

Senator WEICKER. Did you work with him on his denial of the newspaper stories relative to Segretti and Chapin?

Mr. MOORE. Yes, sir.

Senator WEICKER. In what capacity did you work with him in those denials?

Mr. MOORE. Like utility infielder capacity. They wanted a collective judgment on how to respond to this phone call from the Washington Post, and——

Senator WEICKER. In other words, that was on October 15, 1972, you did get involved in the Segretti aspects?

Mr. MOORE. Yes.

Senator WEICKER. Of the situation that confronts us. You see, I just want to make clear one thing: I lump Mr. Segretti and all that business in with Watergate. Sometimes, I don't want to be so narrow as just include the break-in in the Watergate, all of them is the same matter, I just want you to understand it. You did work with Mr. Ziegler in the Segretti-Chapin matter back in October of 1972?

Mr. MOORE. Yes.

Senator WEICKER. Then again the matter came up relative to the response that Mr. Segretti had been paid by Herbert Kalmbach, the President's attorney. That was another matter that you worked with Mr. Ziegler on, is that correct?

Mr. MOORE. Response by Mr. Kalmbach?

Senator WEICKER. By Mr. Ziegler, no, no, by Mr. Ziegler.

Mr. MOORE. Mr. Ziegler?

Senator WEICKER. To the stories relative to Segretti and Kalmbach?

Mr. MOORE. I don't think I recall that. Was this a separate story you are referring to?

Senator WEICKER. This was the next day, this was all involved in the same matter of Segretti, newspaper reports of the Segretti matter.

Mr. MOORE. I can perhaps summarize very quickly. We had that meeting on Friday. The story appeared Sunday, and of course it was a major story. Monday morning Mr. Ziegler would be subject to press, a lot of queries at his press conference (*a*); (*b*) I rather think Mr. Ehrlichman was going on one of the Sunday interview shows and there was a meeting in the Roosevelt room to discuss both those things, how do we respond to this and frankly, Senator Weicker, we did think, I did, and most of us, that the thrust of it as far as the White House was concerned, Chapin's role of hiring his old college chum is what he called it was wrong, is wrong but we thought the meaning of it apparent since to get it closer and closer on the Presidency required

that there was a political thing in the story right in the political season and required, of course, as honest an answer as we could make but also one that takes into consideration the charge was rather political so we met and discussed how it could be properly handled.

Senator WEICKER. All right.

Mr. MOORE. That was a meeting of Sunday and I took part in that. That is, I told no——

Senator WEICKER. In other words, to prepare an honest response?

Mr. MOORE. Sure.

Senator WEICKER. Which you have indicated it was obviously necessary to go into some of the background of these matters, is that correct?

Mr. MOORE. Right.

Senator WEICKER. Did you have occasion to talk to either Mr. Chapin or Mr. Segretti?

Mr. MOORE. I have never met or talked to Mr. Segretti.

Senator WEICKER. I see, and Mr. Chapin?

Mr. MOORE. Yes.

Senator WEICKER. And specifically about these matters?

Mr. MOORE. Oh, yes.

Senator WEICKER. So it is fair to say that insofar as the Segretti aspect of what confronts this committee, your knowledgeable to some extent, to some extent in October of 1972, is that not correct?

Mr. MOORE. Knowledgeable from the standpoint of White House connection, not Segretti's operations.

Senator WEICKER. And you did go into—the denial was a rather brief denial by Mr. Ziegler, as I recall. The denial read:

> I will not dignify with comment stories based on hearsay, character assassination, innuendo or guilt by association. That is the White House position.

Now it doesn't take very long to go ahead and dream up or to contrive that particular answer. So clearly the discussions—and again, I compliment you in the performance of your duties in trying to be of assistance here, there had to be some basis for whatever action, whatever response was going to be given. I gather the conversations related to what went on?

Mr. MOORE. Yes.

Senator WEICKER. All right. So that as of October insofar as the conversations relative to the response by the White House, you were aware of the Segretti matter, maybe not totally but you were aware of some of——

Mr. MOORE. I learned of the Segretti matter that week, read about it in the Washington Post, and got into it in that followup story.

Senator WEICKER. All right.

Now, in Mr. Dean's testimony he makes a statement, and I would like to have your comment on it, that he attended with you a meeting on December 13, 1972.

Do you recall such a meeting?

Mr. MOORE. I think I may have already testified that that meeting I don't recall very well. I have read about it. My independent recollection is very slim and I can——

Senator WEICKER. I think it is very important, I really do.

Mr. MOORE. Go ahead, I am not sure there wasn't much to the meeting is what I am trying to say but go ahead.

Senator WEICKER. Let me read Mr. Dean's testimony and you feel free to go ahead and comment on it.

Mr. MOORE. Yes.

Senator WEICKER. He says when he testified or in his opening statement rather before the committee:

> Present at the meeting were Haldeman, Moore, Ziegler, and myself. Ehrlichman had shown up for the earlier meeting in Haldeman's office but when it was moved to Ziegler's office he never returned to the meeting, to the best of my recollection. Nothing was resolved at the meeting and it was the consensus of the group that the White House should continue, in Dick Moore's words, to "hunkerdown" to nothing on the general theory that no one would be arrested for what they didn't say.

Would you comment on that?

Mr. MOORE. Yes. I don't—I don't have independent recollection of that. I have used a Johnsonian phrase "hunkerdown" in my time. I don't think I used the word "arrested," whether that was said at that meeting but I have been known to say this to several of the young fellows over there that when in doubt keep your mouth shut, don't sound off, everybody talked to everybody and nobody got in trouble.

Senator ERVIN. If Senator Weicker would excuse me, you are just expanding on the philosophy a man never regrets saying too little.

Mr. MOORE. I didn't get that. I have no idea what that quote referred to or what or if it was said but it was——

Senator WEICKER. But I gather that is what you are saying to the committee that it is possible that you might have been at that meeting, in other words, or are you——

Mr. MOORE. The meeting of——

Senator WEICKER. The meeting of December 13.

Mr. MOORE. Yes; I recall that, I think this related to, there was at least up for consideration a package that Mr. Dean had prepared, a draft of a narrative about the Segretti matter. It was very much of a draft. It was an earlier version of the one that I later wrote, and it had some, that proposed that maybe Mr. Chapin sign a deposition about his part, and again I want to say that Mr. Chapin from the beginning said, "Why don't I just issue a statement saying I thought we ought to have a prankster on our side the way they always have got us, I hired my chum and got word to Mr. Kalmbach to finance it and I did it and I am sorry I did it and get it out."

He wanted to do that the first day. And it wasn't done, and so later in December, this came back up. I had a feeling that meeting, was that supposed to be in somebody else's office, and then indeed up in Ziegler's office which is not where meetings are held as a rule, was brief, and the question was John Dean's memos just raised more questions than they asked. It was not a complete statement, it wouldn't have been a proper one to put out and I think I probably said unless, I don't know, that the resolution, the day, I don't know what happened to it, nobody knew what happened to it, it wouldn't justify or do the job and it wasn't justified and was just shelved. It was just brief and that is all there was to it.

That is my version as I best remember it to the best of my recollection.

Senator WEICKER. This would be the December 1972 meeting?

Mr. MOORE. Yes; yes.

Senator WEICKER. Mr. Moore, would you refer to your statement, to this statement he—and specifically page 4.

Let me ask the first question, am I correct in assuming that the 1971 and the 1972 as they appear there are typographical errors and should read 1972 and 1973.

Mr. MOORE. Yes, Senator Weicker.

And then I asked it to be corrected, were you here yesterday when I testified about this paragraph.

Senator WEICKER. I wish you would go ahead and tell me.

Mr. MOORE. I think this came up, first of all, I corrected that and I had then my reading copy. Actually, sir, this sentence got left in this draft when it was filed by mistake because it didn't really relate, it is out of place but it doesn't matter it is perfectly correct, except that in reading it and before going on I realized that in early December we had discussed the Segretti matter or the first half, so I had written on my reading copy, "In latter December 1972" and, but in reading it I didn't say that way. It was there and I showed it to the committee yesterday. So that if you are asking about——

Senator WEICKER. Yes; your statement should now read——

Mr. MOORE. It should be in latter December 1972 and 1973.

Senator WEICKER. Latter December 1972 and 1973.

Mr. MOORE. That is right.

Senator WEICKER. And basically as I understand it the December 13 meeting attested to by Mr. Dean to the best of your recollection is as you describe it here and you were in attendance at that meeting.

Mr. MOORE. Yes.

Senator WEICKER. So it is now true, just so I recap, I don't want to get ahead of ourselves here, your first inkling came about knowledge of Mr. McCord's break-in in Watergate when it came to you by route of the press reports then, in fact you engaged in a session relative to the Segretti matter in October of 1972, and then again in a session on December 1972, again the matter of Watergate is under discussion and/or Segretti all being the same matter.

Now, during the confirmation hearings for Mr. Gray, if you will recall he was asked to—about Mr. Kalmbach, and he submitted a document showing the FBI had learned of the Chapin-Kalmbach-Segretti connection.

Now, did you assist in this—this obviously raised problems, obviously raised problems with Mr. Ziegler because of his previous denial now being confronted with the Gray testimony and more particularly the 302 file which is in the hearings and which was very explicit as to Mr. Kalmbach's activities with Chapin, et al., did you help Mr. Ziegler prepare a response to the latest Segretti problem as it emanated from the Gray hearings?

Mr. MOORE. I was in a meeting with Mr. Ziegler and Mr. Dean, I think this is—yes, and as I understand it was not, I don't recall exactly what do you call 302 is the interview report.

Senator WEICKER. That is right, FBI raw interview.

Mr. MOORE. And Mr. Dean expressed his concern in talking to Mr. Ziegler, that what this was, as I take it was a matter out of raw files that Mr. — that Pat made available.

Senator WEICKER. Right.

Mr. MOORE. And the American Civil Liberties Union had just issued a letter to that effect, and suddenly, to the surprise of some we find ourselves in the company of the American Civil Liberties Union and Mr. Dean suggested——

Senator WEICKER. Why is that so surprising? I must confess, in the light of what is coming out of these hearings, it is surprising.

Mr. MOORE. I am being somewhat facetious, as I am sure you understand.

Senator WEICKER. Right. Well, I do not understand, but I——

Mr. MOORE. In any event, it was Mr. Dean's suggestion and we believed that—perhaps I should not have made that joking remark, because we have never been accused of being allies of the American Civil Liberties Union—that is, the Nixon administration—but some of our opponents. But the fact is, the President always felt strongly about this file thing, and as he expressed at his press conference, these raw files. Yes, Mr. Dean suggested at this point, we ought to bring that subject up, and that might be one effective way of injecting some factors into this equation that belong there. And that was a suggestion that was made to Mr. Ziegler in my presence.

Senator WEICKER. Specifically. I do not quite understand what the suggestion was.

Mr. MOORE. Well, it was that Mr. Ziegler, in addition to—Mr. Ziegler raised the point that the information that they were referring to was based on raw files and he hoped that raw files from the FBI would no longer be made public. He sort of took the offensive, I suppose under the theory that the best defense is a good offense. He did not deny, of course—I do not recall the text of the press conference. Did he deny that Kalmbach made the payments?

Senator WEICKER. Well, the response was by Mr. Ziegler "My comments stand," quote, end of quote. This in light of the file which became available and which made it very, very clear as to the Kalmbach-Chapin-Segretti chain of payments.

Mr. MOORE. Well, of course, the Kalmbach role, in fact, almost a verbatim copy of that—the Kalmbach role had already been publicized quite fully with reference to Government sources about the payments. And I cannot remember this point, Senator Weicker, when Ziegler said in what, March, that he stood on his denial, whether he is referring back to that October 15 statement or whether there is some intermediate comment. Because Kalmbach's name had been coming up almost daily.

So I cannot really respond unless I know what the previous statement was that he was standing on.

Senator WEICKER. Oh, the previous statement that he was referring to, again, was the one which I read to you—"I will not dignify with comment stories based on hearsay, character assassination, innuendo, or guilt by association. That is the White House position."

Mr. MOORE. Well, I did not advise him with respect to his statement, "I stand on the previous comment."

What I do wonder, sir, is whether, in all those weeks, there had not been other responses by Mr. Ziegler to questions about Mr. Kalmbach that he might have been standing on. I would have to go back and research those.

Senator WEICKER. Then clearly, forgetting Mr. Ziegler for a moment, clearly during this period of time, starting off with the October 15 statement and right through the Gray hearings, when the Kalmbach matter was raised, you were in consultation with Mr. Ziegler and other persons in the White House relative to the Kalmbach-Segretti-Chapin matter.

Mr. MOORE. Yes, sir.

Senator WEICKER. And this is all considerably before March 19 or 20, is it not?

Mr. MOORE. Well, sir——

Senator WEICKER. To get on with the——

Mr. MOORE. Senator, could I make a comment? There was a strong view among some of us that the full Segretti story should be published and that is what my memorandum was a starting point for on May 22.

Second, when you say that, and I understand and I am not arguing with it, you say that you view Watergate as including Segretti, I understand it in that sense, that Watergate is a name for all the illegal or improper activities that might have been going on in the campaign. But in terms of the President's knowledge of the Watergate, I think that becomes, I speak more specifically. I speak of the burglary, the break-in, and the so-called coverup.

Senator WEICKER. Are you indicating to me that the President had knowledge of events other than the break-in?

Mr. MOORE. No; I am referring to your statement that I said I did not know anything until, that was incriminating or possibly incriminating, until March. I was talking about the President's knowledge of the subject of the break-in and the coverup. I did not know anything at that time that I could have put forth until——

Senator WEICKER. The coverup of Watergate?

Mr. MOORE. Yes.

Senator WEICKER. Although you had knowledge of the coverup of Segretti-Chapin-Kalmbach?

Mr. MOORE. Well, sir, that is a—I do not think that "coverup" there applies in the same sense. I am talking about what was a conspiracy, alleged conspiracy to obstruct justice by payments to defendants. As I understand it, that has not been alleged or suggested with respect to Mr. Segretti or those activities.

Senator WEICKER. In other words, all your statements before the committee here today only relate to Watergate and the break-in at Watergate and nothing else?

Mr. MOORE. Well, all the statements except when we are discussing the Segretti matter.

Senator WEICKER. In other words, knowledge of Segretti, Chapin, Kalmbach, and other matters are not included?

Mr. MOORE. Well, sir—yes. This statement of mine—I came here, as I understood, my main testimony, and I understood it—in fact, we indicated when we did meet with the staff the other night that the Segretti affair was not to be part of the hearings, but would come later. But it does not matter—the staff did not say they were authorized. I think Mr. Thompson said that he was not planning, but he could not promise.

Is that fair enough, Mr. Thompson? Or Mr. Lenzner?

Senator WEICKER. I am not trying to get into the details, Mr. Moore.

Mr. MOORE. No; but my statement really basically relates to what I thought was the essential question on which I could shed some light.

Senator WEICKER. I suppose really, that the point I frankly am making is that from reading your statement, the impression is given that around March of 1973, you appear on the scene and are positively shocked by various matters that are brought to your attention. And the point I am trying to make is that very clearly, you were working right along with the same group of men in various activities which clearly you felt and the others felt should not come to the attention of the American people. Is that right?

Mr. MOORE. Well, I felt they should and Mr. Chapin felt they should. But at the time, I must remind you that in that October 15 period, these facts were not known and we still do not know, Senator Weicker—I do not know; I have no knowledge of what Mr. Segretti did. I know he has been charged with an offense in Florida. What I do know is that Mr. Chapin and Mr. Strachan, who were college classmates, hired him and if you read that report, turned him loose to be on his own and travel around and harass and—they really genuinely, I think, felt they were hiring a Dick Tuck, who, by the way, happened to have been on the payroll of the other Presidential candidate.

Senator WEICKER. Now, I am not trying to cast any particular light on the testimony that you have given here that is not of your own belief and your own thinking. But the fact remains that you participated in a flatout denial of an event where you knew the facts to be different from the statement which was made. Is that not correct?

Mr. MOORE. No; I will not accept that.

Senator WEICKER. In other words, you accept the fact that on October 16—on October 16—when Mr. Ziegler said, "I will not dignify" in relation to this Segretti matter, when he made the statement, "I will not dignify with comment stories based on hearsay, character assassination, innuendo, or guilt by association. That is the White House position."

You shared in the preparation of that statement. You also shared in at least some knowledge that there was some basis for the charges made relative to Segretti and Kalmbach.

Mr. MOORE. The charges—well, first of all, let me clear up one thing.

Senator WEICKER. I do not want to go into the details. But in other words, was that statement correct?

Mr. MOORE. The charges were based on innuendo, hearsay, and guilt by association.

Senator WEICKER. No, was that statement correct on the basis of the knowledge that you and/or Mr. Ziegler had?

Mr. MOORE. Well, the knowledge that we had—first of all, I do want to explain, Senator Weicker, about this statement which talks about the Watergate. I did use it and I thought everybody understood that, because the testimony made it clear in the sense that——

Senator WEICKER. I understand.

Mr. MOORE. Second, this comes—as I said, I am ready to answer questions on all other aspects, but I had at length and in complete detail, never held anything back, told the staff of my full participation in my responses to the Segretti matter.

Senator WEICKER. I understand.

Mr. MOORE. Just in case anybody got the impression that I was holding back, I understood that that statement would come later on, at a later date in the hearing and I will be prepared to do it at that time.

So that is why I don't have Segretti in this statement.

Senator WEICKER. I understand.

And I am not asking you for the details of the Segretti matter.

Mr. MOORE. Right.

Senator WEICKER. I am asking you whether or not on the basis of your knowledge on October 16, 1972, the statement that was made—"I will not dignify with comments stories based on hearsay, character assassination, innuendo, or guilt by association. That is the White House position"—on the basis of your knowledge, nobody else's, was a correct statement? Since you participated in——

Mr. MOORE. Senator Weicker, as I said earlier, I did not participate in that phrasing. And also, I don't know what context that is in, because there were stories that were all related that were loaded with hearsay, innuendo, and guilt by association. Where they had gone to the same fraternity, they therefore suggested that he was a conspirator, or lived across the street. That kind of thing was loaded into that story.

Now, I dare say you will find many other comments that are different from that and I don't know exactly what he was replying to with that question.

Senator WEICKER. Let me ask you whether or not you didn't testify before this committee that you had had a meeting prior to the issuance of that statement by Ziegler—is that correct—on Chapin?

Mr. MOORE. Well, sir, you say prior to——

Senator WEICKER. Did you indicate to me that you had a meeting?

Mr. MOORE. Well, I guess you should give me the date of that statement?

Senator WEICKER. The date of the statement is October 16, 1972.

Mr. MOORE. Yes; I had a meeting the very day before.

Senator WEICKER. On October 15?

Mr. MOORE. Right.

Senator WEICKER. And at that meeting, you have indicated to me that the matter was discussed to some extent—I am not saying all the facts were laid out, and I am not implying all the facts to you at all.

Mr. MOORE. No.

Senator WEICKER. But the denial is very brief, very short, very complete. I am asking you on the basis of the knowledge which you acquired on October 15 whether that denial was correct?

Mr. MOORE. I think, first of all, it was not a denial. It was a refusal to comment. It said, "I will not dignify with a response," as I understand it. If I heard you correctly.

Senator WEICKER. "I will not dignify with comment."

Mr. MOORE. So I don't think he denied anything. And I think he correctly asserted that that story was loaded with hearsay, innuendo, and guilt by association. Now, the fact that some of us, including me, wanted a fuller statement doesn't really matter. But I do think that if you would go back and read not just the one story—and this was a sequence—first, the Segretti story, then a Chapin story, then a full page story, saying, of course, Chapin is the closest man to Haldeman, Haldeman is the closest man to the President, ergo the Segretti thing was done by the White House.

Also, everything was hearsay. The source was a young lawyer who happened to be a young Democratic politician, who told the reporter that somebody told him and that is what was published. And on that Monday, plus all the names of the people who also went to U.S.C. If you went to U.S.C., you were guilty of something, according to that article.

So that was a pretty good, pretty fair statement. And what else was said in that press conference——

Senator WEICKER. Was it a fair statement relative to the newspaper articles or was it a fair statement in relation to the knowledge which you had acquired the day before?

Mr. MOORE. I am sorry. Perhaps I had better have the question before I answer it.

Senator WEICKER. The day before——

Mr. MOORE. No; what was the question in response to? I don't happen to have the transcript of the Ziegler testimony. What was the question?

Senator WEICKER. Earlier, at the daily morning White House briefing, Ziegler said, "I will not dignify with comment stories based on hearsay, character assassination, innuendo or guilt by association" adding, "That is the White House position. That is my position."

This is a general article—if you would like to have the whole article, I will be glad to submit it to you. It is entitled "GOP Hits Post for Hearsay".

Mr. MOORE. Senator Weicker, I don't think the Post denied the hearsay. I think we should have put out a franker statement. It was not such a bad story from the White House point of view, unless it turns out that Mr. Segretti did illegal things, which I don't know what he did. The fact that one young man in the White House or two young men got the bright idea of getting a college chum to act as a Dick Tuck, who, as I say, has been identified as having been on the payroll of Senator McGovern in his campaign—this was wrong but it was not a major issue in this campaign to be turned into a tremendous issue. I noted it was just as the campaign practices, just put out their warning, their alert the day before, this is a season when you can expect stories that will be blown out of proportion, because there isn't time to answer them. The act of these two young men and act of misjudgment happened. It was wrong.

Senator WEICKER. And you knew about that on October 15?

Mr. MOORE. Yes; I knew that Mr. Chapin had approved the hiring of Segretti.

Senator WEICKER. All right. You knew about it on October 15. Therefore, the statement on October 16—never mind as to what the sources of the Post were or the press or anything else. Your own knowledge, of your own knowledge, due to a meeting held on October 15, you knew that this statement issued by Mr. Ziegler was either wrong or, from the phraseology which you have used, was misleading, or a weaseled denial—let's put it that way.

Mr. MOORE. It could be—yes. I think we are in the area of weasel words. I would be a lot better, I could be more helpful if I knew what it was he was not dignifying. The question he was responding to might have been a question saying, I assume that Mr. Haldeman was running the espionage operation. You know, I don't know what the question was.

In other words, the reporter's question to which that was a reply could have been something quite offensive and quite wrong. I don't know. But in any event, we should have, of course—Mr. Chapin's instinct was right, let me put out my story and say what I did. We should have done it. But by the same token, had we done that, it would have been a victory for some, what I would call at least political journalism, in that the admission could not have been separated from the wild charges, including the false and irresponsible charge that Dwight Chapin had conspired with Howard Hunt to coach a man on his testimony. We took the view that we would issue a statement and that statement, in retrospect, if you looked at it under all those circumstances, was pretty fair.

I don't know that we should have continued, but I still don't know what he was not dignifying.

Senator WEICKER. I will be glad to go ahead and submit to your counsel up there so they may look at the various documents.

Mr. MOORE. I regret—I know Mr. Ziegler regrets—I won't speak for him, but I know—any situation that—Mr. Ziegler didn't have the facts that are in this report. I didn't have the facts that are in this report. I later developed them, I later wrote them, I later urged that they be made public.

Senator WEICKER. I want to state that these statements were stuck by after the Gray hearings, or during the course of the Gray hearings, around the first of March, when it became clear even from the FBI reports——

Mr. MOORE. They were out before that. Those reports had been reported in Time and Newsweek much earlier.

Senator WEICKER. What I am saying to you is the denial was reiterated around the first of March, after Mr. Gray appeared at his confirmation hearings and divulged the raw 302 file relative to Mr. Kalmbach. And even with that, even as a matter of public knowledge, the denial was reiterated.

Mr. MOORE. Well, that was wrong. That was wrong. I didn't know it had happened, if it did.

Senator WEICKER. Very briefly, Mr. Mitchell testified as follows:

Mr. THOMPSON. Let me ask you to recall as specifically as you can exactly what he said to you concerning money.

This is relative to your visit with Mitchell.

Mr. MITCHELL. Well, I don't know as I can remember the specific phrase but there is one thought that sticks in my mind which may or may not be the exact words but it was something to the effect, you would not be interested in helping raise money in connection with these activities, would you?

It was more of a question than it was a plea and my answer to that was negative.

Mr. THOMPSON. What activities?

Mr. MITCHELL. The activities, the payment for the support and the legal fees of the people that were involved in Watergate.

Mr. THOMPSON. Did he specifically mention support for the people involved in the Watergate?

Mr. MITCHELL. Well, this was the general tenor of the subject matter; yes.

Mr. THOMPSON. Did you have any talk about——

Mr. MITCHELL. Or at least I understood when he talked about raising funds that this is what they were talking about.

Would you comment on Mr. Mitchell's testimony in that regard?

Mr. MILLER. Could we have a copy? We can't get our hands on it.

Mr. MOORE. Senator, my comment is that this appears to me to be a classic example of the twofold hazard when two people talk and one has something in his knowledge in his mind and the other does not. You will note—let's see. He said, He was first asked what I said and he said, "Mr. Moore said, 'You would not be interested in helping raise money in connection with these activities, would you?' "

Now, you will note Mr. Mitchell in his opening comment did not say that I made any reference to money for defendants or anything of that sort.

Mr. THOMPSON. What activities?

Mr. MITCHELL. The activities, the payment of the support and the legal fees of the people that were involved in the Watergate?

Now, he didn't say that I said that. Mr. Thompson said, "Did he," meaning Mr. Moore, "specifically mention support for the people involved in the Watergate?"

Mr. MITCHELL. Well, this was the general tenor of the subject matter; yes.

The subject matter may have been in his mind and that may have been the tenor or what he was thinking, but he didn't say that I said it and I didn't say it.

Senator WEICKER. Mr. Moore, so that I am not unfair to you, I want to reemphasize, and I will forward this to your counsel, that in the afternoon session, Mr. Dash, in essence, reiterated this question to Mr. Mitchell. Mr. Dash said:

Mr. Mitchell, did Mr. Richard Moore sometime in February come to see you in New York for the purpose of asking you to participate to try to raise some funds for the legal defense of the defendants?

Mr. MITCHELL. Mr. Richard Moore came to New York on February 15 and, as I recall, we had lunch to discuss a number of items concerning the forthcoming hearings of this committee, and I believe, if my memory serves me right that it was a casual reference to the thought that some people thought I might be interested in that subject matter and, as I recall, I had a very strong resentment of the concept that was disposed of in one or two sentences.

Mr. DASH. Now the subject matter, again of casual reference, was seeking whether you would be interested in raising funds for the legal defense of the defendants?

Mr. MITCHELL. That is correct. But that was not the prime basis of the discussion.

Mr. MOORE. Well, again, I would like to look at that, because it strikes me that the words were Mr. Dash's words, rather than Mr. Mitchell's. Would you let me finish. I would like to go back.

He said this was the tenor of the subject matter. Now, Mr. Mitchell has testified that he was approached before by Mr. Dean about it and had kept turning it down. And the tenor of the subject matter was his. He did not say I used any such words.

Senator WEICKER. Mr. Moore, let me make myself very clear. I am only asking you. I am not believing or disbelieving Mr. Mitchell's version. I am asking you to tell me whether or not Mr. Mitchell's version, which is very clear between these two pieces of testimony, is correct or incorrect. That is all I am asking you.

Mr. MOORE. It is incorrect.

Senator WEICKER. It is incorrect?

Mr. MOORE. It is incorrect, but you also asked me for my comment.

Senator WEICKER. Please go right ahead.

Mr. MOORE. My comment is, going back now, did Mr. Mitchell specifically mention support for the people? Well, that was the general tenor. "Or at least, I understood when he talked about raising funds that that is what they were talking about."

You have there a surmise by Mr. Mitchell months later that when I spoke about money, he thought that is what they were talking about down in California. What I did say to him was that I didn't know what this was about, but there was a suggestion that he be nominated to be a fundraiser. And since he apparently had been nominated, according to Mr. Dean's testimony, at least, two or three times before, he made his own construction and interpretation. But there is no statement by Mr. Mitchell that I ever made any reference to raising money for the defendants.

Senator WEICKER. Would you care to go ahead and comment on his second piece of testimony?

Mr. MOORE. I would like to look at that.

Well, Senator Weicker, you are quoting Mr. Dash, not Mr. Mitchell.

Senator WEICKER. I am quoting Mr. Mitchell. He is responding to Mr. Dash's question, Mr. Moore.

Mr. MOORE. It is the very same thing. Mr. Dash—these are Mr. Dash's words: "Now, the subject matter, again of casual reference, was seeking whether you would be interested in raising funds for the legal defense of the defendants." The words, "raising funds for the legal defense of the defendants" are Mr. Dash's words.

Senator WEICKER. This is Mr. Dash's question.

Mr. DASH. But what is Mr. Mitchell's response?

Mr. MOORE. "That is correct."

Senator WEICKER. I can't think of anything——

Mr. MOORE. It is already clear that this subject matter, which has been also in the other testimony is in Mr. Mitchell's mind, or as he said before, "or at least I understood when he talked about raising funds that that is what they were talking about."

The subject matter was in his mind based, and Mr. Mitchell never once said that I referred to raising funds for the defendant. But he thought that that is what the purpose was and whether or not it was, I can't say. But it is clear that I never used the words, he never said I used the words.

Senator WEICKER. Why did you say a few moments ago there that Mr. Mitchell was incorrect?

Mr. MOORE. Well, you pressed me on that. The question you gave me was, would I comment? Then you interrupted my comment. He was correct—well, it is correct, I assume, that that is what Mr. Mitchell said. I was trying to make my comment and I am not sure what you meant when you said correct. Correct that he thought it was, yes. I am sure it was correct on what he thought. But you know perfectly well I did not say "correct" meaning that I had used those words. The fact is that it is correct that he——

Senator WEICKER. I am trying to give you an opportunity to respond to testimony of another witness, which certainly I do not think puts you in a good light.

Mr. MOORE. I understand that, sir. And the testimony of the other witness never once said that I used the words that have been attributed to me.

Senator WEICKER. You do not feel the testimony of Mr. Mitchell indicates that when you requested money of him, it was for a defense fund rather than for the Committee To Re-Elect the President?

Mr. MOORE. I understand it suggests that that is what interpretation he placed upon it. It does not suggest that I said it. And I did not.

Now, we have this evidence that this matter of trying to enroll Mr. Mitchell as a fundraiser had been broached before. And when I said to him, and I used the words, as I recall, I do not know what this is about, but you have been invited to become a fundraiser if some more money is needed.

If Mr. Dean's testimony is correct, that this was the second or third time he had been pressed to raise money for, as it happens, for the defendants, that he apparently interpreted my comment just that way and so testified. But when asked whether I said it, he did not say that I said it. And I did not state it that way and as I said, if I did, if I thought that out of that meeting came an unlawful situation, I would not have been there.

Senator WEICKER. What was your understanding as you left La Costa and went to Mr. Mitchell as to what the basis for your request of Mr. Mitchell was? Just to beef up the Committee To Re-Elect the President?

Mr. MOORE. I did not analyze it, sir, and I should have, obviously.

Senator WEICKER. You left La Costa with a specific request to ask for money of Mr. Mitchell. Now, clearly, as an intelligent human being, you would have asked for some basis for that request.

Mr. MOORE. Yes. The more I got into that, the more I would have been in a fundraising position. I knew the outcome, Senator. I know John Mitchell well. I have carried requests from Mr. Ehrlichman to him before and Mr. Haldeman. And I just, to me, this was an area at the discussion on the second day that had nothing to do with me, had nothing to do with the kind of subject matter that I am expected to be helpful on, and I was not interested in going up and giving Mr. Mitchell a pinch or putting the arm on him to raise money or anything like that purpose. I did not know what the situation was over there. They seemed to have a lot of funds for whatever purpose.

Senator WEICKER. Stop right there, Mr. Moore. Not for whatever purpose. What was the purpose? What was the purpose that you requested him to raise money for?

Mr. MOORE. I never knew precisely. I did not ask him. I did not know.

Senator WEICKER. You just asked him, you were supposed to raise money.

Mr. MOORE. Yes, as I testified.

Senator WEICKER. That is all?

Mr. MOORE. What I said was, "I do not think—I think I know what your answer to this will be but you have been invited to raise some more money and you have been invited to be a fundraiser," and I got a short answer.

Senator WEICKER. Of course, Mr. Mitchell has already testified there was plenty of money for the Committee To Re-Elect the President, is that correct?

Mr. MOORE. Yes.

Senator WEICKER. Did he discuss, did he say, that to you when you were there?

Mr. MOORE. No. What he said in effect to me at that point, it was about the third of a series, as I remember, of things that I put to him which I knew he would not have any interest in but just about, the words like "tell them to drop dead," or "get lost."

Senator WEICKER. All right.

Just as we wind up here, the fact is that starting in June of 1972, and through October of 1972, relative to the Segretti matter and then in the La Costa meetings in February, and the subsequent meeting with John Mitchell, let me ask you one question, you make the statement in your prepared statement you say on page 11, "I had a somewhat blunt reply such as 'thank you very much, I am indeed interested and, as you know, I may be a star witness.'"

What did he mean by that?

Mr. MOORE. Oh, I think what he meant was, Senator Weicker, he did it with a smile and a rather sarcastic "thank those young men out there, don't they know," and he stopped after that, "that I have a very definite interest"—he was asked to become more interested in the hearings and he said "don't they know I am quite interested and doesn't it occur to them that I am interested to the point where I may come up as a star witness," something like that.

Senator WEICKER. What was the basis for that comment?

Mr. MOORE. I think he knew by that time in the investigation of the activities of the campaign he directed would involve him as a witness.

Senator WEICKER. Did you assume that, too?

Mr. MOORE. Certainly.

Senator WEICKER. And this is when, on February 15?

Mr. MOORE. Yes.

Senator WEICKER. February.

Mr. MOORE. February 15.

Senator WEICKER. And then comes your series of meetings with John Dean in March and, as I gather it, and it was a little uncertain from your prepared statement, you start off "On March 19 or possibly before, we met later that day, the President told me E. Howard Hunt was demanding a large amount of money," et cetera. Later on you say this revelation was the culmination of several other guarded comments Mr. Dean had made to me in the immediately preceding day," so I imagine that means before March 19, and then later on you indicate "Mr. Dean had also mentioned to me that earlier activities," and I did not have this in the copy you gave to me but I rather think you read it in "in these days in March," is that written into your copy?

Mr. MOORE. Let me look at that copy, I missed that, too.

Senator WEICKER. So in any event, we can say that relative to campaigning activity that was best not be made public either before or after the election of 1972, you had knowledge that, in effect, started back in June with only press warnings of a break-in but running rather consistently through up until the 19th or 20th of March. And mind you, my comment is not, I did not say Watergate, I said campaign activity, which was best not known by the American people, either before or after the election, that you had a running knowledge of this commencing in June of 1972.

Mr. MOORE. The only knowledge—you speak of running knowledge, Senator Weicker—the only knowledge I had, and it did not run very long, was that Mr. Chapin and then I subsequently learned that Mr.

Strachan had indeed engaged and launched Mr. Segretti, that I wanted to make it public, that I drafted, and Mr. Dean wanted to make it public, Mr. Chapin wanted to make it public, and it did not get made public, it should have, and I—look, a lot of things obviously should have been done that would have been right and better but this is one of them. I think that—but, in terms of perspective—well, yes, I am sorry that I did not push harder to get that out, that is right.

Senator WEICKER. Do you think that you had any better position than John Dean in giving to John Dean the advice that he should go to the President and tell the President anything?

Mr. MOORE. Well, you say better—the only knowledge I had, and that was a statement second-hand, his statement about the blackmail of the demands of Mr. Hunt.

Senator WEICKER. I am trying to deal with only your own personal experience.

Mr. MOORE. Yes. I—the man, it appears, 200 and some pages and more of it, who had the most knowledge—well, no, I think, I don't know who had the most knowledge. Mr. Dean had knowledge that I didn't have. He had facts that he could give the President I could not give him. I encouraged him to do it with the President. As I say I thought he was receptive, it is true he reached the point where he should, but he can do it and I could not. All I could have told the President was "Dean said this to me and I think you ought to call him in and find out what he is talking about." He went in himself and if he hadn't I don't know where I would have gone in.

Senator WEICKER. You could have told the President lots of things you told me right now; right?

Mr. MOORE. Well, yes, sir. I take it you mean when you say a lot of things——

Senator WEICKER. On the one hand——

Mr. MOORE. The Segretti matter.

Senator WEICKER. Mr. Dean who you consider to be the fount of all the best knowledge relative to all the irregularities.

Mr. MOORE. Well, I shouldn't—as I said, I retracted that immediately, that is a conclusion that is unfair all around. I don't know, I can't say who had the most knowledge.

Senator WEICKER. You felt he had such knowledge that certainly it should be transmitted to the President?

Mr. MOORE. Yes; and it was.

Senator WEICKER. Over here we have the general knowledge which the chairman referred to which is newspaper knowledge down at this end of the scale here.

Mr. MOORE. Yes.

Senator WEICKER. OK. Where do you place yourself in this spectrum as to knowledge, firsthand knowledge, not hearsay knowledge?

Mr. MOORE. The only——

Senator WEICKER. Better than the newspapers?

Mr. MOORE. Apparently in some cases not, the way it turned out. But the only area that I had knowledge was in, of that kind, was that knowledge involving the hiring of Segretti and the arrangement that Mr. Kalmbach—was made with Mr. Kalmbach to compensate him, and then in March or, if you will, February, and I look right now, of course, looking back I should have thought about that money matter.

If it had come up in a more important way or under different circumstances but in any event——

Senator WEICKER. Which money matter?

Mr. MOORE. This matter we discussed.

Senator WEICKER. The money matter with Mr. Segretti?

Mr. MOORE. Yes. It was in March when my suspicions began to get confirmed with much—with the help of Mr. Dean who gradually dropped the thing here or there and all I can say is that I became part of the, which I would call the, main, if you will, Watergate area of investigating or coping with this hearing February 9, preoccupied in the Gray hearing but in March, I don't know who, I don't know anybody who, got there earlier than I did.

Senator WEICKER. In other words, did you feel—well, Mr. Dean did?

Mr. MOORE. Well, I don't know anybody who joined with Mr. Dean, whether I encouraged him, which is what I say, or whether initiated or whether he was ready to go and he asked me and I gave him encouragement is immaterial. By that time I helped at least, but in a minimum way, to accomplish the fact that the man who did have this knowledge did go to the President and, in my opinion, from everything I know, for the first time tell the President of the United States things that were going on which the President didn't know and which changed the whole situation and put the President in a position of moving.

Senator WEICKER. And certainly, though—or let me ask you the question. Would it have been helpful for the President if you too, had at that time rather than waiting until April, had gone and talked to the President?

Mr. MOORE. Yes, sir, admittedly.

Senator WEICKER. I have no further questions, Mr. Chairman.

Senator ERVIN. In a minute the committee will take a recess until Monday but I would like to ask my last questions of Mr. Moore. Mr. Moore, how often did Ron Ziegler have press conferences?

Mr. MOORE. How often, Mr. Chairman?

Senator ERVIN. During this time, how often did Ron Ziegler, the President's press secretary, hold news conferences?

Mr. MOORE. Well, in the early years of the administration he used to hold them almost daily. He now shares that with his deputy and I do not know how often he holds them.

Senator ERVIN. How often were news conferences held on an average between June 17, 1972, and March 21, 1973?

Mr. MOORE. By either Mr. Ziegler or his deputy, every day.

Senator ERVIN. Every day?

Mr. MOORE. Just about.

Senator ERVIN. And virtually every day or rather any time any of the charges were made by the news media about irregularities in connection with the campaign or the action of the committees there was a denial by Mr. Ziegler or his deputy?

Mr. MOORE. Well, yes, in general, yes.

Senator ERVIN. Don't you agree with me that it would indicate that some members of the White House staff were getting knowledge of what these charges were from the news media?

Mr. MOORE. I am not sure I understand that question.

Senator ERVIN. Well, if Mr. Ziegler denied the charges, he had to find out what the charges were to know how to deny them, did he not? That is my point. In other words, Mr. Ziegler or his deputy would not have been denying charges made by the news media unless they knew what the charges were.

Mr. MOORE. Well, Mr. Ziegler, in answering questions, can only respond to what he was asked.

Senator ERVIN. Yes.

Mr. MOORE. And is that what you mean? Yes, he was responding.

Senator ERVIN. A man can't deny a charge unless he knows what the charge is.

Mr. MOORE. That is a sound principle.

Senator ERVIN. That would indicate that somebody, Mr. Ziegler and perhaps some other White House aides, were receiving information from the news media about the charges of irregularities in the campaign.

Mr. MOORE. Sure. We did read the newspapers, Mr. Chairman.

Senator ERVIN. Mr. Moore, you have been very patient. I hate to bring you back Monday, but I think it wouldn't be very fair to you or the other members of the committee who have to interrogate you to continue this. It has been a long day and I presume it won't inconvenience you too much to come back Monday.

Mr. MOORE. Mr. Chairman, of course, I shall be here.

Senator ERVIN. At 10 o'clock in the morning.

Mr. MOORE. At the additional session, and I want to thank you for the courtesy of the members and the staff and I shall be here Monday.

Senator ERVIN. I want to thank you now for the extreme patience shown during your entire interrogation.

Mr. MOORE. Thank you, Senator.

[Whereupon, at 5:25 p.m., the committee recessed, to reconvene at 10 a.m., Monday, July 16, 1973.]

MONDAY, JULY 16, 1973

U.S. SENATE,
SELECT COMMITTEE ON
PRESIDENTIAL CAMPAIGN ACTIVITIES,
Washington, D.C.

The Select Committee met, pursuant to recess, at 10:05 a.m., in room 318, Russell Senate Office Building, Senator Sam J. Ervin, Jr. (chairman), presiding.

Present: Senators Ervin, Talmadge, Inouye, Montoya, Baker, Gurney, and Weicker.

Also present: Samuel Dash, chief counsel and staff director; Fred D. Thompson, minority counsel; Rufus L. Edmisten, deputy chief counsel; Arthur S. Miller, chief consultant; Jed Johnson, consultant; David M. Dorsen, James Hamilton, and Terry F. Lenzner, assistant chief counsels; R. Phillip Haire, Marc Lackritz, William T. Mayton; Ronald D. Rotunda, and Barry Schochet, assistant majority counsels; Eugene Boyce, hearings record counsel; Donald G. Sanders, deputy minority counsel; Howard S. Liebengood, H. William Shure, and Robert Silverstein, assistant minority counsels; Pauline O. Dement, research assistant; Eiler Ravnholt, office of Senator Inouye; Robert Baca, office of Senator Montoya; Ron McMahan, assistant to Senator Baker; A Searle Field, assistant to Senator Weicker; Michael Flanigan, assistant publications clerk.

Senator ERVIN. The committee will come to order.

Some have asked what the power and objectives of the Senate Select Committee on Presidential Campaign Activities are. I have never found a finer statement in respect to the desirability and the aim and necessity of congressional investigations than that made by Richard M. Nixon in relation to his activities as a Congressman holding membership on the Un-American Activities Committee of the House, with particular reference to the investigation into the Hiss-Whittaker Chambers affair. This statement appears in the chapter entitled "Politics With Honor" in his "Six Crises," and I will read it:

> Despite its vulnerabilities, I strongly believe that the Committee serves several necessary and vital purposes. Woodrow Wilson once said that Congressional investigating committees have three legitimate functions: First, to investigate for the purpose of determining what laws should be enacted. Second, to serve as a watchdog on the actions of the Executive Branch of the Government exposing inefficiency and corruption. Third, and in Wilson's view, probably most important, to inform the public of great national and international issues.
>
> I had served on the Committee long enough to realize that Congressional investigations of Communist activities were essential to further all these purposes. I knew that if the Committee failed to follow through on the Hiss case the effectiveness of all Congressional investigations and particularly those in the field of Communist activities might be impaired for years but more important by far than the fate of the Committee the national interest required that this investigation go forward. If Chambers were telling the truth this meant that the Communists had been able to enlist the active support of men like Alger Hiss in education, background and intelligence among the very best the Nation could

produce. If this were the case then surely the country should be informed and Congress should determine what legislative action might be taken to deal with the problems.

This is the end of the quotation.

I would like to add that I consider the investigation being conducted by this committee most crucial to the welfare of the Nation. The committee, in short, is investigating allegations that men exercising great financial power, great political power, and great governmental power have impaired, if not destroyed, the integrity of the process by which Presidents of the United States are nominated and elected. I do not know anything in which the country could have a greater interest than anything which requires Congress to determine whether or not such conditions existed and whether legislation is necessary to prevent their recurrence at some future date.

Does any member of the committee have statements they would like to make at this time on this subject or any other? If not, the Chair will recognize Senator Montoya.

Senator MONTOYA. Thank you, Mr. Chairman.

Mr. Moore, you have been testifying for some time before this committee and I will try to confine my questions to the areas which I believe you might throw some light on the affair. You have had time to reflect over some of the statements which you have made, and over the lack of recollection that you have manifested with respect to some of the items contained in the questions asked of you.

One of the important questions asked of you deals with the La Costa meeting in California on February 10 and 11 where for 2 days you met with Mr. Ehrlichman, Mr. Haldeman, and Mr. Dean trying to develop some kind of strategy with respect to the Watergate affair, perhaps other situations.

It has been testified to before this committee by Mr. Dean, and I refer to page 167 of his statement as follows:

Mr. DEAN. I said as far as I was concerned, that they would have to take this up with Mitchell, that is fundraising, in that Mitchell felt it was a matter for the White House. At this point Ehrlichman told Mr. Moore, who was hearing all this for the first time, that he, Moore, should go to Mitchell and simply lay it out that it was Mitchell's responsibility to raise the necessary funds for these men. It had been decided at the outset of the first day of the meetings that Moore would go to New York and report to Mitchell on what had been resolved regarding dealing with the Senate hearings and now Ehrlichman was telling Moore that an important element of his visit with Mitchell would be for him to get Mitchell to raise the necessary future funds for the seven Watergate defendants.

Then quoting from Mr. Mitchell's testimony at page 3777 of the transcript, in answer to a question propounded by Mr. Thompson, minority counsel, he said as follows or perhaps I should quote the question from the transcript:

Mr. THOMPSON. Let me ask you to recall as specifically as you can exactly what he said to you concerning money.

Mr. MITCHELL. Well, I do not know as I can remember the specific phrase but there is one thought that sticks in my mind which may or may not be the exact words but it was something to the effect "You would not be interested in helping raise money in connection with these activities, would you?" It was more of a question than was a plea, and my answer to that was negative.

Mr. THOMPSON. What activities?

Mr. MITCHELL. The activities of the payment for the support and the legal fees of the people that were involved in the Watergate.

Mr. THOMPSON. Did he specifically mention support for the people involved in the Watergate?

Mr. MITCHELL. Well, this was the general tenor of the subject matter, yes.

Mr. THOMPSON. Did you have any talk about——

Mr. MITCHELL. Or at least I understand when he talked about raising funds that this is what they were talking about.

Mr. THOMPSON. That is the way you received it from your end of the conversation?

Mr. MITCHELL. Yes, sir.

Mr. THOMPSON. Did you also discuss the Committee To Re-Elect, how the Committee To Re-Elect was going to function from then on?

Mr. MITCHELL. Yes.

Now, in view of the two statements which have been made with great clarity that your mission in New York was to try to get money for these defendants, in view of the fact that these people have presented their testimony almost exactly, would you want to change yours?

TESTIMONY OF RICHARD A. MOORE—Resumed

Mr. MOORE. No, sir. But first that is quite a long question, Senator, and could I have the page reference that you read from so I can have it.

Senator MONTOYA. Yes, from Mr. Mitchell it was page 3777 of the transcript, and the statement by Mr. Dean was on page 167 of his statement as presented to this committee.

Mr. MOORE. We don't have the Mitchell testimony, if it is possible for me to have it.

Senator MONTOYA. I will be glad to furnish you my copy.

Mr. MOORE. While we are waiting, I would like to say very firmly as I said yesterday, if you will read the Mitchell testimony carefully, you will find that he never once said that I ever used the word "money" for these defendants or anything like that. It was clearly a case of his having said that I came in and had a question about, he didn't use the word, his words were these activities, according to him, you have heard my testimony that I said "John, I don't know what this is quite about but it seems you have been nominated to be a fundraiser. There may be a need for money coming up", and he said "Get lost" or something like that, or "Tell them to get lost."

Senator MONTOYA. How could you tell him that you did not know what that was all about when you had spent 2 days at La Costa, Calif., with Mr. Ehrlichman, Mr. Haldeman, and Mr. Dean talking about these things?

Mr. MOORE. I did not, as I have testified, know the nature, and I don't know that it has been established to this day, what the purpose of that money was. All I did is, I think I made it plain, I was—that was one more case of trying to pass the fundraising job to somebody else and anybody who has been in politics knows that finding a finance chairman is the hardest thing in the world, getting people to raise money is difficult. I knew John Mitchell had no interest in raising money, I knew him that well. I wasn't going to get into a discussion why I should give him a sales pitch on becoming a fundraiser. I brushed it off and he testified, it seemed to me, he said it in a sentence or two, it wasn't exactly a question, in other words, I didn't even ask him, what I said was, "I think I know the answer to this," but I asked and that is all. So the testimony—and also in La Costa you will find that the testimony that relates to this is clearly an expression of opinion by Mr. Dean, not an expression of what was said in the meeting.

Senator MONTOYA. You knew there was a balance in the finances in the Committee To Re-Elect the President at that time, did you not?

Mr. MOORE. I think I must have known. I don't know, I didn't have any direct information but it was a well-known fact, I think.

Senator MONTOYA. What did you conceive your mission to be—to tell Mr. Mitchell to raise some finances if you did not have the details?

Mr. MOORE. Well, I didn't know and, as I said, I didn't want to get into it. I didn't want to get into this position of persuading John Mitchell to be a fundraising—I had enough to ask him. I want to repeat, Senator, I had a lot of things to ask him to do and this was the least as far as I was concerned.

Senator MONTOYA. As a lawyer, Mr. Moore, didn't it arouse your curiosity you were going to ask a big man like Mr. Mitchell to raise some funds and you did not tell him what they were for?

Mr. MOORE. It seemed to me that as I best recall it, I was not thinking so much as what for as a factor—I wasn't going to make anything of requesting him to do this. If I were to try to think of what it might have been, and I don't think I did, at the time, I don't think I went into it, you had all kinds of lawsuits, you had individual defendants, you have seven individual defendants who were also criminal defendants, you had plaintiff suits by individuals, and what—there were a lot of funds through there and I was never part of any aspects of the fundraising business and never interested in getting into it and whatever funds we used, I don't know what committee funds to this day, they used to defray the cost, for instance, of Mr. Stans' personal lawsuit, I don't know, I didn't ask. I don't know what it was and I didn't go into it.

Senator MONTOYA. You didn't discuss these things with Mr. Mitchell?

Mr. MOORE. No, sir.

Senator MONTOYA. Well, as a lawyer, Mr. Moore, with a great deal of experience, and can you conceive of any person going to see another person and asking that person, "To please raise some money, I can't tell you what it is for."

Mr. MOORE. Well, I can conceive of it because it is exactly what happened.

Senator MONTOYA. Can you conceive that kind of a situation?

Mr. MOORE. I certainly can, because that is what happened, Senator. And the point is, that I have been trying to make for 2 days when this comes up, is that this was on the second day, a two-, or three-, or four-sentence exchange where one more little buckpassing assignment was given to me that I had no interest in pursuing and knew that the recipient of the suggestion would have no interest in it, and I simply tucked it away as one thing I would do in the minimum manner as that is exactly what I did. And Mr. Mitchell's testimony confirms that that is what I did.

Senator MONTOYA. Would this be one of the reasons why you can't remember so well, Mr. Moore, that if you would admit that you did ask Mr. Mitchell to try to get this funding for the silencing of the defendants and for the representation of the defendants, that you now would be involved in the coverup?

Mr. MOORE. No, sir. That is not true.

Senator MONTOYA. If you had, would you not be involved now?

Mr. MOORE. Well, first of all, you are asking a hypothetical question. And you are asking a hypothetical question that goes to the ultimate stage of the purpose as being an illegal purpose. If that had been the purpose and if I had known it to be the purpose and if I had then done what you just suggested, then I would like to point out I, perhaps, would not have been so anixous—first of all, it is not so. And I perhaps would not have been so eager to urge John Dean to go in and tell the President everything that had been happening, including, presumably, this, which would have involved me had this been the case. And of course, I perhaps might have been here asking immunity, which I have never asked or suggested.

Senator MONTOYA. Then, Mr. Moore, let me ask you the question another way.

Mr. MOORE. All right.

Senator MONTOYA. Because of your possible feeling and belief that you might become involved, is this one of the reasons why you hesitated to confront Mr. Mitchell with more specificity with respect to the fundraising?

Mr. MOORE. The reasons—first of all, you have assumed a fear there which I did not have. Second, the reasons why I confronted Mr. Mitchell as I did was exactly what I stated and it is exactly the way I put it on these other things that I asked him that I knew he would have no interest in doing.

Senator MONTOYA. How could Mr. Mitchell, a very intelligent man, as well as Mr. Dean, testify that your mission there was to get money for the defendants?

Mr. MOORE. Well, Mr. Mitchell's testimony was, that was the conclusion he drew, that he had been, had had this request at least twice before, two or three times before. Now, I can see how, if the Metropolitan Life Insurance Co. has been sending a man in to see me two or three times and the third day a man comes in from the Metropolitan Life Insurance Co. and I said to him, just said hello, and I am busy; and somebody said, what was he there for? Your answer would be, he was here to sell me life insurance. The answer could have been that you were there for the American Red Cross, trying to get a donation. But the answer that this man was there for this purpose would be interpreted—I might have been an innocent conveyor.

We are also assuming, and I want to make it clear that this was this arrangement, which allegedly was illegal and might have been, I am not saying. But a man is charged with this, and it has been suggested, and I am not assuming anything that is contrary to the presumption of innocence of anybody in that room or anybody at all. So we are talking of substance here.

The answer is in my opinion, and this is what we talked about a number of times, that is, the double hazard of one saying something and the other person having a different frame of reference and interpreting it differently.

Senator MONTOYA. I can readily understand, Mr. Moore that occurring between two persons, but not when the same subject matter has been dealt with by three persons—in this case, Mr. Dean, Mr. Mitchell, and yourself. And they seemed to fortify each other's testimony in this regard and you seem to have a feeling that you did not discuss with specificity the particular mission that you had in mind when you went to visit Mr. Mitchell.

Mr. MOORE. Well, Senator Montoya, going back to your—I didn't quite—your previous question, where you made certain assumptions. If there were a conspiracy and so forth, it is entirely possible that I would have handled a little better being asked to relay this message, being put in this position. But you are speaking of three persons. It is entirely possible that Mr. Mitchell with his knowledge—you will note, in Mr. Dean's testimony, he said, Mr. Moore—and I was summoned the night before, at least—was hearing all this for the first time. And to take the leap which has not yet been established, but assume at the moment that I was sitting in the room and two of the men at the highest level of the greatest Nation in the world, that they were talking about an illegal objective on the second day in a 2-day meeting, with a three-sentence or four-sentence conversation, that this was—I was not, apparently, mentally prepared to take the leap to assume that here on this visit to the President's Western White House, with his two closest top-level advisers, that they were talking in this offhand way about something that was illegal.

All I knew was that time and again in my days at the Justice Department, I was asked to intervene to persuade John Mitchell to do something that he didn't want to do, whether it was to make a speech or hold a press conference or that kind of thing. And here I was in that role again—would you, Dick, go on up? And he didn't relish it. He didn't like to be programed by Mr.—he respects them, but he didn't like to be programed by Mr. Ehrlichman and Mr. Haldeman. And in that kind of context. I said, "I am not going to pursue this with John Mitchell. I will mention it and I know what his answer is going to be." That is what happened.

Senator MONTOYA. Mr. Moore, I want you to understand clearly that I don't want to attribute to you any dishonest motives whatsoever.

Mr. MOORE. Thank you.

Senator MONTOYA. I am just trying to probe your mind and ask you to tell me whether you were doing this for the reasons that I have ascribed.

Mr. MOORE. No. No, Senator, I think that I will say in closing that whatever—of course, whatever conversations that had taken place that were background of this—remember, I was a new boy. If there were such a thing as this conspiracy, I hadn't been initiated. I hadn't been given the pin and the instructions. I didn't know anything. I arrived at midnight the night before and met on this subject, that was kind of the first time. If there had been any such motive, there were plenty of times, plenty of opportunities with those who did know to discuss the kind of thing that Mr. Dean has testified to which, if anything was said like that, it wasn't in my presence, as I recall. But it is possible that things could have been said that went over my head, but I don't think so.

Senator MONTOYA. Well, you have or had at that time great admiration for John Mitchell and I presume you do still, do you know?

Mr. MOORE. He is my good friend.

Senator MONTOYA. And you worked under John Mitchell?

Mr. MOORE. Yes.

Senator MONTOYA. And you had great admiration for John Dean and he had great admiration for you.

Mr. MOORE. Right.

Senator MONTOYA. He so expressed it in this committee.

Now, if he said certain things, would you say he said them because he believed them to be true?

Mr. MOORE. Yes.

Senator MONTOYA. And would you say the same thing about Mitchell? If he said certain things, he said them because he believed them to be true?

Mr. MOORE. I worked for a year for him. I never knew him to tell me an untruth.

Now, I do want to say, Senator, when you speak of truth, it is entirely possible—in fact, there is an old aphorism, kind of a corollary to Ervin's law, that when two people tell exactly the same story, you know one of them is lying, and probably both. Judge Stewart of Ohio used to tell young lawyers that.

Senator MONTOYA. I understand that, Mr. Moore. I just want to put this thing in proper focus so that the testimony of the two can stand against your version of what took place.

Now, let us go into another matter. You indicated here that you and Mr. Dean had discussed different phases of Watergate prior to the time that Mr. Dean was counseled by you to go in to see the President and tell it like it was.

Now, would you relate the dates more or less of those conversations with Mr. Dean and what you discussed serially with him with respect to the involvement in Watergate?

Mr. MOORE. Well, I am not sure I can discuss them in sequence, because it did not flow that way, but I will make an effort.

Senator MONTOYA. Well, I believe you had a meeting on March 14 with Mr. Dean when he told you about Mr. Hunt demanding a lot of money. Do you recall that?

Mr. MOORE. Sir, I believe that I testified—I believe—that that was either late in the day of March 19 or early in the day of March 20, 1973, that Howard Hunt had told him—that he had learned of this Howard Hunt blackmail thing.

Senator MONTOYA. What day in March?

Mr. MOORE. March 19, late in the day, or early in the day of March 20.

Senator MONTOYA. Did you have another conversation with him on March 20, the next day?

Mr. MOORE. Yes.

Senator MONTOYA. And was it during this conversation that Mr. Dean told you everything about Watergate, or what you conceived to be everything?

Mr. MOORE. No. The thing that he had told me that clarified for the first time in my mind that there was a possible criminal or highly improper activity that might affect the White House was on the 19th, when he first described what I regarded as a really criminal act of a blackmail demand by Howard Hunt in return for, or it was reported that he said that unless he received this money by Wednesday, the 21st, his words were he would say things that would be very rough on the White House or very embarrassing to the White House or would involve the White House. I do not know the precise words, but it was the White House. And where they led, of course, Dean was starting with his knowledge of his presence at those meetings, which he felt

and I felt and he so described as innocent participation, meaning Mr. Mitchell, Mr. Liddy, Mr. Magruder, for example, that the combination now took this into the White House. The thing had been building up. That is when I said, John, the time has come—the President just does not know what is going on. You can go and tell him.

Senator MONTOYA. Was this on the 20th?

Mr. MOORE. The 20th, yes, sir, was the day that I made my talk with him when we left the Oval Office. It was triggered by the final—the advice that he gave me either the night before or possibly that morning.

I have kind of a strong recollection that it was the day before, evening, or the next morning very early. It appears clear now to be the 19th in my mind, that this was the point where this thing might involve, possibly not the President—I did not know—but the fact that it might have involved people in the White House, some new things that apparently, for the first time, I had gotten that it went beyond the committee or employees of the committee or outside people, colleagues, advisers to the committee, fundraisers, that kind of thing, that this was a hard comment to the effect that the White House would be involved and that was it.

Senator MONTOYA. Then, it was on the 21st, the day after, that Mr. Dean went in to see the President and told him everything?

Mr. MOORE. Yes sir. He said he told him everything. That is what he told me.

Senator MONTOYA. Do you believe that he did?

Mr. MOORE. I cannot form a belief on that, Senator, because at that point, there were so many new facts that entered into the equation since it had become known that—first of all, "everything" is a very big word and I do not know what he told him, so I cannot comment.

Senator MONTOYA. Did not the President relate to you that Dean had been in to see him and had told him quite a bit about this affair?

Mr. MOORE. He did when I brought it up. The President did not—you say—the President did not tell me what Dean had told him, either, except to confirm that this blackmail conversation, because I mentioned that to the President and he sparked with, said, Yes, that is what he told me. That is in the record. I testified about that.

Senator MONTOYA. Well, perhaps the President did not tell you everything, but did he tell you enough to indicate to you that Mr. Dean had actually talked to him about this affair?

Mr. MOORE. Oh, yes, in this sense, that he said, "Dean did come in"—let me say—yes, he said Dean did come in. I raised the question, I said, "I noticed the date of March 21 in your statement, Mr. President, you learned of serious new charges," I said "I take it that John Dean told you those." He said, "Oh, did you know about that?" Or something like that and I said, "Yes, I had been talking to him the day before, we had been with you," and I said, "Did he tell you about that blackmail matter involving Howard Hunt?" He said, "Yes," that is the very—he did say that exactly, and that, the rest is all in the record, and yes, sir.

Senator MONTOYA. I think that is enough background for my next question.

You recall the meeting of March 22 when there was a general discussion around the White House that Mr. Dean should act as liaison with the Watergate committee or this committee, to be more exact.

Do you recall any of the conversation that had been taking place at the time?

Mr. MOORE. Senator, did you say a meeting on March 22?

Senator MONTOYA. Well, there were some discussions on or about March 22.

Mr. MOORE. Yes.

Senator MONTOYA. Indicating that Mr. Dean should act as liaison between the White House and this committee.

Mr. MOORE. To the best of my recollection, I first heard that here or read about it. I do not think I was in any discussions on the 22d. The only discussions I remember on the 22d——

Senator MONTOYA. Would you not——

Mr. MOORE [continuing]. Well, if I could continue, there were other meetings going on, indeed as Mr. Dean testified to but I believe that was the day when the news wires in the forenoon announced Senator Byrd and Mr. Patrick Gray had agreed that Mr. Dean had told a lie in a certain situation and I think I was—Ron Ziegler called us and said, "Hey, I am going to get questions on this. Can you come over and talk about it"? Dean came in Ziegler's and mine meetings, there were other meetings going on, if there was a meeting about liaison with the Senate I was not privy to it and it was not in my meeting because I did not know about it.

Senator MONTOYA. But you do know there is testimony before this committee to that effect?

Mr. MOORE. Yes.

Senator MONTOYA. All right.

Now, on March 23, Mr. McCord's letter to Judge Sirica was divulged and read. You recall that incident, do you not?

Mr. MOORE. I do.

Senator MONTOYA. And in that letter Mr. McCord stated that others were involved and that perjury had been committed.

Now, did you get involved in any phase of reaction with respect to this letter?

Mr. MOORE. No, sir; no sir; not that I recall. Whether Ron—there was, of course, conversation all over the building the minute that story broke because it was an important story but I did not recall getting involved in any phase of any reaction to it.

Senator MONTOYA. Were you keeping in touch with Mr. Dean all through this time? Were you seeing him every day and conversing with him about different matters?

Mr. MOORE. Yes. That—yes.

Senator MONTOYA. And, of course, you knew about the President's pronouncements to the press and what Mr. Ziegler would go out and say by way of a press statement in behalf of the President. You were acquainted with all these things, were you not?

Mr. MOORE. When you say acquainted, I did not attend Ziegler press briefings.

Senator MONTOYA. No, but you read about them, did you not?

Mr. MOORE. Yes, like anybody else, some I knew about in advance, matters to be discussed as to what direction he might want to take others I read about the way anybody else would read about it.

Senator MONTOYA. Now then, on March 26 the President, in a press conference through Ziegler stated that he had complete confidence in Mr. Dean. You recall that, do you not?

Mr. MOORE. I do.

Senator MONTOYA. Now, there was a statement in the Washington Post and I will read it to you under date of March 27:

> President Nixon denied today that White House counsel John Dean III, had any prior knowledge of the Watergate bugging, and said he had absolute and total confidence in Dean. The President telephoned Dean this morning from his office in Key Biscayne to discuss a Los Angeles Times report that Dean and former Presidential assistant Jeb Stuart Magruder had advance knowledge of the bugging of Democratic headquarters. Following the conversation White House press secretary Ronald Ziegler flatly denied that Dean had prior knowledge of the bugging. "The President has complete confidence in Mr. Dean and wanted me again here this morning to publicly express President Nixon's absolute and total confidence in Mr. Dean on this regard," Ziegler said.

Do you have any reason to doubt that this statement was made in behalf of the President by Mr. Ziegler?

Mr. MOORE. Well, I have no doubt, you know, that the statement was made. When you say speaking on behalf of the President, that phone call he apparently was mistaken about, but that was a statement made on behalf of the President, yes, sir.

Senator MONTOYA. How could Mr. Ziegler and the President make this statement of full confidence in Mr. Dean when Mr. Dean on December—on March 21 had gone in to see the President and told him all? How could the President make this public statement?

Mr. MOORE. Well, first of all, I cannot speak for the President on this, I do not know. I would just like to clear the record on that statement.

Senator MONTOYA. Is it not incomprehensible that he would?

Mr. MOORE. Well, he did it and he is an intelligent man, the President is and whether here in the middle of what was his own investigation he had his reasons for not revealing publicly suspicions that he held, I do not know. I can only surmise but I also want to point out that statement said Mr. Dean had knowledge of the Watergate break-in and bugging in advance. That is not, that has not been proven and it has been denied, so that just to keep the record straight.

Now——

Senator MONTOYA. Yes, but the point is——

Mr. MOORE. The President——

Senator MONTOYA. The main thrust of this statement was that he had complete confidence in Mr. Dean and Mr. Dean had told him about everything he had done up to the time that he met with the President on March 21.

Mr. MOORE. Well, I cannot speak for the President's motives, I do not know. I trust him. I note that in due course Mr. Dean was asked to resign. Whether this, therefore, was a temporizing part of an investigation, where he was not prepared to acknowledge his total disposition until he had further confirmation, I do not know. Also, as I said, I do not know that Mr. Dean told the President everything. But I am sure the President had a perfectly sound and good reason for at that point in responding to that Los Angeles Times story, which was the story he was responding to in that way and——

Senator MONTOYA. Then, on March 28, according to an article written by Clark Mollenhoff he asked Mr. Ziegler if the President still had confidence in Mr. Dean, and in response Mr. Ziegler told Mr.

Mollenhoff that he would check with the President, and he did check, and then came back and told Mr. Mollenhoff that the President had total and complete confidence in Mr. Dean.

Now, would that not sound kind of odd, the President having expressed on two occasions complete confidence in Mr. Dean when Mr. Dean had leveled with the President about everything on March 21?

Mr. MOORE. Well, at first as I said, I do not know that Mr. Dean told the President everything on March 21, all I know is that he said that; I do not know.

Senator MONTOYA. Didn't you indicate that the President had told you that Mr. Dean had told him everything about this thing?

Mr. MOORE. No, indeed I did not say that and if I did I would like to correct that. He did confirm that he had come in, that he had talked to him, the only thing he confirmed to me that Dean told him was the Howard Hunt blackmail incident. That is all the President told me that Dean had told him, and I must say, sir, that the President chose to make that statement through Mr. Ziegler to Mr. Mollenhoff on March 28, according to that story and I certainly trust Mr. Mollenhoff's reporting. I don't have the facts and I don't think anybody in this room does as to what stage the President's separate investigation was at at that time. It may be that at that very time, the President was searching for confirmation of a decision he later made and was not prepared to alert anyone to the fact that Mr. Dean was under the separate investigation. Now if that was his motive, I think we should have the facts on it.

Senator MONTOYA. Mr. Moore, let me give you the connection that you are trying to loosen here.

Now, on April 17, 1973, the President issued a statement. in fact it was his own, it was the President's remarks, it was part of the President's remarks announcing development of procedures to be followed in connection with the investigation. This is what the President said on that day:

> My second announcement concerns the Watergate case directly. On March 21, as a result of serious charges which came to my attention, some of which were publicly reported, I began intensive new inquiries into this whole matter.

Now, there is the President telling the country that he was told on March 21 of very serious charges, and some of which were publicly reported. Now, would you say that the President had knowledge of these charges at the time that he affirmed his confidence in Mr. Dean and also the time that he reaffirmed his confidence in Mr. Dean, according to Mr. Molenhoff, on March 28?

Mr. MOORE. When you say these charges, sir, when you started to answer—what charges are you referring to?

Senator MONTOYA. I presume the President was referring to the two very things we are talking about.

Mr. MOORE. Serious charges?

Senator MONTOYA. Yes.

Mr. MOORE. I don't know that any one of those serious charges was a self-made charge by Mr. Dean against him. I do not know what those serious charges were. I think that is exactly the point, that the President was at this very time in a process, as he said later, he renewed and intensified his investigation even to these matters and I

don't know what those charges were and I don't think anybody in this room knows yet, and I think we will find out. But at that point the President was not advertising to anyone what, who was a suspect, that is quite proper, who might be involved, and that is quite proper. He said it in general terms and I don't know what those serious charges were.

Senator MONTOYA. Thank you, Mr. Chairman.

Senator ERVIN. Mr. Lenzner.

Mr. LENZNER. Thank you, Mr. Chairman.

Mr. Moore, I told you this morning before we began, and I want to repeat it now, that I promised that I won't go back before 1939 in any questions that I asked, is that agreeable to you, sir?

Mr. MOORE. Yes, I appreciate it because my preparation stopped at 1940, so thank you.

Mr. LENZNER. I wanted to clarify for the record, first, Mr. Moore, on page 3814 when I was asking you some questions about a meeting concerning ITT.

Mr. MOORE. Yes.

Mr. LENZNER. I want to make sure that the record is accurate on that. I am sure I asked you whether that meeting was held in Mr. Ehrlichman's office. The transcript reads Mr. Rohatyn's office and it should read Mr. Ehrlichman's office and I take it that it should read Mr. Ehrlichman's office, to the best of your recollection.

Mr. MOORE. My recollection is very clear that you said Mr. Ehrlichman but I would like to make this comment.

Mr. LENZNER. Yes, sir.

Mr. MOORE. In terms of oral communication how does one leap from the Ehrlichman to the totally unlikely name of Rohatyn? I looked up in the phone books and that is not in any phone book in this area so there is a case of someone who had probably been in that later hearing, a reporter or a typist, who would when you said Ehrlichman, he heard Rohatyn and spelled it right, too.

Mr. LENZNER. He is the next witness, Mr. Moore.

Mr. MOORE. That is quite an example of the twofold hazard of oral communication, but go ahead.

Mr. LENZNER. Well, we will interrogate him next.

I wanted also to clarify one other thing. On June 7 when we did go over——

Mr. MOORE. What date?

Mr. LENZNER. June 7 when we left Mr. Miller's we did go over the dates that I referred to in the law inquiry, and I understand also that you had a meeting with Mr. Silbert at the U.S. attorney's office sometime in May of 1973, is that correct?

Mr. MILLER. Mr. Lenzner, if I may interject at this point again, I don't know, I suppose it goes to one's recollection or either that or your committee reports are inaccurate. That meeting that you have referred to several times when you were interrogating this witness on Thursday of last week, that meeting in my office occurred on the 8th day of June, not the 7th day of June as you continually refer to it and those questions you asked this witness on Thursday about that meeting, that meeting did not take place until the next day. I don't know whether your committee staff report reflects that report or not but that meeting took place on the 8th and not the 7th.

Mr. LENZNER. Well, the interview, the typed interview indicates it was on June 7.

Mr. MILLER. I have in my diary, I have witnesses in my office that that meeting occurred in my office the 8th day of June, if your staff memorandum is incorrect, so be it.

Mr. LENZNER. Well, the point, the only question I am asking now, Mr. Moore——

Mr. MOORE. Before you do, I have here the 10 references in the record where you gave the wrong date, and I would like to offer it with the request that it be corrected and—if one wants them. However, of course, it is my theory that, of the fact Mr. Lenzner, of failing to remember a bare date without some connection and reference is something that can happen to anybody, and I welcome them to the club. It obviously does not affect the substance of what happened at the meeting.

Mr. LENZNER. I understand that.

Mr. MOORE. I am not trying, you know, to press that but it is just a reminder that a day by itself does not always connote something to someone.

Mr. LENZNER. Well, my point now, Mr. Moore, is that we did go over the dates in 1972 that I inquired about, and I also understand you went over those dates at the U.S. attorney's office with someone in May 1973, is that correct?

Mr. MOORE. Well, now, let's see.

Mr. LENZNER. Did you have an interview——

Mr. MILLER. Mr. Lenzner——

Mr. LENZNER. Let me repeat the question, did you have an interview with the U.S. attorney's office in May of this year?

Mr. MOORE. Well, just a moment. No, no.

Mr. LENZNER. When was that interview?

Mr. MOORE. April 30.

Mr. LENZNER. Did you go over some of these dates at that time?

Mr. MILLER. Mr. Chairman, I would like to address an inquiry to the chairman.

Mr. LENZNER. Mr. Chairman, Mr. Miller has a question.

Mr. MILLER. Mr. Chairman, just a question that I would raise. Mr. Lenzner has indicated that he is going to commence to interrogate Mr. Moore about interviews that he has had in the U.S. attorney's office. Of course, Mr. Moore has been there in April, he testified or can testify he gave a full and complete interview to the U.S. attorney's office. On Wednesday of last week he spent most of the day with the special prosecutor and members of his office.

Now, I am perfectly willing, if the committee desires, that you interrogate this man concerning what subject matter the U.S. attorney's office and the special prosecutor went into with respect to what his knowledge was. I query, Mr. Chairman, whether at this stage of the game that this is something that should be considered by the committee; if I were a prosecutor myself I think I would have some reluctance to have individuals within, before my office, then appear before the committee and be interrogated about what they were asked. As I say, it is up to the Chair.

Senator ERVIN. Well, I would say that the general rule is that a witness may be asked what he has stated to any other person for the

purposes of either corroborating a witness or contradicting the witness, and I know of no exception which would excuse a witness from testifying as to what he told the prosecuting attorney.

Mr. MILLER. As I say, Mr. Chairman, I have no hesitancy in letting him answer the question. But he didn't know——

Mr. LENZNER. I am not going to go into——

Senator GURNEY. Mr. Chairman.

Senator ERVIN. Senator Gurney.

Senator GURNEY. May we inquire of counsel what his concern is? I do not think he stated it and I think perhaps the committee ought to know what the concern is.

Mr. MILLER. The only concern I would have, Senator Gurney, is that it is my understanding, perhaps even knowledge, that there are going investigations into violations of the penal laws of the United States, that the questioning or interrogation of witnesses and what they were asked about would permit others who perhaps were under investigation to ascertain the thrust of what the prosecutor was seeking, what areas he was probing into, and generally disclose publicly where his investigation was going. My experience in the past has been that prosecutors are normally reluctant to have this happen for the simple reason that it permits those who are being investigated and are potential defendants from getting a bird's eye view of what the prosecutor's case is. That is the only reason I raise the issue.

I hasten to add that we have no objection if he wants to interrogate these witnesses, because we cooperated fully with all of these various agencies.

Senator GURNEY. What counsel is really saying is it might possibly jeopardize the cause of the prosecution. Is that it?

Mr. MILLER. That would be my concern if I were the prosecutor.

Senator GURNEY. I thought so.

Mr. MILLER. I am not the prosecutor. I am representing Richard Moore.

Senator GURNEY. I wonder, Mr. Chairman, if Mr. Lenzner perhaps could tell the committee the thrust of his questioning, what he has in mind. Then, perhaps we would know whether he needed the evidence or not.

Senator ERVIN. Well, Senator, I would think that the prosecutor has one function under the Constitution and this committee has another and each one can exercise his function independently of the other. And I do not know what the counsel wants to elicit from the witness, but I do not believe that this committee should abdicate its function for fear that the exercise of its constitutional function might impair the capacity of the prosecutor to perform his constitutional function. I think the doctrine of separation of powers clearly requires this view.

Senator GURNEY. I could not agree with the chairman more. I totally subscribe to that. My only—the question that I was raising is that if the testimony is not all that pertinent, do we want to jeopardize a prosecution? I think this committee certainly wants all of the culprits brought to justice and does not want to interfere with that process. That is the only reason I was raising the question.

Mr. LENZNER. The only question I have, Mr. Moore, is on April 30, did you go over with the U.S. attorney's office dates in 1972 of meetings?

Mr. MOORE. Well, would you mind, when you say—I had quite a few meetings in 1972. Would you identify them?

Mr. LENZNER. Generally, did they ask you questions about meetings in 1972? That is all I am asking.

Mr. MOORE. Yes.

Mr. LENZNER. I also hope you understood that when we reviewed some of those same meetings here last week, I was only intending to probe your recollection in view of the fact that you did remember meetings and incidents that did happen and some incidents that did not happen so clearly. I was trying to exercise a purpose of determining how vivid your recollection was on other meetings. I did not intend in any way to embarrass you in front of the Nation. You understand that.

Mr. MOORE. I did not feel the least bit embarrassed, Mr. Lenzner. The only problem that I had was that the subject matter appeared to be extraneous—you know, the Dita Beard business and so forth—and I had a hard time connecting your question about a White House investigation with this episode.

Mr. LENZNER. I understand.

Let me ask you, Mr. Moore, in this context, when you prepared your statement last week, did you recollect at that time your conversation with the President on April 19?

Mr. MOORE. When I prepared my statement?

Mr. LENZNER. Yes, sir.

Mr. MOORE. Yes. Yes; I made reference to the meeting.

Mr. LENZNER. Does your statement reflect your conversation with the President concerning Mr. Ehrlichman's involvement with Mr. Ellsberg and also the possible criminal liability of Mr. Haldeman? Did your statement mention that at all?

Mr. MOORE. My statement?

Mr. LENZNER. Your statement that you read to this committee last week, sir. Does that reflect your meeting of April 19 that I just described?

Mr. MOORE. I am not sure. Let me be sure I have what the question is.

Mr. LENZNER. The question is, does the statement that you prepared include that meeting on April 19 with the President?

Mr. MOORE. Well, yes.

Mr. LENZNER. Could you point out the specific reference to it?

Mr. MOORE [reading]. "At no time during this meeting or during succeeding meetings"——

Mr. LENZNER. Will you state what page you are on?

Mr. MOORE. Page 13. [Continues reading.] "Or during succeeding meetings on March 15, March 19 and 20, all of which were attended only by the President, Mr. Dean, and myself, did anyone say anything in my presence which related to or suggested the existence of any coverup or any knowledge or involvement by anyone in the White House then, now, or in the Watergate affair."

Mr. LENZNER. Mr. Moore, I am asking you about your meeting on April 19 with the President, where you discussed Ellsberg, Ehrlichman and——

Mr. MOORE. I have March 19. You are talking about April 19?

Mr. LENZNER. Yes, sir.

Mr. MOORE. And the question is, is it in this statement?

Mr. LENZNER. Is it reflected anywhere in your statement? And if it is not, can you explain why——

Mr. MOORE. No, sir.

Mr. LENZNER. Why was that left out?

Mr. MOORE. It was the two 19ths. We are talking about April 19 and I was thinking of March 19.

Mr. LENZNER. The April 19 meeting is not referred to. Can you explain why you did not include that in your opening statement?

Mr. MOORE. Well, a lot of things—yes, if you will look at the portion where I speak of the time frame where I thought I had evidence that would relate to what I thought was the basic subject, the meetings which I attended with Mr. Dean and the President. And I took the time frame of February 6 as the start of my acquaintance with the subject up to and including, I said, March 21, the date that the President first learned of the possibilities or facts that he referred to in his later statement. I had, as you know, a lot of things that are not included here. I indicated that I would be glad to go into any and all subjects. But this was the heart of what I thought I should provide and so stated.

Mr. LENZNER. Now, after you learned in March about the meetings in Mr. Mitchell's office with Liddy, Magruder, and Dean, did you ever see Mr. Mitchell again or talk with him after that?

Mr. MOORE. Oh, I am sure I did.

Mr. LENZNER. On a number of occasions?

Mr. MOORE. No, once or twice. I saw him once when he was in the White House; he was down there on a visit. I have seen very little of him.

Mr. LENZNER. Well, did you ask him on that occasion or any occasion about the meetings that he had in his office with Mr. Liddy, Mr. Dean, and Mr. Magruder that Mr. Dean had described to you?

Mr. MOORE. No.

Mr. LENZNER. I believe you saw him on March 28, 1973, at the White House with Mr. Haldeman. Did you have any discussion on that date?

Mr. MOORE. You say you believe I saw him.

Mr. LENZNER. I am reading from a notation in Mr. Haldeman's diary that indicates you, Mr. Haldeman, and Mr. Mitchell met on that date.

Mr. MILLER. What was the date?

Mr. MOORE. The date is March 28, 1973?

Mr. LENZNER. Yes, sir.

Mr. MOORE. Well, if you will give me a moment to—I just want to see if I have any notes.

Mr. LENZNER. Take your time, Mr. Moore. While you are doing that, I am told by my associate up here that Mr. Miller spoke about our meeting on Thursday, June 8. Mr. Lackritz tells me that Thursday of that week was June 7.

Mr. MILLER. The meeting was Friday, the 8th of June was the date of the meeting, Mr. Lenzner. I have competent evidence available if necessary.

Mr. LENZNER. Go right ahead, Mr. Moore. Can you describe what you are looking at to refresh your recollection?

Mr. MOORE. Yes, sir, some notes I made for this purpose after my discussion of dates with you.

You are telling me that Mr. Haldeman's diary shows that I was present in a meeting on March 28.

Mr. LENZNER. That is correct.

Mr. MOORE. At which Mr. Mitchell was present. Can you tell me if anybody else was present?

Mr. LENZNER. The diary only indicates that Mr. Haldeman joined the meeting at approximately 9 o'clock. I would be glad to——

Mr. MOORE. Do you know where? I don't have that.

Mr. LENZNER. It looks like Mr. Haldeman's office in the White House, because I think this diary would not reflect this entry unless it was his secretary at his office.

Mr. MOORE. What day of the week are we on?

Mr. LENZNER. This is Wednesday.

Mr. MOORE. Could you tell me whether that is a diary of a meeting that took place or a meeting that was scheduled?

Mr. LENZNER. I will be glad to show you the diary.

Mr. MOORE. At the moment, I have no recollection of such a meeting.

Mr. LENZNER. It indicates "Haldeman returned, joined Mitchell and Moore."

It is on the righthand side, Mr. Moore, of the diary entry.

Mr. MOORE. The time appears to be 12:45 o'clock, is that the way you have it?

Mr. LENZNER. About 8:45 o'clock, I think it says, yes, sir.

Well, I don't want to belabor it.

Mr. MOORE. No; I don't usually get in that early. I have no recollection of the meeting. I don't really think I was at that meeting.

Now, I admit the diary shows that. I don't know whether it could have been Powell Moore, my good friend from Milledgeville, Ga., whose name has been confused with mine a few times, and I might say for the benefit of anybody that I should, that I am Richard and he is Powell.

Mr. LENZNER. Above the entry at 8:45 o'clock, it says "Dick Moore." I don't want to belabor the point.

Mr. MOORE. I see that now.

Mr. LENZNER. The only question I am asking you is: Did you ever, when you did see Mr. Mitchell, ask him about the meetings Mr. Dean told you about in his office?

Mr. MOORE. No; I never did.

Mr. LENZNER. You testified that on or about March 19, Mr. Dean told you that Hunt was demanding, I think you said over $100,000.

Mr. MOORE. What I said was he mentioned a larger amount and I didn't remember what it was, but I have since read that it was over $100,000.

Mr. LENZNER. Well, whatever it was, he wanted it by Wednesday or he was going to embarrass the White House. Now, did you ask Mr. Dean for any specifics as to how he could embarrass the White House?

Mr. MOORE. No. No.

Mr. LENZNER. When you characterized it as blackmail, what was your basis for so characterizing it?

Mr. MOORE. He said some characterization to, things have gotten to a terrible—I have forgotten—I have just learned that Howard Hunt is demanding x thousand dollars and I want it before, deposited or,

before he is sentenced; in fact, he wants it by Wednesday and if he does not get it, he is going to raise hell with the White House or he is going to say things that will raise hell with the White House, or words to that effect. I don't remember the precise words.

Mr. LENZNER. Now, if you realized that this was a pretty serious thing going on, did you take any action? Did you contact any law enforcement agencies to advise them that a crime of some proportion was about to be committed the next day or the day after?

Mr. MOORE. No. I was talking to the counsel of the Chief Magistrate. I thought that the main thing was to—no; I didn't.

Mr. LENZNER. And if you had talked to the FBI or the U.S. attorney's office, they would have been able to provide surveillance and perhaps prevent a serious crime from being completed, is that not correct?

Mr. MOORE. I don't know what they would have done. They might have said, what evidence do you have? I don't know what they would have done. What I had was someone. Dean told me that someone had told him that Howard Hunt had said this. Maybe the FBI would have acted. I don't know. The time frame is pretty fast, anyway. We got there the next day, within 36 hours.

Mr. LENZNER. That is my point.

Mr. MOORE. It was Friday, right.

Mr. LENZNER. Well, when you talked to the U.S. attorney's office on April 30, did you relate that conversation that you had with Mr. Dean concerning the blackmail?

Mr. MOORE. I am pretty certain I did and I also at that time had a notion it was—it could have been earlier, but I think I said—I knew it was before Wednesday. For some reason, that time stuck in my mind and I did tell him about it.

Mr. LENZNER. Now, when you met with the President and Mr. Dean on March 30, did you have a discussion which concerned Mr. Mitchell?

Mr. MOORE. Here we go again. March 30? I did not have a meeting with the President——

Mr. LENZNER. I am sorry. I apologize. I meant March 20.

Mr. MOORE. March 20. And the question was did I——

Mr. LENZNER. Did you have a discussion about Mr. Mitchell on that date, with Mr. Dean and the President?

Mr. MOORE. No, sir.

Mr. LENZNER. All right.

Now, we furnished you, Mr. Moore, with a—let me ask this. Did you and the President agree on that date that the investigation should be made public immediately after the sentencing of the defendants?

Mr. MOORE. Did the President and I agree that the report should be——

Mr. LENZNER. That the investigation which was ongoing at that time should be made public and that a statement should be released after the sentencing of the defendants.

Mr. MOORE. On March 20?

Mr. LENZNER. Yes, sir.

Mr. MOORE. You referred to an investigation that was ongoing at that time. Which investigation are you referring to?

Mr. LENZNER. I take it that means whatever fact that the White House had obtained?

Mr. MOORE. You mean were still under investigation or—you say an investigation going on at that time. Now, I am not sure what that refers to.

Mr. LENZNER. Well, I am not sure, either, sir, but you were at that meeting. I am asking you, was there a discussion about an investigation that was going on and that the results of that investigation should be made public?

Mr. MOORE. There was no discussion of any investigation that was going on. There was an expression by the President that he was in favor of getting the story out as soon as we could.

Mr. LENZNER. And there was no discussion of Mr. Mitchell or the *Vesco* case to your recollection?

Mr. MOORE. No, sir.

Mr. LENZNER. Now, we furnished you, Mr. Moore, with a copy of the White House reconstruction of a variety of meetings between the President and Mr. Dean and I want to direct your attention at this point to the date in that reconstruction that was furnished us by the White House of March 20, 1973.

Mr. MILLER. Could I request an additional copy? I seem to have mislaid mine.

Mr. LENZNER. I think we gave that to you last week. I don't know if we have one. Let me read you the entry.

Mr. MOORE. If I could work from the diary.

Mr. LENZNER. We have a copy that we can furnish you.

As I said, Mr. Moore, just so your understanding is accurate, this is a document of information that was furnished us by the White House which is a reconstruction by them of the meeting on March 20 and other meetings, but this meeting on March 20.

Mr. MILLER. Was this furnished by the White House?

Mr. LENZNER. This was furnished by the White House, yes, Mr. Miller.

On March 20, the entry: "Dean discussed Mitchell's problems with the grand jury, Vesco, and the Gurney press conference."

Do you see where——

Mr. MOORE. I saw that.

Mr. LENZNER. "The President and Moore agreed that the whole investigation should be made public and that a statement should be released immediately after the sentencing of the defendants."

Now, Mr. Moore, is that an inaccurate reconstruction by the White House of that meeting?

Mr. MOORE. I believe it is, because I don't believe those things were said in my presence. But I am just—I don't know—who in the White House prepared this? Do you know anything about this?

Mr. LENZNER. I believe it was Mr. Buzhardt, I assume concerning the people who were at that meeting—I would hope that they talked to you about that before they reconstructed.

Mr. MOORE. Well, I don't know why they wouldn't, but they did not.

Mr. MILLER. Mr. Lenzner, I have been informed and I don't know whether it is fact or not that this document was not in fact prepared by the White House.

Now, that is hearsay information on my part.

Mr. LENZNER. I think Mr. Thompson received this information from Mr. Buzhardt. Maybe he can clarify this.

Mr. THOMPSON. Excuse me just a minute. Perhaps I can shed a little light on this, we discussed this a time or two before.

Senator ERVIN. I might suggest that the press had indicated that during the week of the cessation of the hearings of the committee while the Russians were visiting America, that somebody leaked the substance of Mr. Buzhardt's statement to the press. It has been stated in the press that, as I understand it, that this statement was subsequently repudiated by the——

Mr. THOMPSON. May I address myself to that for just a minute?

Senator ERVIN. Yes.

Mr. THOMPSON. It was stated a time or two before, that the substance of this was communicated to me orally over the telephone by Mr. Buzhardt—I don't recall the exact date—pursuant to the committee's inquiry as to what did in fact occur on those dates. This information was submitted to me orally. I took longhand notes. That same day, I dictated from those notes the summary which has been referred to. I gave a copy to Mr. Dash and it was made available to members of the committee.

Now, perhaps the preciseness of those conversations and so forth, can be disputed to a certain extent, but I believe it has been verified that the substance of what is in that document is accurate.

Obviously, there is room for some slip-up in the nature of the way the thing was transmitted. We did not discuss at that time how it would be used or whether or not it would be made a part of the record or whether or not it would be the official White House position. And that is the way it transpired and that resulted in the document we are referring to.

Mr. DASH. Mr. Thompson, I could add this. On receipt of it, I did make contact with Mr. Garment and Mr. Buzhardt so that if we were going to use it—they saw your reconstruction of the notes. They did come down to my office and read your notes and stated that although it was not a verbatim statement of the telephone call, it was generally accurate.

Mr. MILLER. Generally accurate?

Mr. DASH. They found nothing on these. They said it was not a verbatim statement word for word, but that it was an accurate statement.

Mr. MILLER. An accurate statement as distinguished from generally accurate?

Mr. DASH. It was accurate, yes.

Mr. LENZNER. You might want to take this up, Mr. Moore, when you return to the White House.

Mr. MOORE. If I could get this—if you had questions about——

Mr. LENZNER. The question was: Does that entry of March 20 coincide with your recollection of what was discussed on that date? You have already indicated that you couldn't recall a discussion about Mitchell, Vesco, and the grand jury, and you have also indicated there was no discussion about you and the President agreeing to make this investigation public.

Now, are you saying that this entry is not an accurate reflection of that meeting?

Mr. MOORE. Well, some of it is reasonably accurate and some of it I can't recall.

For instance, it does refer to that suggestion about challenging the committee to its own investigation, which I stated. I think I stated in various languages, various words at various times, that the President indicated his desire to get the whole statement out about the whole thing and that we agreed. I think probably—I don't know whether Mr. Dean raised the question about waiting until after the sentencing, but there was, I recall no firm decision on that.

Mitchell's problems with the grand jury—grand jury and Vesco—I don't think there was any discussion of that. I don't know about whether Mr. Dean reported something going up there or something, I don't know. I don't recall at that meeting and I wonder whether the long and short of it was whether Mr. Dean's logs show whether Mr. Dean had another meeting with the President that day. Maybe you have something there. And I am not sure whether we got there at the same time.

Mr. LENZNER. Let me ask you this, Mr. Moore.

You did testify that when you left the Oval Office on March 20, I concluded the President could not be aware of the things that Mr. Dean was worried about. Now, did that include, for example, the threat by Mr. Hunt to blackmail the White House?

Mr. MOORE. Yes.

Mr. LENZNER. Did it also include the earlier activities of Mr. Hunt and Mr. Liddy that Mr. Dean had also indicated could be embarrassing to the White House?

Mr. MOORE. I had no laundry list in my mind. I had—except the Howard Hunt matter, but the general feeling that the man in that Oval Office, who was telling us so strongly that anything anybody knew should be disclosed as soon as possible and we should get the story out, and he had said it before, that this was utterly incompatible with his having knowledge, prior knowledge of any of these things, and that is what I said, when I left I said, "John," I pointed into that room, I said, "the President doesn't know the kind of things that you are talking about and worrying about. Have you told him," and so forth.

You have heard the story.

Mr. LENZNER. Yes, sir.

Mr. MOORE. And it was a sense that this man with this frame of mind and with a desire to tell the whole story, whatever it was, didn't know the whole story, didn't have anything of the whole story. That was my conviction.

Mr. LENZNER. And I take it including the things done. He was telling you about Hunt and Liddy's activities I think——

Mr. MOORE. The whole field of suspicion and knowledge and problem that seem to be lying there.

Mr. LENZNER. Mr. Moore, do you agree now that your understanding of the President's information and knowledge was basically incorrect? That he did, in fact, have information by that meeting on March 20 concerning Mr. Strachan and also possible involvement in Watergate

and also concerning the Ellsberg break-in involving Hunt's, Liddy's——

Mr. MOORE. I have no reason—you have heard my statement on that, of course, that he did not, that it was my judgment that he did not. I know of nothing to change that.

Mr. LENZNER. All right, sir.

Now, could you again refer back to the White House reconstruction of meetings with Mr. Dean. If you will look at the item on March 13.

Mr. MOORE. I know.

Mr. LENZNER. It says, "Dean said there was nothing specific on Colson, that he didn't know about Mitchell but that Strachan could be involved," and then on March 17, at the bottom of the paragraph it said, and this is an admission by the White House of the discussions that took place on that day, "Dean told the President of the Ellsberg break-in but that it had nothing to do with the Watergate."

And you were not present at those meetings but does that information, as admitted by the White House now indicate that in fact your perception was wrong and Mr. Nixon, the President did know about both Strachan's possible involvement and the Ellsberg break-in?

Mr. MOORE. It seems to me the answer to that question can only be given to you by someone who was at the meeting and when you speak of the White House report, and you use the word White House as a building rather loosely, anything done in the White House is done by a person, and when you speak of this as a White House report, Mr. Thompson very candidly and properly has said this is his summary of a telephone conversation.

So, I want to get those—now, all I know is what I saw and heard, and I do not know what the nature of these conversations were or what the frame of reference was about their adjectives and there are words in here about involvement, I have no knowledge of what was said, I wasn't there. There is—Mr. Buzhardt obviously was not there if he made the phone call. I don't know what the source of the statements, of the recollection are, so I would say that this again is, could well be Ervin's law of the third power over the telephone, and summarized so I can't speak or vouch for anything in this which has been variously described, as you know, a White House document and then it turns out, I remember asking whether it was in the New York Times, it was, and it was a report of a telephone conversation that I cannot account for that. It doesn't change my opinion one bit, and I think if you want to get at that you should ask someone who was at the meeting.

Mr. LENZNER. Well, we have had Mr. Dean up here, Mr. Moore.

Mr. MOORE. All right.

Mr. LENZNER. We have his version. Would you recommend that we also get anybody else who was up there at that meeting as a witness?

Mr. MOORE. Well, there are certain constitutional considerations here that even as important as these hearings are the Constitution may be more important, and—but, no, let me just re-read this. What I get out of it mostly is—[conferring with counsel] a statement under these circumstances fourth-hand, I guess, whatever that Strachan could be involved, I don't take as knowledge that might have come through to the President in those terms, if indeed it was said, so I can't comment. We have had so much of this conversation problem and we have seen it illustrated quite a bit today back and forth, I can't comment on that.

Mr. LENZNER. Of course you were not at those meetings and this is the White House version of those meetings so you can't testify as to whether the President did or did not know about that information, how detailed it was, what he did after those meetings to obtain additional information, isn't that correct?

Mr. MOORE. That is correct.

Mr. LENZNER. Do you know, by the way, after he learned about the Ellsberg break-in whether he called in Mr. Ehrlichman, Mr. Krogh, and interrogated them as to their possible involvement in the Ellsberg break-in?

Mr. MOORE. No; I do not.

Mr. LENZNER. You also testified that on or about April 13 or 14 you learned then of Mr. Ehrlichman's relationship to Mr. Ellsberg. Now, again I don't want to quarrel with your recollection, Mr. Moore, but isn't it true that you, in fact, learned of that information sometime in early March.

Mr. MILLER. Where does the transcript represent that testimony?

Mr. LENZNER. I will get that for you in a second. It is the last question on the afternoon of July 13—I am sorry, it is on page 3845.

Mr. MILLER. 3845.

Mr. MOORE. What was your question, can I have the question?

Mr. LENZNER. The question is did you in fact learn in early March about the Ellsberg break-in from Mr. Dean?

Mr. MOORE. When you say learn about the Ellsberg break-in, that had been in the newspapers long ago, hadn't it, so when you say learned about, what do you mean?

Mr. LENZNER. Well it wasn't in the newspapers in March of this year. It was in the newspapers after it was disclosed out in trial on April 25.

Mr. MOORE. It was the break-in of the psychiatrist's office, wasn't that in the news?

Mr. LENZNER. I don't think so. It was first disclosed about April 25 when Judge Byrne——

Mr. MOORE. I mean in the newspapers, didn't the document disclose—I don't know whether I read it before but I thought I did.

Mr. LENZNER. All right, sir, let me ask you this.

Mr. MOORE. Yes.

Mr. LENZNER. You did go see the President on April 19 and you had a discussion about what Dean had told you concerning Mr. Ehrlichman and Mr. Ellsberg and——

Mr. MOORE. Go ahead, yes.

Mr. LENZNER. Is that correct?

Mr. MOORE. Yes.

Mr. LENZNER. At that time, did the President tell you that Mr. Dean had advised him of that incident on March 17?

Mr. MOORE. No, he did not.

Mr. LENZNER. And similarly in answer to, I think, Senator Gurney's question, you have also testified Mr. Dean didn't tell you what he had told the President, is that correct?

Mr. MOORE. He testified that he let it all out and told him everything.

Mr. LENZNER. But he didn't tell you the specifics of whether he talked about the million dollars or about the Ellsberg break-in or anything else?

Mr. MOORE. That is right.

Mr. LENZNER. Are you also aware that the day before your meeting with the President on April 19, that is on April 18, the President ordered Mr. Petersen of the Department of Justice to confine his investigation to the Watergate case and not get into national security matters, including the Ellsberg case?

Mr. MOORE. I am not aware of that.

Mr. LENZNER. Well, you had read the President's statement of May 22, had you not, sir. Let me read it.

Mr. MOORE. I thought you meant of my own knowledge, right. I will be glad to——

Mr. LENZNER. Let me read the pertinent part.

For example, on April 18, 1973, when I learned that Mr. Hunt, a former member of the special investigations unit at the White House, was to be questioned by the U.S. attorney I directed Assistant Attorney General Petersen to pursue every issue involving the Watergate but to confine his investigation to Watergate and related matters and to stay out of national security matters.

Mr. MOORE. I would like to find the reference to it. If you will recall a 4,000-word statement, Mr. Lenzner, and I am just looking for the reference, at the early part or——

Mr. LENZNER. Well, it is under the——

Mr. MOORE. Does it have a caption?

Mr. LENZNER. The caption is "Forbidden Area."

Mr. MOORE. That is a newspaper reproduction?

Mr. LENZNER. Well, I guess it is, sir, I do not know.

Mr. MOORE. The caption "Forbidden Area" does not appear in the official text.

Mr. LENZNER. Well, let me——

Mr. MOORE. I will find it, I just do not like to take a paragraph without knowing what the context was, is it—just give me a moment and I will find it.

Mr. LENZNER. Let me pass this up to you.

Mr. MOORE. Well, maybe—yes, I now have it, Mr. Lenzner.

Mr. LENZNER. That special investigation unit was with reference to the plumbers' activities, is that not correct?

Mr. MOORE. It refers to national security matters.

Mr. LENZNER. And it refers to special investigation unit, does it not?

Mr. MOORE. "I directed Assistant Attorney General Petersen to pursue every issue involving Watergate but to confine his investigation to Watergate and related matters and to stay out of national security matters."

If there is a reference to the plumbers maybe you can point it out.

Mr. LENZNER. Well, the sentence above it where it——

Mr. MOORE. The what?

Mr. LENZNER. The sentence above that where it refers to Mr. Hunt.

Mr. MOORE. Yes.

Mr. LENZNER. As a former member of the special investigations unit. That was the plumbers unit, was it not?

Mr. MOORE. Special investigations, I will go along, I guess so, go ahead.

Mr. LENZNER. The question is really, Mr. Moore, was that not an indication that there was an intent to keep the lid on the Ellsberg break-in story?

Mr. MOORE. I cannot testify to that. If you read it, I confine that here. I am not trying to read the President's mind. I think that he has expressed throughout this his interest in protecting the national security and, when you use words like "keep the lid on" and that kind of thing that is your characterization of the President's statement and you are free to make it but I do not join in that interpretation.

Mr. LENZNER. Well, can you explain then, Mr. Moore, why the President, who received information on March 13, concerning Mr. Strachan, and on March 17 concerning the Ellsberg break-in, on March 21 from Mr. Dean on the other matters, failed to communicate any of this information to the Department of Justice, the FBI or any law enforcement agency? Can you explain why that information was not transmitted to investigative units outside the White House?

Mr. MOORE. Well, now, Mr. Lenzner, you have got three things in there and maybe the reporter can read them back and I can take them one by one because I cannot give you a collective answer. Could you, sir?

Mr. LENZNER. Would you like to comment on that?

Mr. MOORE. I do not know what information he received from Mr. Strachan about Mr. Strachan.

Mr. LENZNER. Looking again at the White House log reconstruction, and you know that he received information from Mr. Dean on March 21, can you explain to this committee why that information was not transmitted to a law enforcement agency before Mr. Dean in April himself transmitted the same information to the U.S. attorney's office?

Mr. MOORE. Well, that is really why I wanted the question read back because I do not know of anything in your question that indicated the President received any knowledge of any illegal activity.

Mr. LENZNER. Well, you have already read the White House reconstructed version of the meetings between Mr. Dean and the President which indicates information allegedly involving criminal activities. Now, what I am asking you if the President had that information, and he admitted on May 22 in his statement that he did receive such information, why then did he not transmit that information to a law enforcement agency so it could be investigated?

Mr. MOORE. Well, Mr. Lenzner, we are talking about—you keep calling the White House report and so forth, we are talking about a recapitulation of what someone told Mr. Buzhardt who told Mr. Dash what was said at the meeting and what it says is, about Mr. Strachan was, that he might be involved, involved in what, in what way, I just do not know, and I do not think any of us know and certainly there is nothing here that I can find on which to predicate a question to the television audience that the President knew of criminal activity that he did not report. I do not find it here.

Mr. LENZNER. Assuming that this is an accurate reconstruction and it refers to the Ellsberg break-in on March 17.

Mr. MOORE. Where is the reference to the break-in?

Mr. LENZNER. March 17.

Mr. MOORE. Where is that reference?

Mr. LENZNER. On page 3 of the White House version of the meetings. This is my last question, Mr. Moore, if you can finish it.

Mr. MOORE. All right.

Mr. LENZNER. And the President did indicate that he was aware when he talked to you later about the blackmail threat?

Mr. MOORE. Yes, sir.

Mr. LENZNER. And the White House version again indicates that on March 21 the President received information that Magruder probably knew, Mitchell possibly knew, that Strachan probably knew and that Haldeman had possibly seen the fruits of the wiretaps through Strachan and that Ehrlichman was vulnerable because of his approval of Kalmbach's fundraising efforts. Can you explain now why that information, as admitted by the White House, was not transmitted to a law enforcement agency for further investigation until April, after Mr. Dean had already talked to the U.S. attorney's office? Can you explain that at all?

Mr. MOORE. I have no explanation of my own knowledge.

Mr. LENZNER. How can the committee find out the answer to that question, Mr. Moore?

Mr. MOORE. Well, I think the first thing is, I am sure you can find out what the facts were. The President, as I think I said yesterday, I did not think the President would, as a lawyer, or could as the Chief Executive, immediately take public action, for example, on the basis of whatever it was that one man told him in that meeting, and that he had to test to find out the true facts for himself, in my opinion. I was not there, I did not talk to him, as you know, between March 21 and some time in April.

He did make these moves, you do have the April 17 statement where suddenly the entire approach changed, executive privilege, cooperation, we were all free to come up here, no one would be covered up, no one would be granted immunity, no matter how high in the administration. But I do not think that after a year of rumor and hints, and so forth, that the President could act on a presumably factual basis because one person had told him these things. It started them, it triggered them, it started to renew and intensify and today, as you know, total changes have been made already in the structure of the White House in the top personnel, and I think that he moved, and he moved pretty judiciously and he moved pretty effectively, and I think as chief magistrate he really was working with Mr. Kleindienst, the Attorney General, and Mr. Petersen, the criminal head, and so forth. I think the results speak for themselves and I think there is where it stands.

Mr. LENZNER. You have no explanation then, though, when Mr. Petersen and Mr. Kleindienst went to talk with the President in April, why he had not, prior to that time, furnished them with the information he had concerning these allegations.

Mr. MOORE. I don't know whether he did or not, and I don't know what information he had, and I don't know at what point he was ready to accept this to the point of giving it, putting it into the hands of the criminal division, and I must say, one thing you must remember, that when things start to move in the department they often end up in the newspapers, and I think this was too important—this is my opinion, I shouldn't be surmising, should I, Mr. Attorney—but that he wanted to have a pretty good idea himself what was going on before he went outside the walls of the White House alone, although I don't know, maybe he was talking to them. I don't know. I gave you the narrative and the sequence and the result of things are moving forward and they are moving forward on all levels. We have the special prosecutor, we have these hearings, we have the complete release of attorney-

client privilege, the executive privilege, we have the open book being offered by the President of the United States, and I think that he reached that decision and that conclusion in a judicious, sensible way, lawyer-like way, and the way of a responsible Chief Executive.

Mr. LENZNER. I have no more questions, thank you, Mr. Chairman.

Mr. THOMPSON. I have no questions, Mr. Chairman.

Senator ERVIN. Owing to the necessity of the chairman and vice chairman meeting with certain parties at this time, the meeting will stand in recess until 2 o'clock.

I want to thank you, Mr. Moore, for your cooperation with the committee.

Mr. MOORE. Am I excused, now, sir?

Senator ERVIN. Yes.

[Whereupon, at 11:45 a.m., the committee recessed, to reconvene at 2 p.m., the same day.]

AFTERNOON SESSION, MONDAY, JULY 16, 1973

Senator ERVIN. The committee will come to order.

Mr. Butterfield, will you stand and raise your right hand?

Do you swear that the evidence you shall give the Senate Select Committee on Presidential Campaign Activities shall be the truth, the whole truth, and nothing but the truth, so help you God?

Mr. BUTTERFIELD. I do, Mr. Chairman.

Senator ERVIN. Be seated.

Suppose for the record that you state your name and present occupation.

TESTIMONY OF ALEXANDER P. BUTTERFIELD, ADMINISTRATOR, FEDERAL AVIATION ADMINISTRATION

Mr. BUTTERFIELD. My name is Alexander Porter Butterfield. I am the Administrator of the Federal Aviation Administration. My home address is 7416 Admiral Drive, Alexandria, Va.

Senator ERVIN. Thank you.

Mr. DASH. Mr. Chairman, at a staff interview with Mr. Butterfield on Friday, some very significant information was elicited and was attended by the majority members of the staff and the minority members. The information was elicited by the minority staff member. Therefore, I would like to change the usual routine of the questioning and ask minority counsel to begin the questioning of Mr. Butterfield.

Mr. THOMPSON. Thank you, Mr. Dash.

Mr. Butterfield, I understand you were previously an employee of the White House. Is that correct?

Mr. BUTTERFIELD. That is correct.

Mr. THOMPSON. Over what period of time were you employed by the White House?

Mr. BUTTERFIELD. I would like to preface my remarks, if I may, Mr. Thompson, with one statement.

Mr. THOMPSON. I am sorry, go right ahead.

Mr. BUTTERFIELD. Although I do not have a statement as such, I would simply like to remind the committee membership that whereas I appear voluntarily this afternoon, I appear with only some 3 hours

notice and without time to arrange for permanent counsel or for assistance by a temporary counsel.

That is all I have to say, Mr. Thompson.

Mr. THOMPSON. During what period of time were you employed at the White House, Mr. Butterfield?

Mr. BUTTERFIELD. I was at the White House as a deputy assistant to the President from the first day of the Nixon administration, January 21, 1969, until noon of March 14, 1973.

Mr. THOMPSON. And what were your duties at the White House?

Mr. BUTTERFIELD. My duties were many and varied, as a matter of fact, Mr. Thompson. I will try to state them briefly.

I was in charge of administration—that is to say that the staff secretary, who is the day-to-day administrator at the White House, reported directly to me. And, of course, I reported to Mr. Haldeman, as did everyone.

In addition to administration, I was responsible for the management and ultimate supervision of the Office of Presidential Papers and the Office of Special Files. Both of those offices pertained to the collection of documents which will eventually go to the Nixon library.

Third, I was in charge of security at the White House insofar as liaison with the Secret Service and the Executive Protective Service is concerned and insofar as FBI background investigations for prospective Presidential appointees is concerned.

A fourth duty was that I was the secretary to the Cabinet and had that duty not from January 21, 1969, but from November, I believe November 4, 1969, through until the day I departed, March 14 of this year.

I was additionally the liaison between the President and the Office of the President and all of the various support units. By that I mean the Office of the Military Assistant to the President and the Office of White House Visitors, again the Secret Service, the Executive Protective Service, the residence staff, Mrs. Nixon's staff—I served as sort of a conduit between all those elements and the Office of the President.

Finally, I was in charge of the smooth running of the President's official day, both in Washington, D.C., and at the western White House in San Clemente. I had nothing to do with the smooth running of his day in Florida or in Camp David, but I was responsible for the smooth implementation of the official events on his calendar in Washington and in the western White House.

That pretty well sums it up, sir.

Mr. THOMPSON. You were employed on January 21, 1969, and continued to be employed until March 14 of this year, is that correct?

Mr. BUTTERFIELD. That is correct.

Mr. THOMPSON. Mr. Butterfield, are you aware of the installation of any listening devices in the Oval Office of the President?

Mr. BUTTERFIELD. I was aware of listening devices; yes, sir.

Mr. THOMPSON. When were those devices placed in the Oval Office?

Mr. BUTTERFIELD. Approximately the summer of 1970. I cannot begin to recall the precise date. My guess, Mr. Thompson, is that the installation was made between—and this is a very rough guess—April or May of 1970 and perhaps the end of the summer or early fall 1970.

Mr. THOMPSON. Are you aware of any devices that were installed in the Executive Office Building office of the President?

Mr. BUTTERFIELD. Yes, sir, at that time.

Mr. THOMPSON. Were they installed at the same time?

Mr. BUTTERFIELD. They were installed at the same time.

Mr. THOMPSON. Would you tell us a little bit about how those devices worked, how they were activated, for example?

Mr. BUTTERFIELD. I don't have the technical knowledge, but I will tell you what I know about how those devices were triggered. They were installed, of course, for historical purposes, to record the President's business and they were installed in his two offices, the Oval Office and the EOB office. Within the west wing of the White House, there are several, at least three, perhaps four—the three that I know of—boxes called Presidential locator boxes. These are square boxes approximately 10 by 10 inches, and on them are several locations, about seven locations, which would tell where the President might be at any time, locations such as the residence—that is one of them; the south grounds is another; Oval Office is another; EOB office is still another; west wing, meaning west wing of the White House, is another; and out, I think, is the last one. When the President moves—east wing is still another and I think that covers all of the locations indicated on the box.

When the President moves from his Oval Office, for instance, to his Executive Office Building office and he departs the west wing and crosses the street, it is my understanding that the Secret Service agents, members of the Executive Protective Division who cover him—it is my understanding there are four, five, six of them—when he moves across the street, one of them covers the central location, which may be the switchboard under the east wing, or it may be the Secret Service Command Post, I don't know. If it is the Secret Service Command Post, it is in the Executive Office Building. It says the President is leaving the west wing and going to the EOB office. They would know this. And the little light moves from the Oval Office to EOB office. It doesn't actually move to the EOB office until the President actually enters the EOB office. As that light moves, there is a tie-in audio signal so that if one is preoccupied, as I might be, I realize that the locator box is indicating a change in the President's location and that kind of information was important to me. My office was located immediately adjacent to the President's Oval Office on the west side. My duties involved going in and out frequently and working directly with the President. Mr. Steve Bull, who at that time worked on the other side of the President, on the east side of the Oval Office, had one of these locator boxes, and Mr. Haldeman had a third. I believe there was a fourth in Mr. Chapin's office—in fact, I am sure there was a fourth in Mr. Chapin's office. We were probably the four who would be the most concerned, or at least most immediately concerned with the President's whereabouts and the fact that he was changing locations.

In that the Oval Office and the Executive Office Building office were indicated on this locator box, the installation was installed in such a way that when the light was on "Oval Office," the taping device was at least triggered. It was not operating, but it was triggered—it was spring-loaded, if you will, then it was voice-actuated. So when the light was on "Oval Office," in the Oval Office and in the Oval Office only, the taping device was spring-loaded to a voice-actuating situa-

tion. When the President went to the EOB office, the light was on. In the EOB office, there was the same arrangement. It those two offices, the arrangement was the same and the taping picked up all conversations or all noise in those two offices when the light was at those positions.

Mr. THOMPSON. We discussed the Oval Office and the EOB office. What about the Cabinet room? Was there a taping device in the Cabinet room?

Mr. BUTTERFIELD. Yes, sir, there was.

Mr. THOMPSON. Was it activated in the same way?

Mr. BUTTERFIELD. No, sir, it was not, and my guess is, and it is only my guess, is because there was no Cabinet room location per se on the locator box. There was only a west wing indication. When the light was on west wing that meant the President was in one of two places, the Cabinet room or the barbershop. When he went into the Cabinet room the light went to west wing. But he could have been someplace else in the west wing and so to insure the recording of business conversations in the Cabinet room a manual installation was made.

Mr. THOMPSON. I do not want to hurry you, Mr. Butterfield, but I understand there is a vote in about 12 minutes so if we could go through it rather rapidly the first time we might come back up and pick up some of the loose ends.

I understand the recording device in the Cabinet room was manually operated then, is that correct?

Mr. BUTTERFIELD. That is correct.

Mr. THOMPSON. There were buttons on the desk in the Cabinet room there that activated that device?

Mr. BUTTERFIELD. There were two buttons.

Mr. THOMPSON. Pardon me, was there also an activating device on your telephone?

Mr. BUTTERFIELD. Yes, sir. There was an off-on button, one said "Haldeman" and one that said "Butterfield" that was on and off respectively, and one on my telephone.

Mr. THOMPSON. How was the device usually activated, by the buttons or by your telephone activator?

Mr. BUTTERFIELD. To my knowledge, the President never did pay any attention to the buttons at the Cabinet table. It was activated, the button on my telephone, by me.

Mr. THOMPSON. So far as the Oval Office and the EOB office are concerned, would it be your testimony that the device would pick up any and all conversations no matter where the conversations took place in the room and no matter how soft the conversations might have been?

Mr. BUTTERFIELD. With regard to the Oval and EOB offices?

Mr. THOMPSON. Yes, sir.

Mr. BUTTERFIELD. Yes, sir, it is my——

Mr. THOMPSON. Was it a little more difficult to pick up in the Cabinet room?

Mr. BUTTERFIELD. Yes, sir, it was a great deal more difficult to pick up in the Cabinet room.

Mr. THOMPSON. All right. We have talked about the rooms, now if we could move on to telephones; are you aware of the installation of any devices on any of the telephones, first of all, the Oval Office?

Mr. BUTTERFIELD. Yes, sir.

Mr. THOMPSON. What about the Executive Office Building office of the President?

Mr. BUTTERFIELD. Yes, sir. The President's business telephone at his desk in the Executive Office Building.

Mr. THOMPSON. What about the Lincoln Room?

Mr. BUTTERFIELD. Yes, sir, the telephone in the Lincoln sitting room in the residence.

Mr. THOMPSON. What about Aspen cabin at Camp David?

Mr. BUTTERFIELD. Only in, on the telephone at the President's desk in his study in the Aspen cabin, his personal cabin.

Mr. THOMPSON. It is my understanding that this cabin was sometimes used by foreign dignitaries, was the device still present during those periods of time?

Mr. BUTTERFIELD. No, sir, the device was removed prior to occupancy by chiefs of state, heads of government, and other foreign dignitaries.

Mr. THOMPSON. All right. Would you state who installed these devices, all of these devices, so far as you know?

Mr. BUTTERFIELD. I did not say, no, sir.

Mr. THOMPSON. Well, who did?

Mr. BUTTERFIELD. The Secret Service. The Technical Security Division of the Secret Service.

Mr. THOMPSON. All right. You alluded to a reason for the installation of these devices. Would you state why, as far as your understanding is concerned, these devices were installed in these rooms?

Mr. BUTTERFIELD. There was no doubt in my mind they were installed to record things for posterity, for the Nixon library. The President was very conscious of that kind of thing. We had quite an elaborate setup at the White House for the collection and preservation of documents, and of things which transpired in the way of business of state.

Mr. THOMPSON. On whose authority were they installed, Mr. Butterfield?

Mr. BUTTERFIELD. On the President's authority by way of Mr. Haldeman and Mr. Higby.

Mr. THOMPSON. Did the President instruct Mr. Haldeman and Mr. Haldeman instruct Mr. Higby who, in turn, instructed you?

Mr. BUTTERFIELD. Mr. Haldeman instructed Mr. Higby to tell me and as I said earlier, I was the liaison with the Secret Service and it would be proper for me to give the instruction to the Secret Service.

Mr. THOMPSON. During your tenure at the White House as far as your own knowledge is concerned, who else knew about the presence of these recording devices?

Mr. BUTTERFIELD. The President, Mr. Haldeman, Mr. Higby, and I, plus the Secret Service people who I would prefer not to name in this public hearing in that this kind of thing is a part of their profession, and I am not sure of the correctness of that statement and the propriety of refusing.

Mr. THOMPSON. All right. What other non-Secret Service personnel besides those you have mentioned now know of those devices?

Mr. BUTTERFIELD. When I departed—there was one other, my secretary knew also, at this time, although she was not informed early on. She was informed much later because there were a number of occasions on which I just could not be there to press this button and I

briefed her and asked her to do it for me but she does not, did not, have any idea of the extent of this. I think she was only aware of the Cabinet room. Perhaps she was aware of the Oval Office. When I departed I was authorized to brief Steve Bull, who now occupies that office, and now has many of the responsibilities that I had.

General Haig, who is sitting at Mr. Haldeman's desk, sir, and I believe that is all, sir.

Mr. THOMPSON. As far as you know, did Mr. Ehrlichman or Mr. Dean know about the existence of the presence of those devices?

Mr. BUTTERFIELD. It would be very unlikely. My guess is they definitely did not know.

Mr. THOMPSON. Where were the tapes of those conversations kept, maintained?

Mr. BUTTERFIELD. I cannot say where. I am quite sure in the Executive Office Building in some closets or cupboards or files which are maintained by the Technical Security Division of the U.S. Secret Service.

Mr. THOMPSON. Were these tapes checked periodically?

Mr. BUTTERFIELD. Yes; they were checked at least daily. They were, I think some were, used more frequently than others. Of course, they were—the Secret Service knew this, they made sure that they were checked periodically and sufficiently.

Mr. THOMPSON. Do you know how many conversations or how many days would be represented on one particular tape?

Mr. BUTTERFIELD. No, sir; I do not. There were a number of days during which the President was not at the White House, so, or the business was light. Other days that business was exceedingly heavy, I could not say.

Mr. THOMPSON. Did you ever hear any of these tapes being played?

Mr. BUTTERFIELD. Yes, sir; I did. It was my duty to insure that the equipment was working properly. I checked the Oval Office, EOB office, Cabinet room tapes several times and, as I told you earlier, it was always working properly in the Oval Office and EOB office. It was very, very difficult to pick up conversation in the Cabinet room and I never did check any of the telephones.

Mr. THOMPSON. Were any of these tapes ever transcribed as far as you know?

Mr. BUTTERFIELD. I did not hear you, sir.

Mr. THOMPSON. Were any of these tapes ever transcribed, reduced to writing or typewritten paper, so far as you know?

Mr. BUTTERFIELD. To my recollection, no.

Mr. THOMPSON. Was there ever any discussion of transcribing any of these tapes?

Mr. BUTTERFIELD. To my recollection, no, sir.

Mr. THOMPSON. You mentioned that they were for historical purposes. Was there ever any discussion about going ahead and catching up on the tapes that you had previously recorded?

Mr. BUTTERFIELD. Well, by discussion I was thinking of discussion by others. On at least one occasion, not necessarily in a serious vein but in very offhand rather casual conversation to Mr. Haldeman, I did say that we should go ahead and get a leg up on the transcribing of these tapes in that the storage problem was getting to be quite fantastic, and eventually they had to be transcribed for the Nixon library

and it was my suggestion that we get four or five illustrious, worthy secretaries and begin the typing. So that at the end of the Nixon term we would at least have a year or a year and a half or 2 years out of the way.

Mr. THOMPSON. Did you talk to any of the Secret Service agents when they went about installing these devices in the various offices?

Mr. BUTTERFIELD. Did I talk to them when they went about the installation?

Mr. THOMPSON. Yes. Were you present during the installation?

Mr. BUTTERFIELD. No, sir, I was not. I simply gave instruction in my office, immediately after I was asked to do just that.

Mr. THOMPSON. Did they indicate they were familiar with how they should go about installing these devices?

Mr. BUTTERFIELD. There was sort of the intimation that they were, yes, sir. But that is very definitely my interpretation of that. No one said that to me.

Mr. THOMPSON. Would it be an intimation that they had done that before?

Mr. BUTTERFIELD. I have heard that rumored and together with the intimation on this occasion I mentioned I assume that it has but I certainly do not have any proof, far from it.

Mr. THOMPSON. All right.

Mr. Butterfield, as far as you know from your own personal knowledge, from 1970 until the present time all of the President's conversations in the offices mentioned and on the telephones mentioned, were recorded?

Mr. BUTTERFIELD. That is correct, until I left. Someone could have taken the equipment out but until the day I left I am sure I would have been notified.

Mr. THOMPSON. And as far as you know, those tapes are still available?

Mr. BUTTERFIELD. As far as I know, but I have been away for 4 months, sir.

Mr. THOMPSON. I have no further questions.

Senator ERVIN. Mr. Dash.

Mr. DASH. Mr. Butterfield, just a few questions, because I think Mr. Thompson's questions have pretty much elicited most of the testimony. I think what you are saying was that at all times certainly in the White House itself, either in the Oval Office or in the Executive Office of the President where there was a locator light that whenever the President moved the locator light moved where the President was, it triggered the microphones and then whenever anybody started to speak in that office where the microphones were as the voice activated the device, the recording devices began to operate, is that not true?

Mr. BUTTERFIELD. That is true, yes, sir.

Mr. DASH. When someone finished speaking would it stop at that point or would there be some lag picked to pick up an answer?

Mr. BUTTERFIELD. It was explained to me by those who installed the equipment that the equipment allowed for a lag so that no portion of a conversation would be omitted, so if I were talking to you and stopped talking just momentarily the tape would not stop, it would continue for a moment or two so that it would pick up your response if you should respond immediately.

Mr. DASH. Now, was your understanding that this operated on an ongoing basis daily, that this system operated on an ongoing basis daily?

Mr. BUTTERFIELD. Yes, sir.

Mr. DASH. To your knowledge, did the President ever ask while he was in the Oval Office to have the system not operate, the locator light not show in that office so as to trigger the device?

Mr. BUTTERFIELD. No, sir. As a matter of fact, the President seemed to be totally, really oblivious, or certainly uninhibited by this fact.

Mr. DASH. Well, at least, he authorized it to be installed in the first place and thereafter, as you say, he has not paid any attention to it?

Mr. BUTTERFIELD. That is true, sir.

Mr. DASH. And by not paying attention to it, that meant that the device was working at all times?

Mr. BUTTERFIELD. Yes, sir.

Mr. DASH. And this is true in the Cabinet Room, where you said the President could, by switch, turn it off. As a matter of fact, it was you, you said, or your secretary, whenever there was to be a Cabinet meeting, that would see to it by a button on your phone that microphones would be activated.

Mr. BUTTERFIELD. I don't want to involve my secretary to that extent. When I went in, I had to go to my phone and push a button. I described it—it was most mysterious to her and at a later date, I explained what I meant and asked her to say nothing and I am sure she never did.

Mr. DASH. The tapes you mentioned were stored, are they stored by a particular date?

Mr. BUTTERFIELD. Yes, sir, they are.

Mr. DASH. And so that if either Mr. Dean, Mr. Haldeman, Mr. Ehrlichman, or Mr. Colson had particular meetings in the Oval Office with the President on any particular dates that have been testified before this committee, there would be a tape recording with the President of that full conversation, would there not?

Mr. BUTTERFIELD. Yes, sir.

Mr. DASH. Now, who authorized you to brief Mr. Bull when you left your employment in the White House?

Mr. BUTTERFIELD. I went into Mr. Haldeman and pointed out the necessity for briefing Mr. Bull. He was going to occupy my office. In fact, he did occupy my office, oh, 2 to 3, maybe even 4 weeks prior to my being sworn in at the Federal Aviation Administration. Mr. Haldeman understood the wisdom or the necessity for that and told me to go ahead.

Mr. DASH. Now, I think the only part of this system which is removed from time to time is, I think you testified, that at Camp David, which is removed when foreign dignitaries or heads of state are present. I take it that is for national security purposes?

Mr. BUTTERFIELD. That is true, yes sir. That is certainly my understanding.

Mr. DASH. All right. Now, I am not sure whether you testified to this, but you tested the system at one point, did you not?

Mr. BUTTERFIELD. Yes, sir.

Mr. DASH. To see if the Oval Office or the EOB office, that you could pick up sound even though it was hardly audible when a sound was made in the room?

Mr. BUTTERFIELD. Yes.

Mr. DASH. What was the result of your test?

Mr. BUTTERFIELD. The result was that voices, conversations, were picked up very well, very clearly.

Mr. DASH. Even if there was a whisper.

Mr. BUTTERFIELD. In either in the Oval Office or the Executive Office Building. I can't tell you about a whisper. I just don't know. But it would appear that even low tones were picked up well.

In the Cabinet Room, some voices, those who spoke up quite loudly, could be heard. Anyone who had the habit of speaking softly could not be heard very well at all. In fact, you just, you could not begin to get all of, most of the conversations.

Mr. DASH. Now, with regard to the telephone taps, they were operated, were they not, by—as soon as the President, who may have used his telephone, lifted up his telephone and engaged in a conversation or received a conversation on his President's phone, the recording device began to record the telephone conversation.

Mr. BUTTERFIELD. That is my understanding, Mr. Dash, but I lack all of the technical knowledge of the telephone recording device.

Mr. DASH. But so far as you know, all telephone calls were also recorded.

Mr. BUTTERFIELD. From the President's office telephone on his desk in the Oval Office?

Mr. DASH. Yes.

Mr. BUTTERFIELD. And his regular office phone in the Executive Office Building, and the desk telephone in his study at Camp David and his telephone in the Lincoln sitting room—those four phones?

Mr. DASH. Just one last question. If one were therefore to reconstruct the conversations at any particular date, what would be the best way to reconstruct those conversations, Mr. Butterfield, in the President's Oval Office?

Mr. BUTTERFIELD. Well, in the obvious manner, Mr. Dash—to obtain the tape and play it.

Mr. DASH. I have no further questions, Mr. Chairman.

Senator ERVIN. The questions of counsel and the answers of the witness have been so clear, I have no questions.

Senator BAKER. Mr. Chairman, I have only one brief question.

Mr. Butterfield, it is my understanding that on an interview this past Friday, as pointed out by Mr. Dash, you volunteered this information in response to a question put by minority staff about how certain information supplied by the White House might have been so exact and some query was made about whether or not Mr. Dean might have thought there was a recording device. My understanding is that you at that time said that there are recording devices in these offices.

Is that essentially the situation as it transpired in your interview on last Friday?

Mr. BUTTERFIELD. Yes, that is essentially correct. As they led up to the question, I said nothing. When asked the direct question, I answered openly and freely. With regard to the query concerning Mr. Dean's suspicions, my guess was that that was his imagination only. I am sure that the President would not lead Mr. Dean to, off to the side. The President seemed completely unaware of these. I am sure that he forgot them from time to time, or perhaps for good long periods of time.

Senator BAKER. The point I am leading up to is this, Mr. Butterfield. You have in fact been very straightforward in your answers in the interview, in the interview just before this hearing, and I think now in your testimony. But just so that we are entirely clear on the matter, you have notified counsel for the White House of your interview and of your testimony, what you are going to testify here today?

Mr. BUTTERFIELD. Yes, sir, I have. But I——

Senator BAKER. Was there any intimation to you that executive privilege should be claimed on your part?

Mr. BUTTERFIELD. No, sir, there was not.

Senator BAKER. Now, Mr. Butterfield, you are here under subpena, you are here at the request of the committee. For my part, I think you have been most helpful and we thank you for your forthright statement.

Thank you, Mr. Chairman.

Mr. BUTTERFIELD. I would like to make one statement before we adjourn.

Senator ERVIN. I think there may be some other questions of some other members of the committee.

Senator TALMADGE. I shall be quite brief, Mr. Chairman.

Mr. Butterfield, I understood you to say that all calls to the White House of whatever nature and character would be taped. Is that an accurate statement?

Mr. BUTTERFIELD. Into those telephones, to and from those telephones I mentioned, yes, sir, that is an accurate statement.

Senator TALMADGE. If a Senator or Congressman or Governor called, it was taped?

Mr. BUTTERFIELD. Yes, the tape would not discriminate.

Senator TALMADGE. Was there any warning signal to let them know the conversation would be taped?

Mr. BUTTERFIELD. Again, I am not aware of the technical details. I am told that when devices are on telephones, there is oftentimes a clicking sound. But other than that, I would guess that no one would be aware, sir.

Senator TALMADGE. No one verbally undertook to say, Governor, your conversation will be taped, was there?

Mr. BUTTERFIELD. No, sir.

Senator TALMADGE. Or Mr. Senator, or Congressman, or Mr. Private Citizen, whatever the case might be?

Mr. BUTTERFIELD. No, sir.

Senator TALMADGE. Were the visitors who went into the White House warned that their conversations with the President would be taped?

Mr. BUTTERFIELD. No, sir.

Senator TALMADGE. None of them had knowledge that their conversations were being taped?

Mr. BUTTERFIELD. No, sir, although I would say one thing, which I think perhaps should be said at this point. When people go to visit the President, almost always, I know of very, very few exceptions, a staff member sits in on the conversation, often takes notes. That is standard procedure in order to record commitments made by the President, at least the thread or the substance of the business discussed, and that, of course, does go into the Presidential papers.

Senator TALMADGE. Now, when the President left the White House, were his conversations with others taped also?

Mr. BUTTERFIELD. Senator Talmadge, I didn't hear you, sir.

Senator TALMADGE. When the President left the premises of the White House, were his conversations with other people taped?

Mr. BUTTERFIELD. No, they were not, sir.

Senator TALMADGE. Do you know whether or not the Attorney General of the United States approved the recording of these telephone verbal conversations?

Mr. BUTTERFIELD. I have no idea, sir.

Senator TALMADGE. If any call was made from one official in the White House to another one, Mr. Haldeman to Mr. Dean or Mr. Dean to Mr. Ehrlichman, was that also taped?

Mr. BUTTERFIELD. Not to my knowledge, sir. I have no knowledge of any other taping devices at all.

Senator TALMADGE. Only the conversations with the President by telephone and in his presence, is that an accurate statement?

Mr. BUTTERFIELD. To and from those specific four telephones.

Senator TALMADGE. And the reason for this tape, insofar as you know, is solely to serve historical purposes?

Mr. BUTTERFIELD. I am sure of that, yes, sir.

Senator TALMADGE. If no staff member was there, would a party be told that the conversations were taped?

Mr. BUTTERFIELD. No; the party would not, sir, under normal procedures.

Senator TALMADGE. Thank you, Mr. Butterfield.

Mr. Chairman, I have no further questions.

Senator ERVIN. Senator Gurney?

Senator GURNEY. I have one or two.

On the technical details of this, where were the recording machines kept, do you know?

Mr. BUTTERFIELD. At least most of the recording machines were in the basement of the west wing of the White House.

Senator GURNEY. And who was in charge of those?

Mr. BUTTERFIELD. The Chief of the Technical Security Division of the U.S. Secret Service.

Senator GURNEY. And did the Chief or someone under his direction handle the changing of the tapes and the putting them on, the taking them off?

Mr. BUTTERFIELD. Yes, sir.

Senator GURNEY. And also the storage?

Mr. BUTTERFIELD. Yes, sir.

Senator GURNEY. Did anybody else handle those, to your knowledge?

Mr. BUTTERFIELD. I am as sure as I know I am sitting here that no one else handled the tapes other than this individual I mentioned, the Chief of the Technical Security Division, and the two or three people designated by him. And it was——

Senator GURNEY. What about in Key Biscayne and San Clemente, the Florida and western White Houses? Were there any recording devices there to your knowledge?

Mr. BUTTERFIELD. Not to my knowledge or recollection. I do not recall any instructions being given with regard to those locations, sir.

Senator GURNEY. And what about on the business phones in those two locations?

Mr. BUTTERFIELD. No, sir. At least not through me, sir.

Senator GURNEY. I don't have any other questions, Mr. Chairman.

Senator ERVIN. Senator Inouye?

Senator INOUYE. Just one question, sir.

Do you have any information to indicate that this taping was practiced in other administrations?

Mr. BUTTERFIELD. Well, in all honesty, Senator Inouye, I have heard the rumor—I could not begin to identify the source, but I have heard those rumors for several years, and on the occasion which I described earlier, at the time that I called in the Secret Service people and gave them this particular instruction, there was the intimation, there was the, by their gestures or by their response to me, that they knew how to proceed. And from that, I would guess that it had been done. But I am only guessing when I say that.

Senator INOUYE. I thank you very much, sir.

Senator ERVIN. We will take a brief recess, because there is a vote on the Senate floor.

[Recess.]

Senator ERVIN. The committee will come to order.

Senator Weicker was the next questioner but I don't believe he is in so I will go to Senator Montoya at this time, and recognize Senator Weicker when he comes in.

Senator MONTOYA. Thank you, Mr. Chairman.

Mr. Butterfield, was there any mechanism available whereby the President could turn off the recording in the Oval Office or in the Executive Office?

Mr. BUTTERFIELD. No, sir.

Senator MONTOYA. In other words, it was not within the power of the President or anyone working under him in those particular offices to turn off this recording.

Mr. BUTTERFIELD. No, sir. But technically speaking one could order that the locator light be moved even though the President might be in that position. But that would not happen under normal circumstances. I know of no occasion on which that happened.

Senator MONTOYA. Well, did you know whether anyone else had the proper mechanism to turn the recording off?

Mr. BUTTERFIELD. No, sir, I am sure no one did and, as a matter of fact, I doubt if anyone, other than the Secret Service members and I, perhaps I explained it to Mr. Higby, knew how that could be turned off or knew how it worked, as a matter of fact.

Senator MONTOYA. So what you are saying is there is no possibility that this, any conversation in the Oval Office or in the Executive Office or in the Camp David study room could be turned off. There is no possibility of that?

Mr. BUTTERFIELD. No, sir, not from within those offices, they would have to instruct me to have the equipment moved, changed.

Senator MONTOYA. Were you ever instructed?

Mr. BUTTERFIELD. No, sir, I was not.

Senator MONTOYA. Did you—were you able to monitor the conversations from your office?

Mr. BUTTERFIELD. No, sir, I could not monitor it.

Senator MONTOYA. All you could tell from your office was that there were conversations going on, and that the machine was working, is that right?

Mr. BUTTERFIELD. But I couldn't even tell that at any given time. I only had to rely on the Secret Service members to see that the tape was, you know, was being used, and the equipment was operational, that the tapes were changed frequently.

Senator MONTOYA. Now, is there any possibility that the tapes which were collected, that some of them could be missing or could have been destroyed?

Mr. BUTTERFIELD. Not to my knowledge. There shouldn't be. The Secret Service are highly trustworthy. It was their responsibility to change the tapes and to store—and to mark the tapes and to store them.

Senator MONTOYA. Who had responsibility for the storage, for the removal and the storage, of these tapes besides yourself?

Mr. BUTTERFIELD. Well, I ultimately, but the director of the technical Security Division was given that responsibility by me, and he carried it out.

Senator MONTOYA. Was he the only one besides yourself?

Mr. BUTTERFIELD. He and those who worked for him.

Senator MONTOYA. Did Mr. Ehrlichman or Mr. Haldeman or anyone else who worked for the President have authority to go into this particular room where the tapes were stored?

Mr. BUTTERFIELD. Mr. Haldeman had authority to do anything in the White House, sir, in that he was in effect the chief of the staff. It would be very unlikely for him to do that. He entrusted the responsibility to me. Mr. Ehrlichman, to the best of my knowledge, and I feel quite certain of this, knew nothing about the tapes.

Senator MONTOYA. Were the tapes properly labeled to indicate what conversations were contained therein?

Mr. BUTTERFIELD. Nothing about the conversations. The Secret Service, and again I say that I trust them implicitly, could not listen to conversations. They, too, however would check to make sure that the equipment was picking up sound. They would make a quick check on that and make sure it was picking up sound from time to time, and I made more elaborate or extensive checks on about three occasions.

Senator MONTOYA. And you state that the tapes were primarily to record conversations within these particular offices so that we could preserve history for posterity?

Mr. BUTTERFIELD. Yes; there really is no question in my mind about it, Senator Montoya. That was often on the President's mind and, as I said, he was very conscious of our having a good system for collecting the things which transpired with regard to the affairs of state.

Senator MONTOYA. Then why, Mr. Butterfield, wasn't anybody recording history at Key Biscayne or at San Clemente or at other places? Why was that gap, why the gap there?

Mr. BUTTERFIELD. I can't answer that question except that when the President did go to Key Biscayne and to Camp David he was going principally for the reason of resting and relaxing. Those are resorts. The western White House admittedly is truly a western White House. It is the western extension and I cannot answer your question with regard to it. It is a gap.

Senator MONTOYA. Was there ever any discussion on trying to fill this gap?

Mr. BUTTERFIELD. There may have been. I am very foggy on that. There may have been, someone may have——

Senator MONTOYA. To your knowledge, there wasn't?

Mr. BUTTERFIELD. Not to my specific knowledge, I can't say that. I have a very fuzzy recollection of a possible conversation, perhaps we should do it out there but when we were out there, as you may know, the schedule was relatively light. The President does work, he does see people but he uses the time to check his thoughts and to lay out plans and that sort of thing. So whereas there is a gap I would not say it is a serious one.

Senator MONTOYA. That is all, Mr. Chairman, thank you.

Senator ERVIN. Senator Weicker, I am sorry you were out a while ago when we resumed so I called on Senator Montoya and I will now afford you an opportunity to examine the witness.

Senator WEICKER. Thank you Mr. Chairman.

Mr. Butterfield, just three very brief questions: As I understand the listening devices in the Oval Office and the EOB were activated in two ways: They were activated, No. 1, by the presence of the President and than No. 2, by voice, is that correct?

Mr. BUTTERFIELD. That is correct, you are being properly technical.

Senator WEICKER. Right.

Mr. BUTTERFIELD. The President had to be there. If he were not the locator light would not indicate the location.

Senator WEICKER. So it would not, unless you have specific information to refute my supposition on this matter, no one other than the President could be in one of these rooms and have the conversation taped?

Mr. BUTTERFIELD. No; no one could. I was often in the Oval Office with Mr. Bull discussing plans that the cleaning people in there at night, none of that is picked up, because the indicator light indicating residence, out or wherever the President might be.

Senator WEICKER. It is a two-step system and both steps have to be in place before the taping starts?

Mr. BUTTERFIELD. Yes, sir. With regard to the Oval Office and the Executive Office Building office.

Senator WEICKER. Now, insofar—well, let me just ask this question. Would any other area—I am trying to think what the other areas were that you mentioned, Camp David, I am talking now about the listening devices, not the phone.

Mr. BUTTERFIELD. The Cabinet room only, sir.

Senator WEICKER. And the Cabinet room. In the Cabinet room would it be possible for conversations in the Cabinet room to be taped without the President's presence?

Mr. BUTTERFIELD. Yes; by pushing one of the buttons under the table, the one on the out, on the left, on the out-board side was the on button, the button on the right, on the out-board side was the off button. Also, by pushing a button on my telephone. I frankly have forgotten whether it was one button you push on and it lit and you pushed it again and it went out or whether there were two buttons but it was an unmarked button on my telephone face and it was a large telephone with many dials, with many buttons.

Senator WEICKER. Do you know of any instance when this did occur, a taping of a conversation held in the Cabinet room without the President present?

Mr. BUTTERFIELD. No, sir; as a matter of fact, on a number of occasions at Cabinet meetings, and I know this from firsthand knowledge in that I sat in on all Cabinet meetings except those few executive sessions which were held, no more than two or three in a 4-year period, the President would leave the Cabinet room, and the Cabinet meeting would continue under the chairmanship of the Vice President perhaps or under the chairmanship of Secretary Rogers.

As a general rule, I would leave too, if the President left. My concern was the President's concern. I was—I had no real business remaining if he were not there, and I would go back to my office and push the off button and we would stop recording. It was only for the President's business and that again, supports my earlier guess really, but I feel certain knowledge, that it was purely for historical purposes.

Senator WEICKER. Now, insofar as the listening devices on the telephones are concerned, they, however, did not need any two-step procedures, is that correct?

Mr. BUTTERFIELD. That is correct, sir.

Senator WEICKER. In other words, as soon as one got on the telephone, that activated the system?

Mr. BUTTERFIELD. Those specific telephones, yes, sir.

Senator WEICKER. And it could be someone other than the President?

Mr. BUTTERFIELD. On one of his telephones, yes, sir.

Senator WEICKER. In other words, both parties to the telephone, neither one of them would be the President of the United States and the conversation would be taped?

Mr. BUTTERFIELD. That is correct. But there again, sir, I would remind you or you may have noticed it, I am sure you have guessed it, that it is highly unlikely that anybody would be sitting in the Lincoln sitting room or at his desk in one of those offices or in his study at Camp David.

Senator WEICKER. Why do you think these systems were installed in 1970? If in fact it was installed for historical purposes, would it not have made a great deal of sense to have this installed at the outset of the administration?

Mr. BUTTERFIELD. It would have made a great deal of sense, but I am sure it was not thought of. I am sure I speak for other people when I say that, but I am certain that was the reason. A great many systems evolved. We had a system for preserving records of what transpired in the President's meetings. These memorandums were called: Memorandums for the President's File. And when I spoke to either Senator Talmadge or Senator Inouye a moment ago or whoever it was—I am not sure—about a procedure for having a staff member sit in on all calls on the President—the President was never alone with anyone who might call on him. It might be his old Duke Law School professor, but someone would sit in on that meeting and preferably make mental notes of what transpired, because actually writing notes had a tendency of inhibiting the guest, and we did not want to do that. The point I am making is that as much was remembered and as much was recorded, at least mentally, as possible during the meetings and afterward spit out into a dictating machine and written up in any manner

whatsoever. We did not care about punctuation, we did not care about grammar, we just wanted the substance of what transpired in that meeting for a special file, which was called Memorandums for the President's File. We did not think of that at the outset of the administration. And I think it was—I think we were about into the first year. It was roughly January or February of 1970 when we began that procedure. So it was just a case of evolution, sir.

Senator WEICKER. Now, in the interview which you had with the staff of this committee, which interview, I gather, took place on July 13, 1973, at 2:15 p.m., the interview, as reported by this staff, concludes with, and I would like to have your comments on this matter: Butterfield stated, "This is all something I know the President did not want revealed, but you asked me and I feel it is something you ought to know about in your investigations. I was told no one was to know about the information I have told you."

Is that a correct quotation?

Mr. BUTTERFIELD. I could not say that it was correct, but there was some reluctance on my part to reveal information which I felt could have a number of serious repercussions with regard to foreign governments. It is very obvious that this could be—I cannot say that any longer—is embarrassing to our Government. And also because I felt it could be something the President would like to present at a later time in defense of his own position.

Senator WEICKER. Did anybody indicate to you that you should not reveal it?

Mr. BUTTERFIELD. No, sir.

Senator WEICKER. Have you had any conversations with him?

Mr. BUTTERFIELD. I started to say quite the contrary, but I won't say quite the contrary. No one has contacted me at all. I was telephoned on—I forgot the date, but roughly early April, it might have been mid-April—by Mr. Higby, who said, not that I needed to be reminded to be totally truthful, but who said, be sure you tell the truth, or words to that effect, the whole truth or nothing but the truth, whenever you are called upon to testify. And I must say, I resented slightly his telling me that, but I know Larry well and I didn't really—and I said, of course I will. So I have had no instructions to the contrary.

I do feel that I am lacking in knowledge of judicial procedure. I do feel that I would have perhaps done better if I had had counsel. I just don't know. But I would not want to be—I might say, too, that I knew when I was interviewed on Friday afternoon that those same staff members of yours had interviewed Mr. Haldeman and Mr. Higby. I knew that they had complete knowledge of this. My assumption was that they had been asked the same questions precisely, and my assumption, of course, was that they had answered openly and honestly.

So I say I was a bit reluctant only because of the import. But obviously, not so reluctant that I failed to answer.

Senator WEICKER. Well, I just want to thank you very much, Mr. Butterfield. Let me say something right now: You don't need counsel. Let me also say, you don't need any of those assumptions which you have just given me. You have got the greatest thing going for you, which is, you told the truth to the committee.

Thank you very much, sir.

Senator ERVIN. This committee has taken some testimony to the effect that one Tom Charles Huston was appointed to conduct a study for the White House in the summer of 1970. Do you know anything about that? That is, of your own knowledge. I am not asking you what you read or may have read about it.

Mr. BUTTERFIELD. Yes, I do, sir, very little, and I remember even less.

Senator ERVIN. That preceded the installation of these listening devices and telephone equipment, didn't it?

Mr. BUTTERFIELD. Oh, I could not begin to say, Senator Ervin, and I, myself, would not tie the two together.

Senator ERVIN. Wouldn't this fact that they were all under the custody of the Secret Service indicate that these tapes were not for public information?

Mr. BUTTERFIELD. Yes, it would indicate that.

Senator ERVIN. I want to thank you very much on behalf of the committee.

Senator GURNEY. Mr. Chairman, may I ask one or two more questions?

Senator ERVIN. Yes.

Senator GURNEY. Mr. Butterfield, where are the records kept that show where the tapes can be found? For example, if you wanted to find one of a certain date, is there a file book or file record under a certain date?

Mr. BUTTERFIELD. If there is, Senator, it is maintained by the Technical Security Division of the Secret Service. On those few occasions on which I checked tapes to see if they were working and that conversation was coming in clearly, I simply called the chief of that office and spoke only to him and said, send me a tape from the Oval Office—I didn't specify a date; I had no—you know, just send me one. And I proceeded to check it. And as I say, I did that only about three times.

Senator GURNEY. Do you know of your own knowledge whether anyone has ever sought to get any of these tapes or has gotten any of these tapes, other than yourself in the testimony that you have just given this committee?

Mr. BUTTERFIELD. No, sir. If Mr. Haldeman wanted to do that, he could call the same individual, the chief of the Technical Security Division, and ask him to bring the tape over, or whatever, and not inform me. And, of course, the Secret Service agent would do that. But all of that was channeled through me. I feel certain that Mr. Haldeman would not have done that and under any normal circumstances, should anyone else do it, I would have been notified and the Secret Service would not have responded, in fact, until I had given my approval.

Senator GURNEY. Now; is it your testimony that if anybody had ever asked the Secret Service for these tapes, that they would have notified you?

Mr. BUTTERFIELD. Yes: that is correct.

Senator GURNEY. And that has never occurred, is that correct?

Mr. BUTTERFIELD. Yes; only if it had been someone senior to me and there were a number of these people, but the only ones senior to me who knew of this was Mr. Haldeman other than the President. If they

instructed someone not to tell me, that would be the case, but I would not guess that that would happen.

Senator GURNEY. In any event, the person to find out about the records and how they were kept and where they are kept and who had access to these tapes is the chief of the Technical Service of the Secret Service?

Mr. BUTTERFIELD. Yes, sir, he would know.

Senator GURNEY. Thank you.

Senator ERVIN. The Chair has received a letter from Mr. J. Fred Buzhardt, Counsel for the President, dated July 16, 1973, reading as follows:

Dear Mr. Chairman:

This letter is to confirm the fact stated to your Committee today by Mr. Alexander Butterfield that the President's meetings and conversations in the White House have been recorded since the Spring of 1971. I am advised that this system, which is still in use, is similar to that employed by the last Administration, which discontinued from 1969 until the Spring of 1971. A more detailed statement concerning these procedures will be furnished to the Committee shortly.

Sincerely, signed, Fred Buzhardt.

Mr. Butterfield, on behalf of the committee, I want to commend you for the forthrightness of your testimony.

Mr. BUTTERFIELD. Thank you, sir. I will be the first to agree with Mr. Buzhardt. I only guessed at the time. That is pretty good evidence, I think, of how fuzzy one's recollections can be to be off a full year, but if they say the spring of 1971, obviously, that has been checked with the Secret Service, who would have a record, and I stand corrected on that point.

I have one closing statement. I really said this at one point in my testimony, but I would feel better if I were allowed to say it once again.

In accordance with White House instructions, and by that I mean the telephone call I mentioned to you, Senator Weicker, from Mr. Higby, and again, I might say, not that I needed any instructions on the matter of honesty, I have freely and willingly appeared for interviews and answered all questions put to me, not only honestly, but openly. This matter which we have discussed here today, I think, is precisely the substance on which the President plans to present his defense. I believe, of course, that the President is innocent of any crime or wrong-doing, that he is innocent likewise of any complicity. And certainly, that is so in the face of the kinds of evidence and exhibits, at least that I know about, which have been put before this committee to date.

I knew when I was interviewed by your staff members on Friday afternoon, as I said earlier, that Messrs. Haldeman and Higby had preceded me in September by similar interviews. I certainly assumed that each had given an open and honest answer to that particular question, that I was being asked that same question so as to corroborate the fact—by that, I mean their answers.

I only hope that I have not by my openness and by my adherence to all instructions received to date, given away something which the President planned to use at a later date in support of his position.

That is all I have, sir.

Senator ERVIN. Well, thank you very much.

Counsel will call the next witness.

Mr. DASH. Will Mr. Herbert Kalmbach come to the witness table, please?

Senator ERVIN. Mr. Kalmbach, will you stand and hold up your right hand, please, sir? Do you swear that the evidence which you shall give to the Senate Select Committee on Presidential Campaign Activities shall be the truth, the whole truth, and nothing but the truth, so help you God?

Mr. KALMBACH. I do.

Senator ERVIN. State your name and address for the record and profession for the purposes of the record.

TESTIMONY OF HERBERT W. KALMBACH, ACCOMPANIED BY JAMES H. O'CONNOR, COUNSEL

Mr. KALMBACH. My name is Herbert Warren Kalmbach and my address is 1056 Santiago Drive, Newport Beach, Calif.

Senator ERVIN. The Chair knows you are accompanied by counsel, and I will request the counsel to state his name and address for the purposes of the record.

Mr. O'CONNOR. Thank you, Mr. Chairman. My name is James H. O'Connor, Phoenix, Ariz.

Senator ERVIN. Thank you.

Mr. DASH. Mr. Kalmbach, I know you have prepared a brief statement. Would you like to read that statement to the committee?

Mr. KALMBACH. Yes; I would. Thank you.

Mr. Chairman, Mr. Vice Chairman, and members of the Senate Select Committee, prior to the time this committee began to take testimony in this matter and before the issuance of a subpena, I voluntarily appeared and offered to testify to whatever knowledge I had that would be helpful to the committee in its investigation. My decision to do so was prompted by the chairman's remarks to the Senate on February 6, 1973, and, by my desire to clear my name of any suggestion of improper activity with respect to events leading up to or following the so-called Watergate break-in on June 17, 1972. Also, for the record, I wish to state that I have never asked for immunity nor have I indicated that I would exercise my fifth amendment rights before this committee or any other investigative body relative to the subject of this inquiry.

Even though I have earlier submitted copies of my personal résumé to the committee's staff for distribution, a brief summary of that biographical statement may be appropriate for the purposes of this opening statement.

I was born in Michigan in 1921 and moved with my family to California at an early age following the death of my father in 1932. I was raised in southern California and spent almost 5½ years on active duty in the Navy during World War II. I completed my undergraduate work and law school education at the University of Southern California in 1951. It was at law school that I first met my old and close friend, Jim O'Connor, who has been acting as my counsel in this matter.

Since graduating from law school, I have been active in the practice of law and in corporate management work in southern California

and in Arizona. In 1967, the present firm of Kalmbach, DeMarco, Knapp & Chillingworth was founded with offices in Los Angeles and Newport Beach. Also, for more than 20 years, I have been active in political work—particularly in recent years in the area of campaign finance.

Since early 1969, I have been engaged in activities on the President's behalf in three major areas.

First, it has been the source of great pride and personal satisfaction to me and to my partners to have had the responsibility for handling personal legal matters for President Nixon and members of his immediate family for the past 4 years. During this period, practically all of the contacts that I had relative to these matters were handled through either John Ehrlichman or John Dean.

Second, I acted as trustee during the period from January of 1969 to early February of 1972 for certain surplus funds which had accrued principally from the primary period of the 1968 campaign. While Maurice H. Stans was the individual with whom I dealt at the time I accepted such trusteeship, I disbursed from such funds only at the express direction of H. R. Haldeman or others clearly having the authority to direct such disbursements.

Third, I agreed to solicit early pledges of financial support for the President's 1972 campaign beginning in November of 1970. This assignment was completed in the spring of 1972. The original records of this activity were turned over to the finance committee after Mr. Stans had assumed the post of finance chairman on February 15, 1972. I thereupon directed my secretary to destroy my files which were wholly personal and supportive of the original files earlier transferred to the finance committee. This action on my part was intended to insure the continued confidentiality of the contacts that I had had with various contributors with whom I had dealt during this period. Copies of what remaining records I have and such bank records as I have been able to retrieve have been supplied to the committee's staff prior to my appearance here today.

Finally, I want to take this opportunity to deny any prior knowledge of the Watergate break-in, in or participation in, the formulation of any planned conspiracy to cover up that incident or act of campaign sabotage or unethical activity. My actions in the period immediately following the break-in which involved the raising of funds to provide for the legal defense of the Watergate defendants and for the support of their families were prompted in the belief that such was proper and necessary to discharge what I assumed to be a moral obligation that had arisen in some manner unknown to me by reason of earlier events. The fact that I had been directed to undertake these actions by the No. 2 and No. 3 men on the White House staff made it absolutely incomprehensible to me that my actions in this regard could have been regarded in any way as improper or unethical.

I am here before you today to tell the truth about my activities during the period in question. It is not my purpose to testify for or against any individual. I wish to cooperate fully with the committee, and in that spirit, I am now ready to answer your questions to the very best of my ability.

Thank you.

Mr. DASH. Thank you, Mr. Kalmbach.

Mr. Kalmbach, when did you first meet President Nixon?

Mr. KALMBACH. It was in the mid-1950's, Mr. Dash.

Mr. DASH. Now, there came a time, did there not, that you played a role in campaign fundraising for the President? When was that, prior to the 1972 campaign?

Mr. KALMBACH. In 1968 I was associate finance chairman for that campaign.

Mr. DASH. Now, what, if anything, did you do with any funds left over from the 1968 campaign?

Mr. KALMBACH. Mr. Stans, in mid-January of 1969, asked me to to accept the trusteeship for certain surplus funds from that campaign.

Mr. DASH. Where were those funds kept?

Mr. KALMBACH. Prior to that time they had been kept in New York, I am not certain as to exactly where in New York.

Mr. DASH. These would be in safe deposit boxes?

Mr. KALMBACH. Yes, sir.

Mr. DASH. Mr. Kalmbach, who could authorize disbursements from these funds?

Mr. KALMBACH. Mr. Haldeman principally, and at a later time also Mr. Ehrlichman, Mr. Mitchell and others who clearly would stand in the shoes of these people.

Mr. DASH. Would that include Mr. Strachan and Mr. LaRue at all?

Mr. KALMBACH. Yes, sir, it would.

Mr. DASH. When did you begin working as the President's personal attorney?

Mr. KALMBACH. Beginning in March, I think it was, in 1969.

Mr. DASH. Would you please describe the types of legal matters for which you and your firm worked for the President?

Mr. KALMBACH. Initially the work had to do with the acquisition of the property in San Clemente which was to become the western White House. We have also done work on his behalf in estate planning, and also have done personal tax work in conjunction with his CPA.

Mr. DASH. Do you still work on legal matters for the President?

Mr. KALMBACH. Yes, sir.

Mr. DASH. During this period of time now, in which you have had a relationship for many years with the President, both in the campaign fund operation and also as a personal attorney, how often did you meet with the President?

Mr. KALMBACH. Before this appearance here today, I have gone back over my records and, to the best of my ability, my records have shown that I met with him probably four or five times since March of 1969 alone or with one or two others.

Mr. DASH. Did you receive telephone calls from the President?

Mr. KALMBACH. Yes, sir.

Mr. DASH. How often would you receive a telephone call?

Mr. KALMBACH. Again my records would indicate probably four or five telephone calls during that period.

Mr. DASH. Therefore, since actually during that period of time this was not a frequent contact relationship or telephone relationship, who in the White House did you have contact with concerning your activities on behalf of the President?

Mr. KALMBACH. Principally John Ehrlichman and then after John Dean came to the White House in mid-1970, also John Dean.

Mr. DASH. Would it be fair to say, Mr. Kalmbach, that when you did speak to them on legal matters that you—it was in your mind you were speaking with the President?

Mr. KALMBACH. Yes, sir; I would.

Mr. DASH. When were you first asked to raise money for the 1972 campaign, and by whom?

Mr. KALMBACH. It was in November of 1970 by Mr. Haldeman.

Mr. DASH. What position did you have in the 1972 campaign?

Mr. KALMBACH. Beginning on February 15, 1972, I agreed to act as the associate finance chairman through the period ending April 7, the date that the new law became effective.

Mr. DASH. Now in February 1972, did you have funds in your posession that were raised during campaigns?

Mr. KALMBACH. Excuse me, Mr. Dash, what was that date?

Mr. DASH. In February 1972.

Mr. KALMBACH. Yes, sir.

Mr. DASH. Just prior to February?

Mr. KALMBACH. Yes, sir.

Mr. DASH. What did you do with those funds in February 1972?

Mr. KALMBACH. In the first few days of February of 1972, I closed all of the checking accounts that I had, one was in New York and, I believe, two in California, and sent all of those checks to Mr. Sloan at the finance committee in Washington, and I also closed and emptied the several safe deposit boxes and transferred those funds to Mr. Sloan so that I zeroed out my account.

Mr. DASH. Do you know approximately how much money was involved in terms of turning over the money to Mr. Sloan?

Mr. KALMBACH. Yes, sir.

Mr. DASH. How much was that?

Mr. KALMBACH. In the first week I would say in 19—in February of 1972 the total was $915,000, and that total would include approximately $233,000 in cash, and approximately $670,000 in checking account balances.

Mr. DASH. After you turned over this money did you destroy any records that you had?

Mr. KALMBACH. Yes, sir, I did.

Mr. DASH. Will you tell us what records and why?

Mr. KALMBACH. After I turned over the moneys I transferred my files on the people that I had seen, the pledges that I had received, the essentials of my records, to Mr. Stans and to the finance committee. It was my belief then that my records that I still retained were wholly personal and supportive of what I considered to be the original records, and once I was certain in my own mind that the original records had been in fact transferred to the finance committee then I directed my secretary, a Mrs. Harvey, to destroy those personal and supportive records for the reason of confidentiality.

Mr. DASH. Now, these personal supportive records were bank records and checks, were they not?

Mr. KALMBACH. There were some, yes, sir.

Mr. DASH. When did you resign from your position as associate finance chairman?

Mr. KALMBACH. As of April 7, 1972.

Mr. DASH. While you were at the finance committee did you have any contact with Gordon Liddy?

Mr. KALMBACH. Yes, sir.

Mr. DASH. Could you describe the nature of that contact or any assignments that you gave Gordon Liddy?

Mr. KALMBACH. As best as I can recall, Mr. Dash, my first acquaintance with Mr. Liddy was in the latter part of March, although I think I had lunch with others, with Mr. Liddy in January, when I first met him, and the first time that I had really worked with him was in the latter part of March when he came aboard the finance committee as counsel to the committee.

In my position as associate chairman I gave him several assignments asking for legal opinions and the like, and I can recall one or two trips that I asked him to take, to contact attorneys for contributors to help in legal problems.

Mr. DASH. You had no contact with him or any relationship with him on any intelligence or fact-gathering operations?

Mr. KALMBACH. No, sir.

Mr. DASH. Now, did you give Mr. Stans an advance on his expenses in February 1972?

Mr. KALMBACH. Yes, sir.

Mr. DASH. How much?

Mr. KALMBACH. I gave him $50,000.

Mr. DASH. Why did you give him that?

Mr. KALMBACH. I beg your pardon?

Mr. DASH. Why did you give him that? Why?

Mr. KALMBACH. Mr. Stans had come to me and asked me for these funds as an advance for personal expenses for the forthcoming campaign.

Mr. DASH. Was a receipt given to you for that?

Mr. KALMBACH. No, sir.

Mr. DASH. Now, are you aware of the transaction whereby $350,000 left the Committee for the Re-Election of the President, the finance committee, and went over to the White House?

Mr. KALMBACH. I am.

Mr. DASH. Can you tell us briefly of your own knowledge how that took place?

Mr. KALMBACH. About the last part, the last week in March or very early in the first few days of April, and I am not certain, I was called by Mr. Higby from the White House and was asked as to how much cash would be available for transfer to the White House. I then checked with Mr. Sloan. I called Mr. Higby back and told him that I had found there was $350,000 in cash in Mr. Sloan's safe that would be available.

Then Mr. Higby—I think there were one or two additional calls back and forth and it is my recollection that Mr. Higby then called and informed me that Mr. Strachan would come over to the finance committee and pick up the $350,000 that afternoon. And again, this was within a week of April 7 or thereabouts.

I then spoke to Mr. Sloan and asked Mr. Sloan to give me the funds in time for the pickup by Mr. Strachan, which he did. And as I best remember it, Mr. Dash, the funds were put in my office in the finance committee. Mr. Strachan came over at 1:30 or 2 in the afternoon—I am not certain—and picked up the briefcase from my office and then left the office.

Mr. DASH. These funds were all in cash?

Mr. KALMBACH. Yes, sir, they were.

Mr. DASH. Do you know the denomination of the bills that went over?

Mr. KALMBACH. No, sir, I do not.

Mr. DASH. Now, you mentioned Mr. Higby and Mr. Strachan. You are aware that Mr. Higby and Mr. Strachan are both assistants of Mr. Haldeman?

Mr. KALMBACH. I am.

Mr. DASH. And you know that they could have been——

Mr. KALMBACH. Yes, sir.

Mr. DASH. Do you know why the request, why the $350,000 was needed?

Was any information given to you?

Mr. KALMBACH. I am not certain, Mr. Dash, that it was expressed to me, the purpose. But I know that it was my assumption, and it may have been expressed to me, but it was my assumption that it would be used for polling purposes.

Mr. DASH. When did this take place?

Mr. KALMBACH. I would think within 7 days of April 7, 1972.

Mr. DASH. Now, following this, Mr. Kalmbach, the break-in at the Watergate on June 17, did you receive a call from Mr. Stans asking you to come to Washington? Shortly after that period?

Mr. KALMBACH. Excuse me, Mr. Dash. Would you repeat that question?

Mr. DASH. I said following the break-in at the Watergate, which took place on June 17, sometime after that period, did you receive a call from Mr. Stans to come to Washington from California?

Mr. KALMBACH. Yes, my recollection is that I received a call from Mr. Stans, probably early in the week, the 20th or thereabouts, to come to Washington and to meet with Mr. Sloan to reconcile my cash records. There was no reference at all to the Watergate break-in.

Mr. DASH. Now, did you report to Mr. Stans after that meeting?

Mr. KALMBACH. Yes, I did.

Mr. DASH. What, if anything, did you say to Mr. Stans?

Mr. KALMBACH. I just informed him that I had met with Mr. Sloan and that we were in agreement on the cash records, and he said, fine, and as far as he was concerned, I was discharged from that responsibility and my accounts had balanced.

Mr. DASH. Did you destroy any records after that meeting with Mr. Sloan?

Mr. KALMBACH. Yes, I did. I destroyed my own personal cash records, knowing that the original record was in the finance office.

Mr. DASH. Now, on your visit to Washington on June 21 or June 22, did you discuss the Watergate break-in with anybody? That was right after that period of time?

Mr. KALMBACH. No, other than in casual conversation, I can't recall that I did, Mr. Dash.

Mr. DASH. Wasn't that a kind of topic of conversation over at the committee?

Mr. KALMBACH. It was, but other than just being a very major news item, that was the extent of it. I didn't discuss it beyond that.

Mr. DASH. It was a major news item especially with relation to the committee, was it not?

Mr. KALMBACH. Yes, sir, it was.

Mr. DASH. Did you find a lot of interest when you were there at the committee concerning that incident?

Mr. KALMBACH. Well, again, Mr. Dash, it was a topic of discussion, and I know that I did talk about it, but it was nothing more than that.

Mr. DASH. All right after that meeting, you returned to California?

Mr. KALMBACH. Yes, sir, I did.

Mr. DASH. Now, did you receive a telephone call from Mr. John Dean on June 28?

Mr. KALMBACH. Yes, I did.

Mr. DASH. And what did he tell you on the telephone?

Mr. KALMBACH. As I remember the telephone conversation, Mr. Dean called me. It was in the early afternoon, midafternoon, on the 28th. He told me that it was a matter of extreme importance that I return to or come back to Washington, preferably by the first available flight, to undertake a very important assignment.

Mr. DASH. And what did you do in response to that call?

Mr. KALMBACH. I took a 10 or 10:15 or 10:30 flight that night.

Mr. DASH. Arriving in Washington when?

Mr. KALMBACH. Arriving in Washington at 6, 6:15, 6:30, the following morning.

Mr. DASH. Now, what did you do next, Mr. Kalmbach?

Mr. KALMBACH. I then took a cab into town and checked into the Statler-Hilton Hotel.

Mr. DASH. Did you then meet Mr. Dean, either at that time or a later time that day?

Mr. KALMBACH. Yes, after I checked in nd changed, I think probably I had some breakfast, I called Mr. D n around, as I can best recall, around 9 in the morning in his ice in the Executive Office Building.

Mr. DASH. And what transpired? What was the call about? What did Dean say, what did you say, and what followed?

Mr. KALMBACH. It seems that in recalling that conversation, I told him that I am here in Washington at the Statler, and I can come over to your office right now if that is what you wish.

He replied, "No, you are at the Statler, I am here at the Executive Office Building, why don't we both start walking and meet in front of the Hay-Adams Hotel?"

I said, "all right." This had never happened before, but it was a nice day and I said, "all right, I will do that; I will meet you in front of the Hay-Adams," and then left the hotel.

I was there about 9:30, I would guess, and I think I saw him coming up through the park and I suggested that we have coffee at the Hay-Adams. He said, "No, let's just walk in the park," which we did.

We walked for a time and I recall that he put his foot up on the bench and made some wide gestures, indicating to me that I should do likewise, which I am not certain that I understood what he meant by that, but I recall that very clearly.

Mr. DASH. He made wide gestures and asked you to do likewise?

Mr. KALMBACH. Wide gestures, well, indicating that perhaps we were being observed. I don't understand, but I do remember that he did, in fact, do that, and suggest to me that I do likewise.

Mr. DASH. You would certainly be a greater target of observation if you were making wide gestures, would you not?

Mr. KALMBACH. I would think so.

Mr. DASH. Well, what, actually, did you and Mr. Dean discuss? What did he say to you, other than making gestures?

Mr. KALMBACH. Well, he indicated that the reason for this call and for my coming back to Washington was that it was necessary to talk to me about a very important assignment, namely that, he said—he used the editorial, "We,"—"We would like to have you raise funds for the legal defense of these defendants and for the support of their families."

Mr. DASH. When you say these defendants, now——

Mr. KALMBACH. The Watergate——

Mr. DASH. These were the seven defendants, Mr. Hunt, Mr. Liddy, Mr. McCord, Mr. Barker, Mr. Sturgis, Mr. Gonzales——

Mr. KALMBACH. That is correct.

Mr. DASH. Now, you knew that they were for all of these defendants?

Mr. KALMBACH. I just remember that he said the Watergate defendants at that time and I was not even certain at that point in time that I even knew their names.

Mr. DASH. All right. Did you ask him any questions about that?

Mr. KALMBACH. Yes, I did. I recall that in my conversation with him, I asked whether or not it would not be perhaps preferable to have a public committee formed to raise funds for these people and for these purposes. And also, I recall that I wondered aloud about whether or not maybe they could mortgage homes or raise funds in that way until a public committee could be established. His answer to that was that there was no time for this, that a public committee might be misinterpreted, and he just waved it aside and pressed on with his request.

Mr. DASH. Did he tell you how much money might be involved?

Mr. KALMBACH. My recollection is that he indicated $50,000 to $100,000 for this assignment.

Mr. DASH. Did he stress, since he had indicated to you that a public effort might be misinterpreted, did he stress that this had to be completely secret?

Mr. KALMBACH. Yes, he made a very strong point that there was absolute secrecy required, confidentiality, indicating that if this became known, it might jeopardize the campaign and would cause misinterpretation as to the reasons for raising these funds and for the help of these people.

Mr. DASH. Now, since you were to raise these funds, how would you know how much was to be given to which defendants? Was there a discussion about that?

Mr. KALMBACH. Yes, sir, there was.

Mr. DASH. Could you tell us about that?

Mr. KALMBACH. After he had made the request, I asked him if I, when I raised the funds, should I give them to him for distribution, and he said, no, not to me. And he indicated, I think, Mr. LaRue would be the person——

Mr. DASH. Is that Mr. Fred LaRue?

Mr. KALMBACH. Mr. Fred LaRue would be the person who would be giving me directions in this assignment as to specific amounts and

specific individuals. And as I can best recall this conversation, I was a little perplexed on this because I did not know these people at all. And it is——

Mr. DASH. Did you know Fred LaRue?

Mr. KALMBACH. Well, I, of course, knew Fred LaRue but casually. But as to how to distribute these funds—then again, my best recollection is that he indicated at that point that perhaps Mr. Ulasewicz might be the one to act as the distributor for the funds.

Mr. DASH. Is this Tony Ulasewicz?

Mr. KALMBACH. Yes, sir, it is.

Mr. DASH. Is that the Tony Ulasewicz who has testified before this committee before?

Mr. KALMBACH. It is.

Mr. DASH. Did you know Tony Ulasewicz?

Mr. KALMBACH. Yes, I did.

Mr. DASH. Had you worked with him in the past?

Mr. KALMBACH. I had met with him two or three times total from mid-1969 until approximately October 1, 1971, and I had three conversations, two or three conversations, during that period.

Mr. DASH. Did you have confidence that Mr. Ulasewicz was the kind of person who could be useful in this kind of assignment?

Mr. KALMBACH. Well, I knew that he had been acting and undertaking assignments for the White House for that period and I certainly knew that he had the confidence of whoever it was that he was working with, and when he mentioned Mr. Ulasewicz as someone to do this, I said that I would, I certainly would have confidence in him.

Mr. DASH. Did you know whether or not—did you know what kind of assignments he had undertaken for the White House before?

Mr. KALMBACH. No, sir; I did not, Mr. Dash.

Mr. DASH. But you knew that he would be somebody that you could have confidence in?

Mr. KALMBACH. Well, I knew that he was a retired New York City police officer who was competent and I was certain that he was someone that could be trusted and I would be——

Mr. DASH. Who other than Mr. Dean were you thinking of when you say they would have confidence? Did you mean Mr. Haldeman?

Mr. KALMBACH. Well, whoever he was talking for. He was using the editorial "we" all the time.

Mr. DASH. Well, if he was talking for anybody over in the White House, who did he work with most often, to your knowledge?

Mr. KALMBACH. Mr. Dean?

Mr. DASH. Yes.

Mr. KALMBACH. Well, he worked with practically everyone in the White House. But, of course, principally——

Mr. DASH. Who above him?

Mr. KALMBACH. He reported to Mr. Ehrlichman. And he also worked closely with Mr. Haldeman. He did not mention their names in this conversation.

Mr. DASH. Have you ever been given any other assignment of this nature in the past?

Mr. KALMBACH. No, sir.

Mr. DASH. After meeting with Mr. Dean, what did you do? Did you indicate, first, that you would accept this assignment from Mr. Dean?

Mr. KALMBACH. I did.

Mr. DASH. And you did accept it under the basis that if Mr. Dean was asking you as the President's counsel, that he had authority to ask you for that?

Mr. KALMBACH. Absolutely. I had known Mr. Dean since mid-1970, and I had complete trust in the man and knowing that he was counsel to the President.

Mr. DASH. All right, then, you accepted this assignment. What did you do right after that meeting with Mr. Dean?

Mr. KALMBACH. I walked back to the Statler-Hilton and I think within a matter of minutes after I was back at the hotel I called Mr. Stans.

Mr. DASH. What did you say to Mr. Stans?

Mr. KALMBACH. I told him that I had been given a special assignment requiring as much cash as perhaps he would have available, and I think I mentioned $50,000 to $100,000, and asked him if it would be possible that he could help me in this assignment.

Mr. DASH. What did he say?

Mr. KALMBACH. He said that he would see what he could do. He said that he would have, as I remember it, he said he would have to go to a safe deposit box but that he would meet me at the Statler-Hilton in my room early in the afternoon.

Mr. DASH. Did he meet you early in the afternoon?

Mr. KALMBACH. Yes, sir, he did.

Mr. DASH. Did he have anything with him?

Mr. KALMBACH. Yes, he did. He had—he gave me $75,100.

Mr. DASH. How were they packaged?

Mr. KALMBACH. It was in $100 bills, as I remember it.

Mr. DASH. Did he indicate to you the source of that money, Mr. Kalmbach?

Mr. KALMBACH. He did. As to $45,000 he said that it was the balance of the $50,000 that he had earlier given me. He said that he was giving it to me now but he did not indicate, as I remember it at all, the source of the balance of those funds.

Mr. DASH. Did you tell Mr. Stans at any time when you asked for this money, when you received it, what that money was going to be used for?

Mr. KALMBACH. No, I did not.

Mr. DASH. Did Mr. Stans question you as to why you needed the money?

Mr. KALMBACH. Again, Mr. Dash, when I talked to Mr. Stans, we had known each other a number of years, I told him it was for a very important assignment, that I had been advised that it was in complete confidence, that I could not tell him the nature of the assignment, that he would have to trust me, and he said "Of course, I do trust you, Herb", and with that he gave me the funds.

Mr. DASH. All right.

Now, what did you do with the money that Stans gave you?

Mr. KALMBACH. I held the funds until the following day when I gave them to Mr. Ulasewicz.

Mr. DASH. How did you make contact with Mr. Ulasewicz?

Mr. KALMBACH. When I had met with Mr. Dean I recall that, it seems to me that I asked him to get in touch with Mr. Caulfield who he knew well, and who knew Mr. Ulasewicz' number in New York,

and to ask Mr. Caulfield to call me and give me that number, and then I would call Mr. Ulasewicz, and that is, that is what I recall that I did. I received a call, and then called Mr. Ulasewicz late in the afternoon on the—let us see, it was the 29th and asking him to come down to Washington the next day, on the 30th.

Mr. DASH. Did you say anything on the telephone as to why he should come down?

Mr. KALMBACH. No, I just said I wanted to see him for a special assignment.

Mr. DASH. Then you had a meeting with him?

Mr. KALMBACH. Yes, I did.

Mr. DASH. Where did you meet with him?

Mr. KALMBACH. I met with him at my room in the Statler-Hilton Hotel.

Mr. DASH. Did you tell Mr. Ulasewicz or ask him to undertake this assignment?

Mr. KALMBACH. Yes, sir, I did. I told him exactly what Mr. Dean had told me, namely that this, the purpose of this assignment was to provide funds for these defendants, for their legal help and also to provide support for their families, and I stressed again the statement that Mr. Dean had given to me that it must be in absolute secrecy and confidentiality, and he thoroughly understood and took the funds and left and went back to New York.

Mr. DASH. So he agreed to follow out this assignment that you had requested?

Mr. KALMBACH. Yes, sir.

Mr. DASH. Prior to Mr. Ulasewicz' coming down did you again meet with Mr. Dean?

Mr. KALMBACH. Yes. I met with him Friday morning at which time——

Mr. DASH. Friday morning?

Mr. KALMBACH. At which time I told him that I had contacted Mr. Ulasewicz, that Mr. Ulasewicz would be in Washington that afternoon and that I had raised $75,100.

Mr. DASH. Where was that meeting?

Mr. KALMBACH. In my room at the Statler.

Mr. DASH. Could it have been, Mr. Kalmbach, that you first had coffee in the coffee shop with Mr.—this was the Statler-Hilton?

Mr. KALMBACH. Yes, sir, it was.

Mr. DASH. Yes, could you first have met in the coffee shop and then in your room?

Mr. KALMBACH. Well, it could have been but my recollection is that we met in my room.

Mr. DASH. Now, you testified that you met—when you met with Mr. Ulasewicz you stressed the secrecy that Mr. Dean had stressed with you. Did you arrive at any method with Mr. Ulasewicz as to how you would carry out this assignment, under a covert operation?

Mr. KALMBACH. Well, the only method was that we would—it was again stressed, absolute secrecy. In my conversations with Mr. Ulasewicz when I stressed that, in our talks between ourselves, it was agreed that we should use telephone booths, talk between telephone booths and, of course, as it later became procedure that in his conversations with various of these people to whom he was—that he was contacting, he would use an alias.

Mr. DASH. Mr. Ulasewicz would use an alias?

Mr. KALMBACH. Yes, he would.

Mr. DASH. Do you know what Mr. Ulasewicz' alias was during this transaction?

Mr. KALMBACH. No, I think there were several.

Mr. DASH. Does the name Rivers make——

Mr. KALMBACH. That was one of those, yes, sir.

Mr. DASH. Did he suggest that name?

Mr. KALMBACH. Well, I do not know whether he did or whether I did, but in our conversation—but then back, I would then report to either Mr. Dean or Mr. LaRue, who would give us the directions or give me the directions, I would then give Mr. Ulasewicz the directions, he would then make the contact with the people.

Mr. DASH. Under your direction your conversation would be with Mr. Ulasewicz on the telephone?

Mr. KALMBACH. Yes, sir.

Mr. DASH. And they would be from telephone booth to telephone booth.

Mr. KALMBACH. Yes, usually.

Mr. DASH. Could you just give me a scenario how you would contact Mr. Ulasewicz, or how he would contact you, what one would say to the other, and how you would do it?

Mr. KALMBACH. Well, if there is a typical, and I don't know if there is, but it would, I would receive a call either from Mr. Dean or Mr. LaRue with instructions to get x amount of funds over to one of the defendants or one of the attorneys. I would then call Mr. Ulasewicz, and so inform him.

Mr. DASH. You would call him and reach him at his home number?

Mr. KALMBACH. I would reach him in New York at his home number.

Mr. DASH. What would you tell him to do?

Mr. KALMBACH. I would call him from a pay phone. He would then—he told me the number of another pay phone and 15 minutes later I would call him and he would be at the pay phone.

Mr. DASH. When you called him did you use a telephone credit card?

Mr. KALMBACH. No, always it was in cash and it was using a good number of quarters.

Mr. DASH. Putting a lot of quarters in the telephone as you went along?

Mr. KALMBACH. Yes, sir.

Mr. DASH. And when you referred to particular people who received, who would receive that, take for instance Mr. Hunt, did you have a particular code name for Mr. Hunt?

Mr. KALMBACH. I think we did. I think we called Mr. Hunt, just called him "The Writer," he had been an author, we called him "The Writer." I think we called Mrs. Hunt "The Writer's Wife."

I don't know that we had any other names for anyone else.

Mr. DASH. Did you have any particular code name for the money that was being distributed?

Mr. KALMBACH. No. If there is a code name the name developed in—when I was at the Statler and Mr. Ulasewicz came down to receive the $75,100 that I had received from Mr. Stans, he came into the room and he didn't have a briefcase with him, so he just went to the shelf

in the room and wrapped it in a laundry bag, and so I, after that we both called it the laundry, as to how much money you had available.

Mr. DASH. And he carried it back then——

Mr. KALMBACH. That was just—and he carried it back in that laundry bag, as I recall it.

Mr. DASH. Kind of a significant name at this time to be used for that money, was it not?

Mr. KALMBACH. Yes.

Mr. DASH. Did you ever use the term "script" in such a conversation?

Mr KALMBACH. I think we had that term "script."

Mr. DASH. Script for the writing?

Mr. KALMBACH. Meaning the script of all of the players involved, the defendants and certain of these attorneys that were representing certain of the defendants.

Mr. DASH. Now, did Mr. Ulasewicz have any knowledge or reason to know about these activities? He knew what you knew, did he not?

Mr. KALMBACH. Yes, sir.

Mr. DASH. Did you discuss with him at all the property of this activity?

Mr. KALMBACH. No, sir; I just told him that it was proper, and I told him that the purpose, as I have stated, was to furnish legal help for these people, and to furnish them with family support.

Mr. DASH. You did know, of course, that the particular people who were getting this money for their legal defense or support of families were charged or indicted with, under the crime of burglary, and illegal wiretapping and conspiracy, did you not?

Mr. KALMBACH. I knew the essence of the charges; yes, sir.

Mr. DASH. All right.

Other than being told by Mr. Dean that this would be an appropriate thing to do, you made no independent inquiry as to the property of this?

Mr. KALMBACH. No; I made none.

Mr. DASH. Now, how were instructions about the distribution of funds given to you and Mr. Ulasewicz? Was that by phone from Mr. LaRue or Mr. Dean?

Mr. KALMBACH. Probably 90 percent of the time it was by telephone. The other 10 percent was in personal discussion with him in his office or more usually in Mr. Dean's office.

Mr. DASH. Now, what was the first instruction you received to give money?

Mr. KALMBACH. Again, as I have tried to reconstruct this, Mr. Dash, the first instruction that I received, which I passed to Mr. Ulasewicz was to have Mr. Ulasewicz give $25,000 to Mr. Caddy. I don't know much of Mr. Caddy, I understand he is an attorney here in Washington. And, as I recall it, this was probably from approximately July 1 through July 6 or 7. There were a number of calls. I would talk to either Mr. Dean or Mr. LaRue, I would then call Mr. Ulasewicz who, in turn, would call Mr. Caddy. He would have some response from Mr. Caddy, and I would call back up to either Mr. Dean and Mr. LaRue.

Mr. DASH. What was the response from Mr. Caddy?

Mr. KALMBACH. Well, the sum and gist of it was in that Mr. Caddy refused to accept the funds.

Mr. DASH. In that manner?

Mr. KALMBACH. That is correct. That was the end-all. There were several telephone calls, but the final wrap-up on it was that he refused to receive the funds.

Mr. DASH. Who was contacted next, which lawyer?

Mr. KALMBACH. I think Mr. O'Brien was contacted and again with the same result.

Mr. DASH. He refused to receive the funds?

Mr. KALMBACH. Yes, sir.

Mr. DASH. And then who next was approached?

Mr. KALMBACH. I think then it was Mr. Bittman, and Mr. Bittman—I think this may have been when the name Rivers was used, Mr. Dash, but my recollection would be that Mr. Bittman received $25,000, probably sometime during the second week of July 1972.

Mr. DASH. Did you follow any usual procedure that Mr. Ulasewicz would make the contact and pay the money, he would call you and then you would call Mr. Dean and tell him it had been accomplished?

Mr. KALMBACH. Or Mr. LaRue.

Mr. DASH. Or Mr. LaRue. Were all these phone calls booth to booth?

Mr. KALMBACH. Yes, sir.

Mr. DASH. Even when you spoke to Mr. Dean?

Mr. KALMBACH. Yes; that is correct.

Mr. DASH. Or Mr. LaRue?

Mr. KALMBACH. That is correct.

Mr. DASH. What other lawyers were supposed to receive money, to your recollection, Mr. Kalmbach?

Mr. KALMBACH. Well, after the disbursal to Mr. Bittman, I think there was—most of the remaining funds went to Mrs. Hunt who, in fact, was the person who did the distributing thereafter and she distributed to these other attorneys.

Mr. DASH. Mrs. Hunt?

Mr. KALMBACH. Yes.

Mr. DASH. Now, when you next—when did you next return to Washington, after this first series of meetings, where you received this money and met with Mr. Ulasewicz, when did you next return to Washington?

Mr. KALMBACH. Well, the next time that I was back in Washington involved in this assignment, Mr. Dash, was, I think it was, on July 19.

Mr. DASH. What happened at that time? What brought you back?

Mr. KALMBACH. Well, at that time, I think I was asked to come back, I think by either Mr. Dean or Mr. LaRue, and to meet with Mr. Dean and Mr. LaRue in Mr. Dean's office in the Executive Office Building.

Mr. DASH. Did you receive any money from Mr. LaRue at that time?

Mr. KALMBACH. Yes, sir, I did.

Mr. DASH. How much was that?

Mr. KALMBACH. Oh, some $40,000 was received from Mr. LaRue at that time.

Mr. DASH. Where did you receive it?

Mr. KALMBACH. In Mr. Dean's office.

Mr. DASH. Did you receive any additional instructions at that time?

Mr. KALMBACH. I may have, Mr. Dash. I am not certain as to that.

Mr. DASH. What did you do with this money, this $40,000, was this in cash by the way?

Mr. KALMBACH. Yes, it was in cash.

Mr. DASH. Do you know the denominations of cash?

Mr. KALMBACH. I think it was primarily $100 bills.

Mr. DASH. What did you do with this new supply of money?

Mr. KALMBACH. I took these funds and I think I went to New York late that afternoon, stayed at the Regency Hotel, and gave the funds to Mr. Ulasewicz, who came to my room in the Regency, probably around 8:30 or 9 that evening.

Mr. DASH. Now, you returned the following week, did you not, Mr. Kalmbach, to Washington?

Mr. KALMBACH. Yes, sir, I did.

Mr. DASH. Now, why did you return, when did you return, and who did you see?

Mr. KALMBACH. About this time, Mr. Dash, I was being urged—you will recall from my testimony that the funds that were given to me by Mr. LaRue were not solicited by me, they were simply given to me to be given to Mr. Ulasewicz. About this time, I was asked by either Mr. Dean or Mr. LaRue to raise additional funds. I began to have a degree of concern about this assignment.

Mr. DASH. What began to cause you to have that degree of concern? Was it the nature of the covert operations, was it the fact that you were paying this money to defendants? Could you give us a little description or basis or background of that concern?

Mr. KALMBACH. I think the primary reason for my concern was the secrecy and the clandestine, covert nature of this activity.

Mr. DASH. Sort of like a 007 operation.

Mr. KALMBACH. Like a James Bond scenario.

Mr. DASH. And you were part of that whole scenario?

Mr. KALMBACH. Yes, sir.

Mr. DASH. The President's personal attorney?

Mr. KALMBACH. And it was very distasteful to me and it had created this degree of concern. The concern was sufficient to make me certain in my own mind that I wanted to talk to John Ehrlichman.

Mr. DASH. Why?

Mr. KALMBACH. One, I wanted John Ehrlichman to confirm that John Dean did in fact have the authority to direct me to undertake this assignment.

Second, I wanted him to assure me as to the propriety of this assignment. In any event, I requested a meeting with John Ehrlichman. My records indicate that I met with him in his office at 3:30 on July 26.

Mr. DASH. Could you describe that meeting for us——

Mr. KALMBACH. Yes, sir.

Mr. DASH [continuing]. What you said to him and what he said to you?

Mr. KALMBACH. Yes, sir. As I have stated, the reason for the meeting was to get the assurance as to Mr. Dean's authority and as to the propriety.

Mr. DASH. Also, at this time, you were being asked to go out and to raise some additional funds on your own, were you not, Mr. Kalmbach?

Mr. KALMBACH. Yes, sir; and this would be the first time, Mr. Dash, that I would be going to an outside contributor. I know that the secrecy

involved in this was, as I say, very distasteful. It was probably the primary item of concern, feeding this concern that I had.

Other factors would include the fact that, oh, Mr. Haldeman and Mr. Ehrlichman, back around April 7, had indicated to me that I had been involved in this fundraising activity for such a long period that——

Senator ERVIN. I think the committee had better recess and go to vote. There is a vote on in the Senate.

[Recess.]

Mr. DASH. Mr. Kalmbach, we were just at the point where you had come into Washington on the 26th to see Mr. Ehrlichman because, as you testified, you had developed a real concern based on the secrecy of the activity of working with Mr. Ulasewicz and the delivery of money and the fact that you were now being asked to go out and raise new funds and you wanted to see Mr. Ehrlichman in order to find out, one, whether or not Mr. Dean had the authority to ask you to do this, and, I think, two, whether or not it was proper. Could you then take it on from there, Mr. Kalmbach?

Mr. KALMBACH. Yes, sir.

Mr. DASH. Again, I ask you what did you say to Mr. Ehrlichman and what did he say to you?

Mr. KALMBACH. When I first went into that meeting with Mr. Ehrlichman, I told him, you are familiar with this assignment? He said, "Yes, I am."

Mr. DASH. Would you say that again? What did you ask him?

Mr. KALMBACH. I said, "You are familiar with this assignment that I had received from John Dean?" He said, "Yes, I am."

Mr. DASH. By that assignment, you meant the payment of the money?

Mr. KALMBACH. That is correct.

Mr. DASH. You were sure that he understood what you were talking about?

Mr. KALMBACH. Absolutely. And I went through it as far as the secrecy and how this secrecy was bothering me, indicating to him that this is something that was new and foreign to me. I wanted him to—told him that the press was giving me concern, the whole secrecy thing—the press, this, and that.

Mr. DASH. What do you mean, the press?

Mr. KALMBACH. Well, I mean the press coverage on the Watergate. I was beginning to have concern about this assignment. And I wanted, and I said, "John, I want you to tell me"—and you know, I can remember it very vividly because I looked at him, and I said, "John, I am looking right into your eyes. I know Jeanne and your family, you know Barbara and my family. You know that my family and my reputation mean everything to me, and it is just absolutely necessary John, that you tell me, first that John Dean has the authority to direct me in this assignment, that it is a proper assignment, and that I am to go forward on it."

Mr. DASH. And did he look at you in the eyes?

Mr. KALMBACH. Yes; he did.

Mr. DASH. What did he say to you?

Mr. KALMBACH. He said, "Herb, John Dean does have the authority, it is proper, and you are to go forward."

Now, he said, in commenting on the secrecy, he explained that as saying that but for the secrecy, this whole assignment, getting these funds to these people for this purpose could get into the press and be misinterpreted. And then I remember he used the figure of speech, he said, "They would have our heads in their laps," which again would indicate to me that it would jeopardize the campaign.

Mr. DASH. Did he say something like this was political dynamite?

Mr. KALMBACH. Well, I do not remember that, but I remember the "our heads in their laps" remark. He might have said political dynamite.

But the effect of all this, Mr. Dash, was to——

Mr. DASH. To reassure you?

Mr. KALMBACH. The effect actually was that it washed out the concern that I had had—that had built up preliminary to this meeting, and I went out of that meeting certain that it was proper for me to go back to California and approach this contributor, this first contributor that I would approach in this program.

Mr. DASH. Well, even though he told you then that you would have to maintain the secrecy and that if it ever got out, they—and I take it that he may have meant the Democrats——

Mr. KALMBACH. Yes.

Mr. DASH [continuing]. Would you have our heads in their laps and it might jeopardize the campaign, that did not suggest to you any impropriety in doing that?

Mr. KALMBACH. No; it did not.

Mr. DASH. Why not?

Mr. KALMBACH. It suggested to me that the concern was that this would have a—if it got into the press, misinterpreted——

Mr. DASH. How could it be misinterpreted?

Mr. KALMBACH. Misinterpreted in whatever way—that funds were being given to these people.

Mr. DASH. Now, how could your providing funds through either Mr. Dean's aegis or through Mr. Erlichman's aegis, through the committee, to burglars, wiretappers, and conspirators be misinterpreted?

Mr. KALMBACH. Well, the misinterpretation would be that this was being done to silence these people.

Mr. DASH. Could anybody have had any other interpretation?

Mr. KALMBACH. I did.

Mr. DASH. What interpretation did you have, Mr. Kalmbach?

Mr. KALMBACH. I had the interpretation, as I stated in my opening statement, that I felt that the green light had been given to these people in some manner, expressly or implicitly, and maybe by just, just by chance, where they had gone forward on this idiotic and stupid thing in this Watergate break-in and illegal act, and that someone—and I never knew to whom Mr. Dean and Mr. LaRue reported. I just had the feeling that someone had given the go-ahead in some manner and that someone felt that even though these people had done an illegal act, the decent thing to do is to provide them with, at least provide them with lawyers and provide them with family support.

Mr. DASH. And not to see that certain people were fired and to come out and disclaim it rather than actually support these people before they were charged with any offense?

Mr. KALMBACH. Mr. Dash, I had no background knowledge at all. This is just the impression that I received and I thought that frankly, it was, again, a very humane thing.

Mr. DASH. So in a real sense, you took your so-called moral standard from Mr. Ehrlichman's statement that it was appropriate?

Mr. KALMBACH. Well, Mr. Dash, I think it is more that I had such trust in Mr. Dean and Mr. Ehrlichman that I, if I were advised by them, assured by them, in my mind, there was no possibility that there would be any——

Mr. DASH. Impropriety?

Mr. KALMBACH [continuing]. Any impropriety; no, sir.

Mr. DASH. Now, at that time when you had been reassured by Mr. Ehrlichman, did you pick up any additional money from Mr. LaRue while you were in Washington?

Mr. KALMBACH. Yes; I recall that I picked up approximately $30,000 the next day that Mr. LaRue gave to me in his office at 1701 Pennsylvania Avenue.

Mr. DASH. Did you have any additional instructions with regard to that money?

Mr. KALMBACH. I may have, Mr. Dash. I don't recall.

Mr. DASH. What did you do with that money?

Mr. KALMBACH. I called Mr. Ulasewicz, who came down to Washington, and stayed at the Statler-Hilton, and I gave him those funds in his room at the Statler-Hilton.

Mr. DASH. All right. Now, you then had returned to California, did you not?

Mr. KALMBACH. Yes, sir.

Mr. DASH. Did you raise that additional amount of money that you were asked to raise?

Mr. KALMBACH. Yes, I did. I called Mr. Thomas V. Jones sometime between, I think it was August 1 and August 5, I am not certain as to the date, and indicated that I would like to come by and see him. He had earlier indicated to me that he would have funds for me if there was any special need.

Mr. DASH. Did he—who, by the way since you have named him, who is Mr. Jones?

Mr. KALMBACH. He is chairman of Northrop Corp., in California.

Mr. DASH. And has he been a political contributor to Mr. Nixon, the President?

Mr. KALMBACH. Yes, sir, he has personally.

Mr. DASH. And when he indicated to you earlier if you needed any help he would provide those funds, was that in the area of contributing to the President's reelection campaign?

Mr. KALMBACH. Yes, sir.

Mr. DASH. All right. Now you called him and told him what?

Mr. KALMBACH. I called him and I think I reminded him on the telephone of his earlier statement to me, and he indicated immediately that he would be glad to see me, and we worked out a time that was mutually convenient. I went to his office, in Century City in West Los Angeles, I think it was in mid-afternoon and met with him there, and we had a 15-minute meeting or thereabouts, and he took from his desk a package, and handed it to me. I put it in my briefcase, and left his office and went back to Newport Beach.

Mr. DASH. What was in the package?

Mr. KALMBACH. It was $75,000 in cash.

Mr. DASH. And do you know what denomination the money was in?

Mr. KALMBACH. $100 bills, as I remember it.

Mr. DASH. When you spoke to Mr. Jones did you tell him why you wanted the money?

Mr. KALMBACH. No, again just with Mr. Stans, I told him that it was for a special assignment. I did not—I told him it was an assignment that I could not reveal the nature of it, that I had been given the assignment by one in authority at the White House and that was sufficient.

Mr. DASH. Would it be fair to say that he would assume that it had something to do with the campaign to reelect the President?

Mr. KALMBACH. I think it would be yes.

Mr. DASH. As a matter of fact, it did not, did it?

Mr. KALMBACH. Well, it was for the purpose that I have stated.

Mr. DASH. Yes.

Now, how did you—what did you do with these funds, did you give them to Mr. Ulasewicz?

Mr. KALMBACH. Within, I think it was the next day or possibly the day following, Mr. Ulasewicz came out to California at my request, and I met him in Orange County in front of the Airporter Inn in Orange County, near my office in Newport Beach.

Mr. DASH. Could you describe how you gave him the funds then?

Mr. KALMBACH. Yes, sir. I asked him to meet me in front of the Airporter Inn, I drove over in my car, picked him up, we drove and parked and talked, I gave him the funds, I think we probably reviewed our own notes as to how much had been received and how much had been distributed and to whom, and then after, I think it was, a half hour or so, I let him out in front of the Orange County Airport.

Mr. DASH. So again in method of transmission of the funds it was in sort of a covert secret method?

Mr. KALMBACH. Yes, sir.

Mr. DASH. You did it in the automobile, out on the road?

Mr. KALMBACH. Absolutely.

Mr. DASH. And transferred it to him in the original packet?

Mr. KALMBACH. Yes, in the original packet, I am certain.

Mr. DASH. Now, and then did he fly back to New York?

Mr. KALMBACH. Presumably that night, although I am not certain of that.

Mr. DASH. Did you ever discuss that $75,000 that you raised with Mr. Jones with anyone?

Mr. KALMBACH. Well, my memory is that within a few days after that I was in Washington, and I think I saw Mr. Ehrlichman at that time and I told him of the fact that I had raised $75,000 from Mr. Jones for that assignment. That is my recollection of, with the time I met with Mr. Ehrlichman. I think there were other things we discussed.

Mr. DASH. What was Mr. Ehrlichman's reaction when you told him you had raised that money?

Mr. KALMBACH. It was just fine, without more——

Mr. DASH. He was—you were following out the original reassurance and he knew you were doing the job?

Mr. KALMBACH. Yes, sir.

Mr. DASH. While you were on that same trip to Washington your calendar shows at 8 a.m. a meeting with John Connally, on August 8. Do you know, was that in relationship to this in any way?

Mr. KALMBACH. In no way whatsoever.

Mr. DASH. Did you discuss your activities with him at that time?

Mr. KALMBACH. As to this assignment?

Mr. DASH. Yes.

Mr. KALMBACH. Absolutely not.

Mr. DASH. Now, when did you decide to stop raising any money for the defendants and their attorneys?

Mr. KALMBACH. Mr. Dash, probably in mid-August and then continuing, it is my recollection that Mr. Dean and Mr. LaRue contacted me and indicating they needed additional funds, and by this time in late August this whole degree of concern had come back on me. It had come back on me to the level that I knew that I did not want to participate any longer in this assignment.

Mr. DASH. Wasn't Mr. Ehrlichman's reassurance enduring?

Mr. KALMBACH. No, it was not.

Mr. DASH. What was—was the concern again the covert activity, the secrecy of it?

Mr. KALMBACH. I think that was the primary factor, Mr. Dash. I think that Mr. Ulasewicz mentioned some cautionary words that from a professional police officer who gave me some pause. I think there were other things within the press.

Mr. DASH. You mean the newspaper stories about Watergate were coming more and more to the fore, were they not?

Mr. KALMBACH. Yes, sir, and I think that just all of it together was enough so that by, certainly by, as I say, late August, September, I was certain that I would not continue in this assignment.

Mr. DASH. Did you discuss this with Mr. Ehrlichman?

Mr. KALMBACH. No, sir, I did not.

Mr. DASH. You did—your calendar shows an 8:15 a.m. breakfast with Mr. Ehrlichman on August 29 which was about the time you were making this decision. Did you discuss it with him at that breakfast?

Mr. KALMBACH. No, I did not. I don't recall, Mr. Dash, that I ever discussed this with Mr. Ehrlichman after making that decision.

Mr. DASH. Did you tell John Dean anything?

Mr. KALMBACH. Well, I just simply told him that I would do no more, and I advised Mr. LaRue, too, that I could do no more.

Mr. DASH. Now, during the months of July and August were you in frequent contact with Mr. LaRue to receive instruction for distributing these funds?

Mr. KALMBACH. I think during that time that my contacts again—I don't remember whether they were with Mr. LaRue or Mr. Dean, they were interchangeable in a sense, but there were instructions to disburse the funds right up to, I think the last instruction I received was in, oh, again my memory tells me 17 or 18 of September.

Mr. DASH. Were the instructions to distribute the remainder of the funds immediately?

Mr. KALMBACH. Yes. I think the words were there was a—the direction was for me to have the funds disbursed immediately to Mrs. Hunt, and then the balance of the funds to Mr. LaRue, which was the first time that I can recall that Mr. LaRue received funds.

Mr. DASH. All right. Did you request a reconciliation of your cash records with LaRue in the last money you distributed?

Mr. KALMBACH. Yes, sir, I did.

Mr. DASH. Tell us about the reconciliation and where it took place?

Mr. KALMBACH. Again, my memory is that the reconciliation was probably on the 21st of September.

Mr. DASH. Who was there, where did it take place?

Mr. KALMBACH. I think it took place in Mr. Dean's office, and I think that Mr. LaRue was present, and I was—that is my recollection as to the date, and at that time I just went through the, my entire record that I had in my notes indicating the total funds received, total disbursed, and those, in that income and outgo, agreed with Mr. LaRue's records.

Mr. DASH. Do you recall what that total amount was?

Mr. KALMBACH. Beg pardon?

Mr. DASH. Do you recall what the total amount was?

Mr. KALMBACH. I think it was approximately $220,000.

Mr. DASH. What happened, what did you do with your notes at the termination of the meeting?

Mr. KALMBACH. I then destroyed the notes.

Mr. DASH. Where?

Mr. KALMBACH. In his office, in Mr. Dean's office.

Mr. DASH. How were they destroyed?

Mr. KALMBACH. Well, my recollection is that I asked him to shred my notes, and he was smoking, and I am not sure who used matches, but the notes were destroyed.

Mr. DASH. Were you ever again, Mr. Kalmbach, asked to raise money for the defendants, after you broke off, decided in September that you would not do it anymore for the concerns that you have expressed, were you ever again requested to do the same thing?

Mr. KALMBACH. Yes, I was.

Mr. DASH. Could you tell us when you can recall that happening and who was there?

Mr. KALMBACH. I think I may have been approached once or twice after the September 21 meeting, but I remember with great particularity a meeting that occurred on the 19th of January in Washington, in Mr. Mitchell's office.

Mr. DASH. Who was there with Mr. Mitchell?

Mr. KALMBACH. There was Mr. Mitchell, Mr. Dean, Mr. LaRue, and myself.

Mr. DASH. Would you please tell us very briefly what the discussion was, who said what, what you said?

Mr. KALMBACH. I had been asked by Mr. Dean at a meeting held just minutes before at Blair House that Mr. Mitchell wanted to see me in his office, and I recall that it was a rainy afternoon and we ran through the rain a half block to 1701 Pennsylvania, went up to Mr. Mitchell's office, and when we walked into his office we joined Mr. Mitchell, who was seated at his desk, and Mr. LaRue who was also in the office. After we were seated and after the opening amenities, I think it was Mr. Dean that led the conversation and immediately I could see that the purpose of this meeeting was to ask me to raise additional funds. And immediately, as soon as that became known, Mr. Dean said the need for raising additional funds for lawyers and for family support,

I knew I wanted to withdraw as soon as possible, and I excused myself within, I think, 10 minutes at the most, 10 or 15 minutes.

Mr. DASH. Now, Mr. Mitchell was present, was in his office?

Mr. KALMBACH. Yes, sir, he was.

Mr. DASH. Did he participate in the discussion?

Mr. KALMBACH. I remember he was smoking his pipe. He was aware of the conversation. We were all seated right around his desk, but it is my recollection that Mr. Dean led the conversation. I do not remember, Mr. Dash, what comments Mr. Mitchell or Mr. LaRue added to the conversation.

Mr. DASH. Well, at any rate, you turned them down?

Mr. KALMBACH. Yes, sir, I did.

Mr. DASH. That was the end of your fundraising for the defendants in the Watergate case?

Mr. KALMBACH. Yes, sir.

Mr. DASH. I have no further questions, Mr. Chairman.

Again, I think for the record, it was January 19, was it not?

Mr. KALMBACH. Yes, sir, it was.

Mr. DASH. 1973.

I have no further questions, Mr. Chairman.

Senator ERVIN. Mr. Thompson.

Mr. THOMPSON. Mr. Kalmbach, you state that the immediate reason you became involved in fundraising was a telephone call which you received from John Dean on June 28, is that correct?

Mr. KALMBACH. Yes, sir, it is.

Mr. THOMPSON. For that reason, I would like to compare some of your testimony with that of Mr. Dean, to see whether or not your recollection is correct.

First of all, you state that you checked into the Statler-Hilton Hotel, is that correct, when you arrived here on the 29th?

Mr. KALMBACH. Yes, sir.

Mr. THOMPSON. I believe Mr. Dean says he met you in the Mayflower Hotel. Could you be mistaken?

Mr. KALMBACH. No, I do not think I am mistaken. I think Mr. Dean may be mistaken on that.

Mr. THOMPSON. He states that a few days later, you met in Lafayette Park and talked with him. Did you meet with him a few days after the 29th in Lafayette Park?

Mr. KALMBACH. No. My recollection, Mr. Thompson, is that I met him on the morning of the 29th in Lafayette Park as I have testified.

Mr. THOMPSON. Do you think there is a confusion of running two meetings into one, or something to that effect, perhaps, in his mind?

Mr. KALMBACH. No, I do not know, Mr. Thompson, what his recollection is. I know what Mr. Dean has testified to. We just have a different memory on this. My memory is that we met in the park that morning on the 29th and then met at the Statler-Hilton on the 30th.

Mr. THOMPSON. All right. In his conversation, he said something, I believe, to the effect that he told you everything; that he told you Haldeman, Ehrlichman, and Mitchell were interested in your raising this money. Is that correct?

Mr. KALMBACH. No, I do not have any recollection of him mentioning those people. He just used the editorial "we."

Mr. THOMPSON. Are you saying that he did not say it or that you do not have any recollection of his saying it?

Mr. KALMBACH. I do not recall that he said it.

Mr. THOMPSON. He also suggested that you suggested the use of Tony Ulasewicz, is this correct?

Mr. KALMBACH. No.

Mr. THOMPSON. Who suggested the use of Tony Ulasewicz to you?

Mr. KALMBACH. Again, as I have stated, my memory of that meeting is that I stated that I would give him the funds, and if not Mr. Dean, I would give the funds to Mr. LaRue. It was at that point, not knowing who was going to receive the funds, that my recollection is that he suggested Mr. Ulasewicz, which I agreed with and as I had trust in Mr. Ulasewicz.

Mr. THOMPSON. Did you know Ulasewicz before the 29th of June?

Mr. KALMBACH. No, only—I think I had met him two or three times in total during the period from mid-1969 until approximately October 1 of 1971. And only two or three times.

Mr. THOMPSON. What did you understand his function was or assignments were during that period of time?

Mr. KALMBACH. My understanding is that he was doing investigative work for the White House. I was not certain as to the nature of the assignments other than just investigative work.

Mr. THOMPSON. In the first week of July, did you receive a telephone call from John Dean in which he indicated that attorney Caddy was to get a certain amount of money and Hunt was to get a certain amount of money, and perhaps other people?

Mr. KALMBACH. Yes, sir, I remember receiving a call and I am not certain, Mr. Thompson, whether it was Mr. Dean or Mr. LaRue instructing me that Mr. Caddy was to be given these funds.

Mr. THOMPSON. All right, let me ask you about the meeting on July 19 which you had in Mr. Dean's office. If I remember Mr. Dean's testimony correctly about this, or his prepared statement on this, he said the purpose of that meeting was for you to determine in your own mind exactly to whom the payments were supposed to be made. He didn't talk about the passing of any money in his presence. Can you tell us the purpose of that meeting?

Mr. KALMBACH. There was—again my recollection of that meeting was that some $40,000 was given to me by Mr. LaRue in Mr. Dean's office and there may well have been instructions given to me at that time.

Mr. THOMPSON. But there is no question about the passing of money on that occasion?

Mr. KALMBACH. No, there is no question.

Mr. THOMPSON. Was that in Mr. Dean's presence?

Mr. KALMBACH. As I remember it, the three of us were together in his office at that time.

Mr. THOMPSON. Do you recall whether or not he was on and off the telephone during that period of time?

Mr. KALMBACH. Well, I think he probably had some calls, but the three of us were together in that meeting.

Mr. THOMPSON. Facing each other?

Mr. KALMBACH. I think Mr. Dean was at his desk and Mr. LaRue and I were seated together at his desk.

Mr. THOMPSON. In mid-September, did you receive a telephone call telling you to tell Tony Ulasewicz to give Mr. LaRue $30,000, I believe

in the Howard Johnson's across from the Watergate, ironically enough?

Mr. KALMBACH. Yes. The instruction was to give Mr. LaRue the $30,000. I am not certain in my memory whether I was told how it was to be handed to him.

Mr. THOMPSON. First of all, let me ask you, who told you to do this?

Mr. KALMBACH. Again, it was either Mr. Dean or Mr. LaRue.

Mr. THOMPSON. Well, if the money was going to LaRue, it looks like you could determine in your own mind whether LaRue was saying, "give it to me" or whether Dean was saying, "give it to LaRue."

Mr. KALMBACH. I think, Mr. Thompson, this particular conversation was with Mr. Dean and it was to give these funds to Mr. LaRue, and I think—again, my recollection is that I asked Mr. Ulasewicz to call Mr. LaRue at his apartment in the Watergate Hotel.

Mr. THOMPSON. All right. The reason I ask this is because I do not think Mr. Dean mentioned that particular telephone conversation or any conversations concerning his asking you to deliver certain amounts of money or the passing of any money in his presence.

Mr. KALMBACH. Yes. Well, I wanted to make it clear that I—it was interchangeable as far as I was concerned between Mr. Dean and Mr. LaRue on these instructions, that whereas Mr. Dean had told me that Mr. LaRue would give me instructions, I recall that oftentimes, Mr. Dean would talk to me about instructions and who was to receive what.

Mr. THOMPSON. Was anyone instrumental in pushing you to continue to raise money, either Mr. Dean or Mr. LaRue or anyone else?

Mr. KALMBACH. No, I think that Mr. Dean was probably the one that talked to me most often about this to continue in this program. And it seemed to me that Mr. LaRue might have spoken to me once or twice, but I do not recall that.

Mr. THOMPSON. Do you believe you had more conversations with Dean than you did with LaRue about it?

Mr. KALMBACH. As far as being urged to raise additional funds, yes, sir.

Mr. THOMPSON. All right, sir.

Thank you, Mr. Kalmbach. I have no further questions, Mr. Chairman.

Senator ERVIN. The committee will stand in recess until 10 o'clock tomorrow.

[Whereupon, at 4:57 p.m., the hearing was recessed, to reconvene at 10 a.m., Tuesday, July 17, 1973.]

TUESDAY, JULY 17, 1973

U.S. SENATE,
SELECT COMMITTEE ON
PRESIDENTIAL CAMPAIGN ACTIVITIES,
Washington, D.C.

The Select Committee met, pursuant to recess, at 10:15 a.m., in room 318, Russell Senate Office Building, Senator Sam J. Ervin, Jr. (chairman), presiding.

Present: Senators Ervin, Talmadge, Inouye, Montoya, Baker, Gurney, and Weicker.

Also present: Samuel Dash, chief counsel and staff director; Fred D. Thompson, minority counsel; Rufus L. Edmisten, deputy chief counsel; Arthur S. Miller, chief consultant; Jed Johnson, consultant; David M. Dorsen, James Hamilton, and Terry F. Lenzner, assistant chief counsels; R. Phillip Haire, Marc Lackritz, William T. Mayton, Ronald D. Rotunda, and Barry Schochet, assistant majority counsels; Eugene Boyce, hearings record counsel; Donald G. Sanders, deputy minority counsel; Howard S. Liebengood, H. William Shure, and Robert Silverstein, assistant minority counsels; Pauline O. Dement, research assistant; Eiler Ravnholt, office of Senator Inouye; Robert Baca, office of Senator Montoya; Ron McMahan, assistant to Senator Baker; A. Searle Field, assistant to Senator Weicker; Michael Flanigan, assistant publications clerk.

Senator ERVIN. The committee will come to order.

The Chair recognizes Senator Montoya.

Senator MONTOYA. Thank you, Mr. Chairman.

Mr. Kalmbach, yesterday you indicated that you had been called to Washington on June 28 by Mr. Dean. Mr. Dean has previously given testimony to this before this committee and I believe he indicated that when he spoke to you on the telephone that he was doing so on behalf of Mr. Haldeman and Mr. Ehrlichman. Is that correct?

TESTIMONY OF HERBERT W. KALMBACH—Resumed

Mr. KALMBACH. Senator, my memory of that telephone conversation is that he used the editorial "we." He did not mention anyone's name.

Senator MONTOYA. Did he mention any other details with respect to the urgency of the call?

Mr. KALMBACH. No, sir. He indicated simply that it was an urgent matter that was necessary that he wanted me to come back to Washington the first available opportunity. I think he said the next available plane.

Senator MONTOYA. Did you ask him what he meant by the editorial "we" in that call?

Mr. KALMBACH. No, sir, I did not.

Senator MONTOYA. Did you assume anything when he told you that?

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Mr. KALMBACH. No, sir.

Senator MONTOYA. Did you understand him to mean that it might be his associates at the White House when he used the word "we"?

Mr. KALMBACH. I was not certain, Senator.

Senator MONTOYA. But you did leave that night on the 28th and arrived here 6:30 the next morning?

Mr. KALMBACH. Yes, sir.

Senator MONTOYA. And it was then that you met Mr. Dean at the Hay-Adams Hotel?

Mr. KALMBACH. Yes, sir.

Senator MONTOYA. And after a little conference there you proceeded to Lafayette Park and there you indulged in a little gesturing with him on the horizon, and viewing the panorama of Washington.

Mr. KALMBACH. Yes, sir.

Senator MONTOYA. And Mr. Dean testified that as follows and I quote from his testimony. It appears on page 3174 of the transcript:

> Mr. DEAN. Well, I told him everything that I knew about the case at that time, I told him that I was very concerned that this could lead right to the President. I did not have any hard facts. I hoped that I was incorrect. I explained to him in full the seriousness of the matter. I relayed to him the fact that some records had been destroyed. I told him virtually everything I knew at that time and I think there was no doubt in his mind about the sensitivity of the situation.

Would you say this is a correct statement on the part of Mr. Dean?

Mr. KALMBACH. Senator, my recollection of that conversation was simply that he indicated that he wished me, he used the word again "we" that I was being asked to raise funds for the legal defense of these people and for the support of the families.

Senator MONTOYA. Well, did he mention the other ramifications of this particular case vis-a-vis possible involvement of the White House? He had already indicated to you that the President might be hurt by this.

Mr. KALMBACH. No, sir.

Senator MONTOYA. He did not.

Now, then after this meeting you proceeded to go back to your hotel, and you called Mr. Stans to make available to you as much money as he could, is that correct?

Mr. KALMBACH. Yes, sir.

Senator MONTOYA. And it was then that Mr. Stans brought to you the sum of $75,100.

Mr. KALMBACH. Yes, sir.

Senator MONTOYA. And after this you proceeded to call Mr. Ulasewicz?

Mr. KALMBACH. Yes, sir, that is right.

Senator MONTOYA. Ulasewicz in New York and he came down and you gave him instructions.

Mr. KALMBACH. I gave him the funds, Senator, on the 30th, and I am not certain whether or not I gave him instructions at that time.

Senator MONTOYA. Well, when did you receive your instructions from Mr. LaRue?

Mr. KALMBACH. My memory is that I received instructions from either Mr. Dean or Mr. LaRue within a few days after the 30th, and I think it was by telephone.

Senator MONTOYA. Well then, would you say that Mr. Ulasewicz came into Washington to collect the money on the 30th?

Mr. KALMBACH. Yes, sir.

Senator MONTOYA. And you had talked to Mr. LaRue and Mr. Dean by that time?

Mr. KALMBACH. I don't recall that I had talked to Mr. LaRue, Senator. But I had talked with Mr. Dean.

Senator MONTOYA. But most of the instructions which you received with respect on the distribution of this money came from Mr. LaRue actually, isn't that correct?

Mr. KALMBACH. Probably most of them but I always regard both Mr. Dean and Mr. LaRue as interchangeable as far as receiving instructions.

Senator MONTOYA. Now, why did you pick on Mr. Ulasewicz?

Mr. KALMBACH. Mr. Ulasewicz was in—as I remember it, when I met with Mr. Dean in Lafayette Park, and I had asked him if I should give the fund to him, and he indicated no, and then whether or not I should give the fund to Mr. LaRue, it is my memory that at that point he indicated whether or not Mr. Ulasewicz might be the person to handle the distribution of the funds, and I said that would be acceptable to me and that I would trust that man.

Senator MONTOYA. Why did you say that? Had you known Mr. Ulasewicz?

Mr. KALMBACH. No, sir, I had not. I had met him two or three times but I did know that he had been on assignment, had received instructions from people in the White House for a period of years and that he was trusted.

Senator MONTOYA. You knew he was a reliable man?

Mr. KALMBACH. Yes, sir.

Senator MONTOYA. And who had he performed assignments for at the White House?

Mr. KALMBACH. Senator, I am not certain as to what assignment he had received. I simply know that, and did know at the time that, he had been receiving or handling assignments for the White House and for certain people in the White House over a period of years. I think that probably he was reporting primarily to Mr. Caulfield.

Senator MONTOYA. But you didn't know the nature of those assignments?

Mr. KALMBACH. No, sir; I did not.

Senator MONTOYA. How could you determine his reliability then?

Mr. KALMBACH. Well, simply it was a matter of trust. If he had been performing duties for the White House over a period of years, I was certain that he could be trusted.

Senator MONTOYA. Then, you got together with Mr. Ulasewicz and determined that you would use the telephone booth approach in communications?

Mr. KALMBACH. Yes, sir.

Senator MONTOYA. And you did confine yourself to that kind of communications from then on with him?

Mr. KALMBACH. Yes, sir; that and the rather infrequent meetings that we had, yes, sir.

Senator MONTOYA. Who devised this kind of communication? Did you suggest it or did he to you?

Mr. KALMBACH. I think the two of us were talking and we both understood—he had advised him that this was to be a thoroughly confidential assignment, and I think I wondered to him as to procedures to follow, and we developed those procedures together. I probably wondered aloud about using the telephone booths, and he indicated that that was the procedure, and I think between the two of us we developed the procedures.

Senator MONTOYA. Well, were you trying to protect the confidentiality of the assignment or were you actually afraid that you might be tapped?

Mr. KALMBACH. Well, sir; I just—we were attempting to make certain as to the confidentiality.

Senator MONTOYA. You were not concerned about being tapped?

Mr. KALMBACH. Well, yes, sir, I think we were. We didn't know if we would be.

Senator MONTOYA. Who do you think might have tapped you?

Mr. KALMBACH. We just didn't know.

Senator MONTOYA. Then this secrecy continued up until the time you gave Mr. Ulasewicz $75,000 at the airport in California, is that correct?

Mr. KALMBACH. It continued, Senator, up until through the time that Mr. Ulasewicz made the final distribution, and I think that was in, on September 18 or 19 of 1972.

Senator MONTOYA. Now, it has been reported that the sum of $450,000 was expended with respect to the Watergate defendants, including their defense and also the coverup, and I believe that you have testified that you were responsible only for approximately $205,000.

Mr. KALMBACH. Senator, my memory is that approximately $220,000 was the amount that was my distribution to Mr. Ulasewicz.

Senator MONTOYA. Do you know who raised the rest of the money?

Mr. KALMBACH. No, sir, I do not.

Senator MONTOYA. Do you have any quarrel with the figure that GAO has come up with, to wit, $450,000?

Mr. KALMBACH. I have no knowledge, Senator, as to anything other than the $220,000.

Senator MONTOYA. Now, as you look back in retrospect, Mr. Kalmbach, and in view of the secrecy that was imposed upon you and what you had to go through in order to develop a line of communication in carrying out your mission, do you feel that you proceeded correctly?

Mr. KALMBACH. In retrospect, Senator, I feel that I—it was something I should not have been involved in.

Senator MONTOYA. And at what point did you really become concerned, or did you become concerned at the beginning?

Mr. KALMBACH. No, sir, I did not at the beginning. But through the month of July, Senator, particularly the middle of July and on, when the entire secrecy procedures began, they did disturb me. It was distasteful to me. That, in conjunction with the press stories that I would read, raised an element, a level of concern with me.

Senator MONTOYA. Now, if you had done this differently, would you then have gone to the President, your client and friend, and told him about what was going on?

Mr. KALMBACH. I am sorry, Senator?

Senator MONTOYA. Acknowledging that you would have done this differently, would you have gone to the President, your client and friend, and told him everything that was going on?

Mr. KALMBACH. Sir, at the time, I of course understood that it was a proper assignment.

Senator MONTOYA. Well, you understood that it was proper because you had been assured by Mr. Ehrlichman and Mr. Dean that it was a proper assignment, and that is all you knew about it?

Mr. KALMBACH. Yes, sir.

Senator MONTOYA. Well, you have been practicing law for quite a few years?

Mr. KALMBACH. Yes, sir.

Senator MONTOYA. And in view of the secrecy imposed upon you and the different methods of procedure that you had to resort to, didn't you try to put this, as a lawyer, in the proper context and come up with some grave concern on your part?

Mr. KALMBACH. No, sir. At the outset, it was a matter of complete and implicit trust in Mr. Dean and then in Mr. Ehrlichman. There was no question in my mind that these men would ask me to do anything improper.

Senator MONTOYA. Now, did you feel that it was the proper thing to raise money for these defendants when there were implications not only in the press, but also in conversations, that money was being used to silence these defendants?

Mr. KALMBACH. No, sir. I had understood at the time that Mr. Dean made the request of me, and then again, when Mr. Ehrlichman confirmed Mr. Dean's authority and the propriety of this assignment, I understood then it was for a proper purpose.

Senator MONTOYA. You visited the White House quite often, did you not?

Mr. KALMBACH. Well, not often, but from time to time; yes, sir.

Senator MONTOYA. Well, you had a White House pass?

Mr. KALMBACH. Yes, sir, I did.

Senator MONTOYA. Was that in force all the time?

Mr. KALMBACH. During this period, Senator?

Senator MONTOYA. Yes.

Mr. KALMBACH. Yes, sir; it was.

Senator MONTOYA. How long did you have this White House pass, and do you still have it?

Mr. KALMBACH. I still have it, Senator, and it would be my recollection that I have had the pass since early in 1972.

Senator MONTOYA. And did you have available to you, when you came into town, any White House cars to pick you up at the airport?

Mr. KALMBACH. From time to time; yes, sir.

Senator MONTOYA. And they did pick you up?

Mr. KALMBACH. From time to time; yes, sir.

Senator MONTOYA. Did you have any direct line to the President from your home telephone line?

Mr. KALMBACH. At one time I did, Senator.

Senator MONTOYA. And when was that time?

Mr. KALMBACH. I think that was in 1970, perhaps in 1971, but I don't recall with any particularity.

Senator MONTOYA. Did you have any conversations through that direct line with the President?

Mr. KALMBACH. As I have testified, Senator, my recollection is that I have probably talked to the President no more than four or five times since June of 1969, and I think that I probably talked to him on that particular telephone once or twice.

Senator MONTOYA. So actually, in view of all these arrangements, I would say that you were a person very close to the President and very interested in his welfare?

Mr. KALMBACH. Certainly very interested in his welfare; yes, sir.

Senator MONTOYA. Now, going into the Jones contribution, what you say was $75,000?

Mr. KALMBACH. Yes, sir.

Senator MONTOYA. And I understand Mr. Jones says it was $50,000. Could there be a mistake here somewhere?

Mr. KALMBACH. Well, Senator, I can only testify as to my knowledge.

Senator MONTOYA. And when you approached Mr. Jones, you approached him as a fundraiser for the President or the President's reelection, did you not?

Mr. KALMBACH. Yes, sir, for the reelection.

Senator MONTOYA. And it was in that context that you went to Mr. Jones?

Mr. KALMBACH. Yes, sir, it is.

Senator MONTOYA. And you told Mr. Jones that this was a very secret thing, secret mission, that you were on, and that you needed the money.

Mr. KALMBACH. Senator, my memory of that meeting with Mr. Jones is that I told him that it was a special assignment. I don't think I said secret assignment; I said special assignment, the nature of which I could not reveal to him.

Senator MONTOYA. Well, when you said that, wouldn't that also mean a secret assignment?

Mr. KALMBACH. It might; yes, sir.

Senator MONTOYA. All right. Now, would you say that when Mr. Jones gave you this money, in view of your presence there, in view of the fact that he knew you were the President's emissary and that the President was running for reelection, that the money would be used for political purposes?

Mr. KALMBACH. Yes, sir.

Senator MONTOYA. And it was not used for political purposes, was it?

Mr. KALMBACH. It was used for the legal defense of the defendants and for the families' support; yes, sir.

Senator MONTOYA. Would you say that this was a violation of the understanding that you thought existed at the time that Mr. Jones turned this money over to you?

Mr. KALMBACH. Well, at the time, Senator, I told Mr. Jones that it was for a special assignment, and I felt it was not at variance. Now, in retrospect, I do feel that it was.

Senator MONTOYA. Well, would you say that Mr. Jones is entitled to a refund from the committee?

Mr. KALMBACH. Possibly, Senator. I did tell him it was a special assignment. Whether or not there would be, it would involve a refund, I am not certain.

Senator MONTOYA. Now, if you used this money for these defendants and you were right in so using it, then Mr. Jones is going to be subject to the payment of a gift tax, would you say? You are an income tax lawyer and have become well versed with the tax laws of this country.

Mr. KALMBACH. The question as to the tax, I am not certain on that point, Senator. It was used for the purpose indicated. There might be a gift tax problem there.

Senator MONTOYA. Well, if it was not used for political purposes, it was used for some other purpose, there is a question there as to whether that transfer of money was exempt from the gift tax?

Mr. KALMBACH. Yes, sir.

Senator MONTOYA. Would you not say that?

Mr. KALMBACH. Yes, sir.

Senator MONTOYA. I understand that you did not call the President because you assumed that the President knew about all these things.

Mr. KALMBACH. Senator, I did not speak with the President. I spoke to Mr. Dean and Mr. Ehrlichman and had no belief that I should speak to the President about this matter.

Senator MONTOYA. Well, you indicated earlier that if you had known what you know now in retrospect, if you had realized all these things, you certainly would have called the President about all these ramifications.

Mr. KALMBACH. If I had known at the time when I met with Mr. Dean that he was asking me to do an illegal act, I would have immediately gone to Mr. Ehrlichman and spoken to him about it, because I just could not believe, and it is incomprehensible to me to feel that I could possibly believe that anyone, Mr. Dean as counsel to the President, later Mr. Ehrlichman, assistant to the President for domestic affairs, could ask the President's personal attorney to do an illegal act.

Senator MONTOYA. That is all.

Senator TALMADGE [presiding]. Senator Weicker.

Senator WEICKER. Mr. Kalmbach, in reading over your résumé, you indicate that you were selected in 1969 as personal counsel to the President.

Mr. KALMBACH. Yes, sir, that is right.

Senator WEICKER. Who selected you as the President's personal counsel?

Mr. KALMBACH. Mr. Haldeman called me, Senator. I think it was in March 1969 with that request.

Senator WEICKER. Did you have any discussion with the President at all upon your being hired as the President's personal counsel?

Mr. KALMBACH. I do not recall a discussion at the outset, Senator. I was reporting on the negotiations for the purchase of the property through Mr. Ehrlichman at that time. I recall a telephone conversation that I had with the President in June 1969 as to this matter, but not any other conversation prior to the closing of that escrow.

Senator WEICKER. It is not my intention to get into the—what we will call the real estate matter here.

Mr. KALMBACH. Yes, sir.

Senator WEICKER. But as I understand it, then you were selected or you were chosen by Mr. Haldeman to perform the function of personal counsel to the President.

Mr. KALMBACH. Mr. Haldeman called me on behalf of the President.

Senator WEICKER. Now, Mr. Kalmbach, I would like to go to page 3 of your statement and specifically discuss a sentence which I think is very precise insofar as the words used. That sentence which states:

My actions immediately following the break-in which involved the raising of funds to provide for the legal defense of the Watergate defendants and the support of their families was prompted in the belief that it was proper and necessary to discharge what I assumed to be a moral obligation that had arisen in some manner unknown to me by reason of earlier events.

Mr. KALMBACH. Yes, sir.

Senator WEICKER. Now, as a paraphrase of that, I am trying to fathom that sentence. Would this be a proper paraphrase? [Reading:]

I assumed I was acting properly based upon an assumption of mine that facts existed, of which facts I had no knowledge.

Mr. KALMBACH. Senator, I was acting in a certain belief that I was being asked to do a proper assignment and, in my mind, I believed that a moral obligation was felt to exist on the part of someone, and I never knew and do not know on the part of who or more than one person, that the money should be given to these people for their legal defense and for the support of their families, and again, Senator, I felt in my own mind that it was a very human thing to do.

Senator WEICKER. Well, now, let us just spend a little time, if we can, on the words that you used in that sentence. Now, first of all, what factors prompted you to believe that your conduct was proper and necessary?

Mr. KALMBACH. The factor, Senator, that I was being asked by the President's counsel, Mr. Dean, to undertake this assignment.

Senator WEICKER. So that forms the basis for the words "proper and necessary," is that correct?

Mr. KALMBACH. Yes, sir.

Senator WEICKER. All right. Upon what factors did you assume that there was a moral obligation?

Mr. KALMBACH. That was my own assumption, Senator, just based on this assignment and the request that had been given to me by Mr. Dean, that there must have been some feeling that there was a moral obligation here to be discharged.

Senator WEICKER. Why would you feel it was a moral obligation? Why not a legal obligation, as distinguished from a moral obligation?

Mr. KALMBACH. Senator, those are just my feelings; it was a moral obligation.

Senator WEICKER. Did you feel—did you have a feeling—that maybe somebody owed somebody something here; is that another way of phrasing it?

Mr. KALMBACH. Sir, I know I had the feeling that someone in some manner, expressly or by reason of some action, had directed these people to go forward on this assignment, and the assignment was, as I say, stupid and illegal, idiotic, but there was a feeling that as long as they had been directed to undertake this, that there was at least a moral obligation to provide for lawyers for them and for the support of their families.

Senator WEICKER. Well, let's get to another word here where you say, "to be a moral obligation had arisen in some manner unknown to me by reason of earlier events." Now, as an attorney, are you telling me that you would commence activities that, in effect, might risk your entire career?

Mr. KALMBACH. Yes, sir.

Senator WEICKER. On a belief that such activities were proper and necessary to discharge a moral obligation that had arisen in some manner unknown to you?

Mr. KALMBACH. Yes, sir. Senator, I was again—it was a matter of absolute trust in Mr. Dean, and later in Mr. Ehrlichman. I had no—as I have stated, it is incomprehensible to me, and was at that time, I just didn't think of it, that these men would ask me to do an illegal act.

Senator WEICKER. Obviously you must have made some inquiry as to the earlier events that occurred. I mean you have stated here today this might have been stupid, it might have been illegal, I believe you said, idiotic, but what led you to those conclusions? You must have made some inquiry of the facts before you embarked on this particular course of action?

Mr. KALMBACH. No, I did not, Senator. It just was plain on its face that it was: (1) illegal, (2) stupid and idiotic.

Senator WEICKER. But nevertheless you associated yourself with illegal acts and, therefore, risked an entire career?

Mr. KALMBACH. Sir, I associated myself with an assignment to provide funds which I thought was, and absolutely believed at that time, to be the decent thing for these people who I felt a moral obligation was felt to be owed to them, that they had been told in some manner—and I had no understanding as to how that was done, and I don't have that at this time—but in some manner they were told to go forward.

Senator WEICKER. But then when you responded to Senator Montoya's question that in retrospect you are not so sure that you did the right thing in retrospect, is that really, is that entirely, is that being entirely candid with the committee? Didn't you have reservations even then when you were asked to do these things? It isn't so much a matter or just retrospect now. You had suspicions then?

Mr. KALMBACH. No, sir. I am being entirely candid, Senator. I had no reservations and went immediately, I think that the fact that, within a matter of minutes after I spoke to Mr. Dean, I had called Mr. Stans and within a matter of hours I had raised $75,100, is indicative of the fact that I had no reservations.

Senator WEICKER. All right. Let's get back to this sentence. "Were prompted in the belief that it was proper and necessary to discharge what I assumed to be a moral obligation."

Now, if these activities were believed by you to be proper, why was cash used instead of the normal procedure in handling payments of such amounts?

Mr. KALMBACH. This was what I was directed to do, Senator.

Senator WEICKER. If these activities were believed by you to be proper, why was it necessary to obtain the services of Anthony Ulasewicz to distribute the money to the defendants and their attorneys?

Mr. KALMBACH. Again this was the procedure that I was directed to follow.

Senator WEICKER. If these activities were believed by you to be proper, why was Mr. Ulasewicz given a code name, Mr. Rivers, and why were Mr. and Mrs. Hunt given the code name of the Writer and the Writer's wife, and Mr. Haldeman the code name of the Brush? [Laughter.]

Mr. KALMBACH. Senator, again this was just an abundance of caution in the carrying out of the assignment, the confidentiality, and the secrecy of the assignment all of which gave me this ongoing concern.

Senator WEICKER. So again, Mr. Kalmbach, let me repeat the question I asked earlier when you made the statement here that in retrospect you felt it wasn't the proper thing, it is not just in retrospect, was it?

Mr. KALMBACH. It was absolutely improper. But given my belief at that time that it was—I was certain as to the propriety, I did go forward.

Senator WEICKER. If these activities were believed by you to be proper, then why did Mr. Ulasewicz, at your instructions, distribute the moneys to the defendants and their attorneys in luggage lockers at National Airport and telephone booths and counters in restaurants and in trash cans?

Mr. KALMBACH. Senator, again this was in the carrying out of this assignment. I spoke to Mr. Ulasewicz and he indicated to me that the manner in which these distributions would be made was something that he would take care of and it would be better if I didn't even know about it.

Senator WEICKER. If these activities were believed by you to be proper, then why did you feel compelled in mid-July of 1972 to inquire of John Ehrlichman the propriety of what you were doing?

Mr. KALMBACH. Sir?

Senator WEICKER. If these activities were believed by you to be proper, then why did you feel compelled in mid-July of 1972, July 26, 1972 to inquire of John Ehrlichman the propriety of what you were doing?

Mr. KALMBACH. Senator, as I have testified beginning with the distribution, I think, first Mr. Ulasewicz was to contact Mr. Caddy and then Mr. O'Brien, Mr. Bittman, and the secrecy involved, primarily the secrecy involved, the press, other factors, gave rise to a degree of concern, and it was—I made up my mind that the only proper thing to do to make certain as to the authority of Mr. Dean to direct me in this assignment and to make certain as to the propriety, was the reason why I asked for the reason with Mr. Ehrlichman on the 26th.

Senator WEICKER. If these activities were believed by you to be proper, then why did you at the end of September of 1972, and again on January 19, 1973, refuse to take any further part in the distribution of these funds to the defendants and their attorneys?

Mr. KALMBACH. By that time, Senator, again, after I had seen Mr. Jones and had been approached by either Mr. Dean or Mr. LaRue to raise additional funds, this level of concern came back on me and I made up my mind that this was something I would not be involved in.

Senator WEICKER. This is the point that I am trying to make here today, because I see, Mr. Kalmbach—the picture of an individual that might at the outset have started off without any knowledge, but get

some suspicions in fast order along the way. Yet, you have testified before the committee that here today, as you sit before us, in retrospect, these things are wrong. At what point in time did you really say to yourself, I have had it, I am not going to risk my career on what is going on? At what point in time? It is not as you sit before us. It must have been at some earlier point in time.

Mr. KALMBACH. Yes, sir.

Senator WEICKER. When was that?

Mr. KALMBACH. That was sometime in the latter part of August, in September of 1972, Senator, that I knew that I had reached that point of concern.

Senator WEICKER. And you made no attempt at that point in time to contact your client, the President of the United States?

Mr. KALMBACH. No, sir, I did not.

Senator WEICKER. You have indicated as to the talk you have had with Mr. Ehrlichman, although that actually took place in July?

Mr. KALMBACH. Yes, sir.

Senator WEICKER. Did you make any attempt at this point in time, in August or September, to get through to the President, either personally or via some individual or individuals?

Mr. KALMBACH. No, I did not, Senator.

Senator WEICKER. You have testified that on July 27, 1972, you called Mr. Jones of Northrup Corp. to raise additional funds for the defendants. Now, upon whose authority did you request funds of Mr. Jones at that corporation?

Mr. KALMBACH. Excuse me, Senator, would you mind repeating that?

Senator WEICKER. You have testified that on July 27, 1972, you called Tom Jones of Northrup Corp. to raise additional funds for the defendants. Is that correct?

Mr. KALMBACH. No, sir. I think that my testimony is that I, sometime between August 1 and August 5, that I called Mr. Jones.

Senator WEICKER. All right, in that time period, between August 1 and August 5?

Mr. KALMBACH. Yes, sir.

Senator WEICKER. Now, upon whose authority did you request funds of Mr. Jones at that corporation?

Mr. KALMBACH. It was on my own authority. I called Mr. Jones to raise funds for this assignment. Now, I had earlier talked to Mr. Ehrlichman and my recollection is that the time that I met with Mr. Ehrlichman, I advised him I was going to see Mr. Jones. This was in fact the first contributor that I would approach in this assignment, Senator. And Mr. Ehrlichman at that time confirmed, as I have testified, that the assignment was proper, that Mr. Dean did have the authority to direct me in the assignment, and told me to go forward.

Now, the statement to me to go forward on this assignment was washed away, the level of concern that had built up and had occasioned my request for this meeting and I felt that the concern was washed out entirely and I just went forward, based again, Senator, on absolute trust in this man.

Senator WEICKER. Absolute trust in John Ehrlichman?

Mr. KALMBACH. Yes, sir.

Senator WEICKER. Well, did you always confer with Mr. Ehrlichman before you solicited the principals of large corporations such as Mr. Jones of Northrup?

Mr. KALMBACH. No, sir, I did not.

Senator WEICKER. Did you confer with anyone at the White House prior to requesting such donations of corporations?

Mr. KALMBACH. You mean from Mr. Jones?

Senator WEICKER. Well, from Mr. Jones or any other corporations that you contacted?

Mr. KALMBACH. No, sir, the other solicitations that I was involved in were solicitations of individuals throughout the 1971 period and early 1972, Senator.

Senator WEICKER. I beg your pardon. Will you repeat that?

Mr. KALMBACH. Throughout the 1971 period and early 1972 for fundraising for the campaign.

Senator WEICKER. And what occasioned you to solicit particular corporations or individuals?

Mr. KALMBACH. Well, sir, I had known most of these people from earlier years and I approached them as individuals or as corporate heads, asking that they, if they would agree to be helpful to the reelection by having such executives within that company, as were interested in support of the President and the President's programs, to agree to contribute toward the reelection financially.

Senator WEICKER. Did you always ask for the donations in cash?

Mr. KALMBACH. No, sir, I never did that.

Senator WEICKER. Except in the case of Mr. Jones?

Mr. KALMBACH. Except for Mr. Jones, yes, sir, and that was under that special assignment.

Senator WEICKER. Did Mr. Jones indicate any surprise at all as to the nature of the contribution, it being in cash rather than by check?

Mr. KALMBACH. No, sir. Again, when I appeared at his office sometime between the 1st and the 5th, and I do not remember when it was, he had the funds in his desk drawer and it was in the form of cash.

Senator WEICKER. Why Mr. Jones and why the Northrup Corp.? That was what I am trying to set right in my own mind.

Mr. KALMBACH. Again, Mr. Jones had talked to me several weeks before and had indicated to me that he had additional funds or funds available for any special need that I might have or the campaign would have and that I could call for those funds at any time. And I, in my own mind, I decided that I would call him, but I wanted to talk to John Ehrlichman beforehand.

Senator WEICKER. But the name of Northrup and Mr. Jones came to you directly or came to you through John Ehrlichman?

Mr. KALMBACH. No, sir, not through John Ehrlichman.

Senator WEICKER. I just have a few more questions.

During the course of this testimony, Mr. Mitchell has testified that he wished he had known of the $1,100,000 surplus left over from the 1968 campaign.

Mr. KALMBACH. Yes, sir.

Senator WEICKER. Now, I would like your comments about that statement. Do you have any evidence that Mr. Mitchell might have known or did know about the fact that there was a surplus in the 1968 campaign?

Mr. KALMBACH. Senator, I believe that I had advised Mr. Mitchell at various times that I did have funds under my control.

Senator WEICKER. And this would possibly account for the fact that his law partner, Mr. Evans, is one of the cotrustees of a portion of that money?

Mr. KALMBACH. Well, Mr. Evans was a signatory on the accounts and on the safe deposit boxes—certainly the accounts.

Senator WEICKER. And to the best of your recollection, there were times when you indicated to Mr. Mitchell that there were such surplus funds from the 1968 campaign?

Mr. KALMBACH. Yes, sir.

Senator WEICKER. I have no further questions.

Senator BAKER [presiding]. Senator Inouye.

Senator INOUYE. Thank you very much.

Mr. Kalmbach, you are a senior member of a most prestigious law firm and among your clients, you number some of the Nation's corporate giants— Marriott Corp., United Airlines, Travelers Insurance, MCA, Atlantic-Richfield, Dart Industries, Great Southwest Corp. Then you have the University of Southern California, the Nixon Foundation, and the Stans Foundation. I gather from this that you are a man whose wisdom and judgment is sought after; you are not a yes man, and you are not a follower; you are a leader. Least of all, I don't suppose you would take orders from a lesser official like John Dean. And I would gather from your success that you must be a great lawyer. Therefore, like Senator Weicker, I find it extremely difficult to believe that you are not aware that illegal activities were being carried out.

If a client came to you and related the exact story that is now being related here, and he said, Mr. Kalmbach, should I raise these funds? What would you have advised this client?

Mr. KALMBACH. If the client had come to me in this situation, which is wholly separate from any situation that I could believe anyone would be faced with, I would have asked him to exercise caution and make inquiries.

Senator INOUYE. Is that the advice you would have given the client?

Mr. KALMBACH. I would certainly, on the face of it, I would have asked him to have made inquiries. But in my situation, Senator, I was dealing with the counsel to the President of the United States. It was a matter of absolute trust in the man's integrity and honesty. And again, as I say, it was absolutely inconceivable to me that this man could ask me to do an illegal act, and I have never done an illegal act.

Senator INOUYE. Would you relate to the committee a criminal case relating to the 1962 elections in California and the parties who were involved in this?

Mr. KALMBACH. Senator, my best recollection on that is that there was a matter that was filed in California. I have done some checking on the pleadings, the judgment. The summation of that was that there was an order, I think, to desist in the practice of circulating certain printed literature. I was not aware of this. I was not involved. I did check this out. I was not named in the lawsuit or in the judgment.

Senator INOUYE. Who were those named in the lawsuit?

Mr. KALMBACH. Senator, without checking on that suit——

Senator INOUYE. I am certain you know who were involved?

Mr. KALMBACH. I am certain it was Mr. Haldeman, I think was one of them. I don't know if the President was named. My recollection is that he was. But without checking on the pleadings itself, I would ask that I be allowed to do so before I made a——

Senator INOUYE. Was Mr. Ehrlichman involved?

Mr. KALMBACH. I don't recall that his name was involved.

Senator INOUYE. And it is your belief that because of the trustworthiness of Mr. Ehrlichman, you were convinced that everything was proper and legal?

Mr. KALMBACH. Absolutely.

Senator INOUYE. You were in charge of the surplus 1969 funds, weren't you?

Mr. KALMBACH. Yes, sir, I was. I was the trustee for these funds. Again, Senator, on the basis of trust.

Senator INOUYE. These were cash funds?

Mr. KALMBACH. Sir, there were $1,900,000 in cash and $570,000 in a checking account.

Senator INOUYE. Isn't it strange that when the campaign closed, the campaign committee for the President indicated that they had a debt? Why wasn't this surplus used to pay the debt?

Mr. KALMBACH. Senator, I was spoken to by Mr. Stans in mid-January of 1969 and was advised that these funds were surplus and he characterized the funds as primarily from the primary campaign and I didn't question that.

Senator INOUYE. But you were aware that the Nixon campaign committee of 1968 had declared that they were in debt?

Mr. KALMBACH. I don't recall that that was the case, Senator. It would be my recollection that there was, that we finished that campaign in the black.

Senator INOUYE. Evidence seems to indicate that the committee and the Republican Party had incurred some debts in the 1969 campaign. However, would you tell us if you were absolutely certain that the attorneys who had received these funds, the funds that you had raised——

Mr. KALMBACH. Yes, sir.

Senator INOUYE [continuing]. Were certain to declare the receipt of such in their income tax returns?

Mr. KALMBACH. I have no knowledge, Senator.

Senator INOUYE. Do you think they were going to do that?

Mr. KALMBACH. Yes, sir.

Senator INOUYE. Then why all the secrecy?

Mr. KALMBACH. Again, Senator, I was advised by Mr. Dean and then it was confirmed by Mr. Ehrlichman that this was the procedure to be followed.

Senator INOUYE. If the recipients, the lawyers and their clients——

Mr. KALMBACH. Yes, sir.

Senator INOUYE [continuing]. Were to declare and recognize the receipt of these funds officially in their income tax returns, why all the secrecy in the delivery of these funds?

Mr. KALMBACH. Well, again, Senator, the actions by these attorneys would be—that would be the way I would expect that they would show them. But as to the procedure that I was to follow to get the funds

over to these people, there was just no question as to the procedure, and that was the all-encompassing confidentiality, Senator.

Senator INOUYE. So you took the advice and the instructions from Mr. Dean unquestioningly?

Mr. KALMBACH. Absolutely.

Senator INOUYE. You have indicated that you had a meeting with Mr. Stans, after which you destroyed certain important documents. the reports and the record of contributions, is that not so?

Mr. KALMBACH. Senator, my memory on that is that I gave my reports, what I considered to be original reports, to Mr. Stans in February, March 1972 and thereafter destroyed what I considered to be personal and supportive documents and papers.

Senator INOUYE. Why did you destroy these papers?

Mr. KALMBACH. I destroyed them to maintain the absolute confidentiality of my records.

Now, there were certain other—I think certain other—checks that were destroyed during this period inadvertently, but what I intended to do was to make certain that all personal and supportive papers that I had, Senator, were destroyed. I did not know that if I was—if I died or if something should happen where these records became public, I felt that I would breach, I would have breached the confidentiality that I had with the people with whom I had talked, and I have a very strong feeling about, if I give a man my word that is what I feel I should adhere to.

Senator INOUYE. Was it a matter of confidentiality or illegality?

Mr. KALMBACH. Sir?

Senator INOUYE. Was it illegality or confidentiality, sir?

Mr. KALMBACH. It was confidentiality.

Senator INOUYE. Were you convinced that the activities in which you were involved were completely legal?

Mr. KALMBACH. Yes, sir. Absolutely.

Senator INOUYE. Can you advise this committee as to exactly how much all of the attorneys have received?

Mr. KALMBACH. Sir, in the assignment that I undertook?

Senator INOUYE. Yes, sir, or their clients, whichever.

Mr. KALMBACH. Well, sir, my memory is that I caused approximately $220,000 to be given to Mr. Ulasewicz which was disbursed. Now, as to the total amount that was given to attorneys from the $220,000 plus or minus, I would think it is between $100,000, $130,000, in that area, I am not certain.

Senator INOUYE. Who were the attorneys who received the money?

Mr. KALMBACH. Well, I have testified, Senator, that Mr. Bittman received, I believe $25,000, and that Mrs. Hunt distributed the funds to other attorneys.

Senator INOUYE. Who were the other attorneys?

Mr. KALMBACH. The names of the other attorneys, I think, are Mr. Rothblatt, I think Mr. Bailey was one of the names.

Senator INOUYE. Will you identify them fully, sir?

Mr. KALMBACH. I do not know the first name, Senator.

Senator INOUYE. Who is Mr. Bailey?

Mr. KALMBACH. I think he was the attorney, I think, for Mr. McCord.

Senator INOUYE. What is his first name?

Mr. KALMBACH. I am not certain.

Senator INOUYE. Is it F. Lee Bailey?

Mr. KALMBACH. I do not know. Just Mr. Bailey. Mr. Rothblatt—excuse me, Senator. I think Mr. Margoulis was another of the attorneys.

Senator INOUYE. Are you certain that these men received these funds?

Mr. KALMBACH. I am not certain, but there would be—it would be my understanding that they had received funds, but as to the amounts I just cannot say.

Senator INOUYE. Did you at any time loan a sum of $20,000 to Mr. Ehrlichman from campaign funds?

Mr. KALMBACH. No, sir. I did loan Mr. Ehrlichman $20,000 from my own funds, not from campaign funds.

Senator INOUYE. In your testimony you have suggested that you had a meeting with Mr. Dean at which time he briefed you on how to testify at your FBI interrogation. Is that correct, sir?

Mr. KALMBACH. I had a meeting with Mr. Dean, Senator, I believe it was on September 29, prior to my interview by the agents of the FBI, and the reason for that meeting is that I advised—told Mr. Ehrlichman, I believe, that I was—I had been asked to meet with the agents, that, in fact, I had set that meeting up, I believe it was, on Labor Day at 10 o'clock in my office in Los Angeles, and Mr. Ehrlichman had indicated that Mr. Dean was conducting an investigation of the so-called Segretti matter, and that I should meet with him and recount in entirety my role with Mr. Segretti, which was that of paying him funds, and to so advise Mr. Dean. I did that.

Senator INOUYE. In your meeting with Mr. Dean, did he suggest that you commit perjury?

Mr. KALMBACH. No, sir, he did not.

Senator INOUYE. In retrospect, sir, as a lawyer, what recommendations would you give this committee as to possible legislation to prevent the reoccurrence of some of the activities in which you were involved?

Mr. KALMBACH. Sir, I would have two or three suggestions. No. 1, I think that without knowing the regulations of, as far as this new law is concerned, the Federal Election Campaign Act, I think it should be made clear that funds could not be used for this purpose. I think there should be—perhaps legislation should be enacted to prohibit the use of cash. Those would be two suggestions, Senator.

Senator INOUYE. My final question, sir.

Mr. KALMBACH. Yes, sir.

Senator INOUYE. At the time you were asked to raise funds for the special assignment, were you aware that the Committee To Re-Elect the President had an overabundance of money?

Mr. KALMBACH. I was aware that the committee was—had a surplus, the fund was not running in a negative position, yes, sir.

Senator INOUYE. Didn't you question the advisability of this special assignment to raise funds when funds were then available?

Mr. KALMBACH. Well, Senator, again it gets back to the fact that I had been dealing for at least 2 years, I think, with Mr. Dean in a position of absolute trust. He had been, in fact, the alter ego to the President in matters that I had been dealing with as far as the President's personal work. I was dealing with Mr. Dean on matters involving the

foundation, and again, as I say, Senator, when I spoke with Mr. Dean and he made this request of me, it was just—it didn't come into my mind that this could be improper. I just felt that I should go forward as a special assignment to raise these funds. This man had at one time I recall toward the first of the year, had been supplying the finance committee with opinions as to legality, legal opinions, and again it was just, there was no question in my mind, Senator, and it was a matter of absolute trust in the character of this person, and I just went forward and, as I say, within a matter of a few minutes I called Mr. Stans for funds.

Senator INOUYE. At no time did you question the propriety, at no time did you question the wisdom, of Mr. Dean. If Mr. Dean had advised you to take a certain step in relation to one of our clients, let's say United Airlines has a case before the CAB and Mr. Dean says you should advise your client to do such and such, would you without question so advise United Airlines?

Mr. KALMBACH. No, sir; I would not have. But there was an assignment being given to me by Mr. Dean on behalf of others that he simply named as "We" and again it was a matter of absolute trust that I go forward.

Senator INOUYE. In retrospect are you now convinced that you were involved in a criminal activity?

Mr. KALMBACH. In retrospect now, in this testimony, realizing from what Mr. Dean has testified, that this was improper, an illegal act. It is just as if I have been kicked in the stomach.

Senator INOUYE. Thank you, sir.

Thank you very much, Mr. Chairman.

Senator ERVIN. Senator Gurney.

Senator GURNEY. Thank you, Mr. Chairman.

Mr. Kalmbach, going back just a minute again to the—your, handling of cash in the 1972 campaign, the turnover of the cash to the Committee To Re-Elect the President, and the destruction of the records.

Mr. KALMBACH. Yes, sir.

Senator GURNEY. Was there anything illegal about this destruction of records?

Mr. KALMBACH. Not in my understanding, Senator.

Senator GURNEY. Wasn't the law that prior to April 1972, there was no need to keep any records of cash raised or disbursed or held, isn't that correct?

Mr. KALMBACH. Yes, sir, that is my understanding.

Senator GURNEY. Wasn't it a common practice not to keep such records?

Mr. KALMBACH. Yes, sir, it was.

Senator GURNEY. But even in spite of this, didn't you keep accurate records and turn those over to the Committee To Re-Elect the President, you simply destroyed those copies remaining in your hands, isn't that correct?

Mr. KALMBACH. Yes, sir, it is.

Senator GURNEY. It may interest you to know, Mr. Kalmbach, that our staff is investigating other campaigns and there is going to be interesting information about how they handled their own affairs. I

think we may find that it was somewhat similar, which is not surprising because that was the practice prior to April 1972.

Mr. KALMBACH. Yes, sir.

Senator GURNEY. We changed that in the Congress. I take it from your testimony you certainly are glad we did and this will make for a much more not only accurate but, let us say, responsible and reliable handling of campaign funds, isn't that your belief?

Mr. KALMBACH. Yes, sir, absolutely.

Senator GURNEY. In connection with the secrecy matter, I understand from your testimony that you disbursed certain amounts of money to Mr. Segretti. This was done on the orders of whom?

Mr. KALMBACH. It was done on the orders of Mr. Chapin, Senator.

Senator GURNEY. And what did he tell you in his instructions to you?

Mr. KALMBACH. This was in either late August or early September of 1971. Mr. Chapin asked me to meet with then Captain Segretti who was in the Army, asked me to meet with him to come to an agreement with him as to a compensation level and reach that agreement and begin disbursing funds to him for activities that he would be performing for the White House.

Senator GURNEY. In this connection, was it your understanding that you were disbursing these funds which were in your control at that time pursuant to the instructions of Mr. Haldeman or under his jurisdiction.

Mr. KALMBACH. Yes, sir, it was. Mr. Chapin, as I remember our conversation, did not mention Mr. Haldeman but Mr. Chapin was standing, clearly standing, in the shoes of Mr. Haldeman as one of Mr. Haldeman's senior deputies.

Senator GURNEY. During that time frame, as I understand your response, you were disbursing funds out of that resource of cash upon Mr. Haldeman's instructions or under his supervision, is that correct?

Mr. KALMBACH. Yes, sir.

Senator GURNEY. Did you ever have any discussion with Mr. Haldeman about this?

Mr. KALMBACH. About the disbursal of funds?

Senator GURNEY. To Segretti.

Mr. KALMBACH. I do not recall that I ever did, Senator. My recollection is clear as to my meeting with Mr. Chapin and my understanding was clear that he was speaking on behalf of Mr. Haldeman. But I do not recall that Mr. Haldeman's name was mentioned.

Senator GURNEY. You had several contacts with Ulasewicz during this time of raising money and turning it over to him for disbursal for these Watergate defendants. Did he ever talk to you in any of these conversations, about the fact that he was using this money that he obtained from you, and paying it over to people for coverup or hush money or payoffs?

Mr. KALMBACH. Senator, is this during this assignment period?

Senator GURNEY. Yes.

Mr. KALMBACH. Sir, he did not use that language. I remember that he had some cautionary words to me which fed this concern that came back on me after I had seen Mr. Jones and that, combined with the secrecy procedures and combined with the press coverage, all of this

brought my level of concern to the point where I knew that I would not do more.

Senator GURNEY. What were these terms, cautionary terms, I think you called them?

Mr. KALMBACH. Something to the effect that this procedure is so unusual, or there were—I cannot recall the exact language, Senator. It was sufficient for me with the other factors that were involved to know that this was something that I would not continue in.

Senator GURNEY. But he never mentioned the word "coverup" or anything similar to that that would indicate that it was a coverup?

Mr. KALMBACH. No, sir, I do not recall that he did. It was simply cautionary words as to this procedure. He was, after all, a retired New York City police detective and professional in that field and these cautionary words—and again, I do not remember exactly what they were—those plus these other factors raised this level of concern even though I had seen Mr. Ehrlichman on July 26. It just came back on me and I knew at this point that I would not do more.

Senator GURNEY. Did Ulasewicz ever tell you what any of these defendants told him in his contacts with them while he was handling this money and paying them?

Mr. KALMBACH. Yes, sir, he did.

Senator GURNEY. What did he say?

Mr. KALMBACH. At various times, he would report discussions that he had had with various of these individuals, primarily, I think, with Mrs. Hunt, which I would then relay back to either Mr. Dean or Mr. LaRue, and I think they more primarily had to do with amounts to individuals, that sort of thing.

Senator GURNEY. Do you recall anything besides amounts to individuals?

Mr. KALMBACH. I do not, Senator.

Senator GURNEY. How many times did you discuss money for these Watergate defendants at the White House?

Mr. KALMBACH. With Mr. Dean, several times, but only once with Mr. Ehrlichman and I think the second time, when I advised—my memory is that I advised Mr. Ehrlichman of my—the fact that I had received these funds from Mr. Jones in early August.

Senator GURNEY. You have described that, of course, already to the committee.

Mr. KALMBACH. Yes, sir.

Senator GURNEY. Did you ever have any discussions with Mrs. Hunt personally?

Mr. KALMBACH. Never.

Senator GURNEY. Did you ever discuss or was there ever any discussion with Mr. Dean, Mr. Haldeman, Mr. Ehrlichman, Mr. Mitchell, Mr. Colson, or anyone else, that this money was being used for coverup, or hush money, or payoff money?

Mr. KALMBACH. No, sir.

Senator GURNEY. That never arose in any of these various meetings that you had?

Mr. KALMBACH. No, sir.

Senator GURNEY. Mr. Stans indicated when he was here, in his testimony, that Dean and Ehrlichman had assured you that this request for the $75,100 was something legal. Do you remember any discussion

that you had with Mr. Stans about the legality or the illegality of the $75,100 when you received that from him?

Mr. KALMBACH. Senator, my memory of my visit with Mr. Stans, first the telephone visit and then my visit with him in the hotel room, was simply that I told him that I had received a very important assignment from someone in authority at the White House, that it was proper, that I could not divulge the nature of the assignment, and that he would have to trust me. And his response was that, Herb, I certainly trust you, and he gave the funds to me without more.

Senator GURNEY. And that was the sum and substance of it?

Mr. KALMBACH. Yes, sir, that is the sum and substance of that conversation.

Senator GURNEY. Let's go to the meeting in Mr. Dean's office where, when you, and Mr. LaRue, and Mr. Dean were there. As I understand the purpose of this meeting, it was to get instructions from Mr. LaRue on the handling of this money. Was the meeting June 29?

Mr. KALMBACH. No, sir, I don't recall any meeting on June 29. I think the meeting I recall with particularity would be on July 19, when I received some $40,000 from Mr. LaRue to be given to Mr. Ulasewicz, with no indication to me as to the source of those funds.

Senator GURNEY. Was that the 18th or 19th?

Mr. KALMBACH. My recollection is the 19th.

Senator GURNEY. I am not trying to trip you up. I just happen to have the 18th here. I may have put it down wrong. Your recollection is the 19th.

Mr. KALMBACH. Excuse me, Senator.

Senator GURNEY. Counsel says it was the 19th, too.

Mr. KALMBACH. Yes, sir.

Senator GURNEY. What participation did Mr. Dean take in this meeting?

Mr. KALMBACH. Well, he was part of the meeting, I think he did, he was on the telephone once or twice, but he was certainly part of the meeting and was aware of what was being discussed, Senator.

I am not clear in my own mind as to whether or not there were instructions given at this meeting, but in all likelihood, instructions were given. But I can't say for certain. But I am certain that approximately $40,000 was given to me by Mr. LaRue to be given to Mr. Ulasewicz.

Senator GURNEY. Again, you say that he participated in the meeting. Could you be a little more explicit, because I am sure you know his recollection is somewhat different.

Mr. KALMBACH. Well, sir, I know the three of us conversed together in the meeting, so in my view, we were all three at the meeting.

Senator GURNEY. How did the meeting occur? I mean by that, did you arrive first? Who was there when you came into the office? What was said?

Mr. KALMBACH. I don't remember exactly who was there first. It was, my memory is that we all arrived—we, Mr. LaRue and I arrived separately. Whether I arrived first or last, I am not certain, but Mr. Dean, of course, was in the office and there was a discussion of these funds that Mr. LaRue had for me and possibly directions for disbursement to these people by Mr. Ulasewicz, which I would convey

along with these funds, which I then took up to New York that night to be given to Mr. Ulasewicz.

Senator GURNEY. Your recollection is it was a meeting between three people—Dean, LaRue, and Kalmbach—a participation of all these three people and Mr. Dean's nonparticipation was only when he happened to be on the phone. Is that right?

Mr. KALMBACH. Yes, sir, that would sum up my memory of that meeting.

Senator GURNEY. Did he have many phone calls, do you recall?

Mr. KALMBACH. Oh, I think two or three throughout this period. Probably the meeting was 30 minutes in length.

Senator GURNEY. There was another meeting in Mr. Dean's office, as I recall, on September 21, the same three people. This meeting, I understand, was to reconcile records. Is that correct?

Mr. KALMBACH. At that meeting, I went through my records as to funds I had received, the totals, and the funds that had been disbursed, against the totals. I wanted to make certain that they were in complete agreement with what Mr. LaRue and Mr. Dean so understood and once I had that confirmation, then I was satisfied and felt that I had discharged, I was discharged formally from this responsibility.

Senator GURNEY. Was this meeting, too, a meeting between these three people?

Mr. KALMBACH. It is my recollection that it was, yes, sir.

Senator GURNEY. Were all three participating in it?

Mr. KALMBACH. That is my recollection, yes, sir.

Senator GURNEY. Why was it held in Mr. Dean's office? Any reason for that?

Mr. KALMBACH. No, sir, I think it was just probably the most convenient place, rather than for Mr. Dean—Mr. Dean had many telephone calls all the time and I think the feeling was that this was the most logical place to meet.

Senator GURNEY. On both these meetings that we have been talking about, do you recall who suggested Mr. Dean's office? Who set up the meeting?

Mr. KALMBACH. No, sir, I really don't. I am not certain of that. And I think in view of the fact that I wanted to effect this confirmation of my records, that probably I asked for the meeting. But I don't remember, Senator.

Senator GURNEY. Why did Dean need to be present?

Mr. KALMBACH. Well, I think the only reason, probably, was that Mr. Dean was someone that I had been receiving directions from and I felt that it was appropriate in case there was any haziness on the part of anybody, that all three would be present. That would be my memory of why.

Senator GURNEY. Perhaps another way of putting it, is in this particular enterprise that you were engaged in, you thought he was the person who was directing it. Is that fair to say?

Mr. KALMBACH. Yes, sir. I had the feeling that Mr. Dean was the primary person directing it. After all, he had been the one to see me on the 29th. Mr. LaRue had also given me instructions. But I regarded the two, really, as interchangeable but with Mr. Dean probably the primary one.

Senator ERVIN. We have two votes coming up in the Senate—one being held now and we have a vote on final passage of a bill the Senate has been considering for about a week or 10 days at 10 minutes to 12. For that reason, the committee will stand in recess until 2 o'clock.

[Whereupon, at 11:35 a.m., the committee recessed, to reconvene at 2 p.m., the same day.]

AFTERNOON SESSION, TUESDAY, JULY 17, 1973

Senator ERVIN. The committee will come to order.

This morning I received a letter dated this morning, that is, July 17, 1973, from the Honorable George P. Shultz, the Secretary of the Treasury, reading as follows:

Dear Mr. Chairman, at the direction of the President, I hereby enclose a letter relative to testimony by the Secret Service to congressional committees, Sincerely yours, George P. Shultz.

The letter from the President to Secretary Shultz which was enclosed in Mr. Shultz' letter to me reads as follows:

The White House, Washington, July 16, 1973.

Dear Secretary Shultz, I hereby direct that no officer or agent of the Secret Service shall give testimony to congressional committees concerning matters observed or learned while performing protective functions for the President or in their duties at the White House.

This applies to the Senate Select Committee which is investigating matters relating to the Watergate break-in and the current efforts which I am informed are being made to subpena present or former members of the White House detail of the Secret Service.

You will please communicate this information to the Director of the Secret Service promptly and either you or he should then personally notify the chairman of the Senate Select Committee. You should further advise the chairman that requests for information on procedures in the White House will be given prompt consideration when received by me.

Sincerely, Richard Nixon.

The committee had subpenaed certain of the agents of the Secret Service, and they appeared in obedience to the subpena. Senator Baker and I as members of the committee and members of the committee staff, thereupon undertook to interrogate one of these Secret Service agents, Al Wong. At that time counsel for the Secretary of the Treasury entered a plea of executive privilege, claiming that under this plea of executive privilege the witnesses, Mr. Wong and the other Secret Service agents, could not be required to testify before the committee. Counsel read copies of the two letters which I have just read to set forth and sustain the plea of executive privilege.

As a consequence of these letters, Senator Baker and I convened a special executive session of the entire committee, feeling this is a matter of such import that the entire committee should consider it.

After discussion the committee reached the conclusion that it was not worthwhile at the present time to engage in any controversy with the witnesses on the question of whether or not they should be required to testify before the committee—the committee feeling that this was not a matter the witnesses were permitted to determine for themselves. But the committee noted the closing sentence in the letter from the President to the Secretary of the Treasury reading as follows:

You should further advise the chairman that requests for information on procedures in the White House will be given prompt consideration when received by me.

The committee hopes that the word "procedures" is much broader than the strict interpretation that that word might imply and it is only interested at this stage in getting access and the right to use in the hearings the records and tapes in the possession of the White House which are relevant to the matters which the committee is authorized by Senate Resolution No. 60 to investigate.

Being desirous of adjusting this matter, if possible, on an amicable basis with the White House, the committee decided that the chairman should send a letter to the President asking for his cooperation in making available to the committee records and tapes which are relevant to the matters which the committee is authorized to investigate, and relevant to the testimony of witnesses who have appeared before the committee or who are subpenaed to appear before the committee. I sincerely hope that this course of action will bear fruit and that we will be able to get access to the records and tapes which we think are relevant and necessary to our investigation in a manner that is satisfactory to everybody concerned.

Senator BAKER. Mr. Chairman, I would like to associate myself with your description of the situation as the committee finds it.

I would note further that the committee decided, as you very accurately pointed out, that it would serve no immediate purpose to engage in a conflict or controversy with the Secret Service on whether they should or should not disclose information at their disposal but rather the decisionmaking authority resided elsewhere.

It is in a spirit of conciliation that we are dispatching a letter which we have now authorized to the President making these requests: (1), who is the custodian of the tapes. (2), who has had access to the tapes. (3), how do we go about receiving that information and the tapes as they relate to the lawful inquiry of this committee, not to a general fishing expedition, not on matters that are clearly protected by executive privilege, such as foreign affairs, internal communications not related to the Watergate situation, but how do we go about getting those relevant portions of the tapes.

We are, I hope, being both patient and optimistic in taking this course of action instead of pursuing an effort to compel testimony from Secret Service agents in which we might or might not prevail in this litigation or otherwise. So, I commend the chairman for the action taken, for his description of the situation, and I am hopeful that we will have a response very, very promptly because these hearings are ongoing. It is a matter of monumental importance, and I hope that we can have a discussion very quickly.

Now, the last point I would make, Mr. Chairman, if I may, is the fact that it is public knowledge that a tentative meeting between you and the President had been arranged for. The president's unfortunate illness has intervened to apparently delay that or at least possibly delay that, and may I say for my part that I hope that that meeting can occur as quickly as possible, or in lieu of that meeting that at least the principal staff of this committee and principal staff of the White House might immediately begin conversations on how we could gain access to the documents and the tapes.

Thank you, Mr. Chairman.

Senator ERVIN. Any other member of the committee have any observations?

If not, we will resume the questioning of the witness, and I believe Senator Gurney was interrogating the witness at the time we took the recess.

Senator GURNEY. Thank you, Mr. Chairman. I will try to be as brief as possible.

Mr. Kalmbach, I would like to go back to the first meeting that you had with Mr. Dean when he instructed you to raise money and then turn it over to Mr. Ulasewicz for payment to these defendants. As you undoubtedly know, there is some dispute as to whether the meeting took place. Mr. Dean was positive it took place in the Mayflower Hotel. What is your recollection as to where it took place?

Mr. KALMBACH. My recollection, Senator, is that the meeting on the 29th took place in front of the Hay-Adams and then we met and talked in Lafayette Park. Then my recollection is that on the 30th, which is the Friday morning, that we met in my room at the Statler-Hilton.

Senator GURNEY. And you were staying at the Statler-Hilton, not the Mayflower?

Mr. KALMBACH. Yes, sir.

Senator GURNEY. In connection with this testimony, Mr. Chairman, I would like to present some exhibits here and insert them in the record.

Senator ERVIN. Will someone hand the exhibits to the witness?

Senator GURNEY. These exhibits, I will briefly outline, are a letter from the Mayflower, which is dated June 27 of this year and simply says that Mr. Kalmbach was not a registered guest between June 1 and July 1, 1972; a letter from the Statler-Hilton replying to a subpena of this committee; the subpena of this committee for the records of the Statler-Hilton; and then the bill of the Statler-Hilton, Mr. Kalmbach's bill; and then a registration card, plus what appears to be the imprint of a credit card. I would simply like to ask the witness if he would turn to the registration card, which is the last exhibit, and, do you recognize that printing—it really is not a signature—on the registration card as your printing?

Mr. KALMBACH. Yes, sir; it is.

Senator GURNEY. This is what you entered on that card when you registered in at the Statler-Hilton?

Mr. KALMBACH. Yes, sir.

Senator GURNEY. On June 29, 1973?

Mr. KALMBACH. Yes, sir.

Senator GURNEY. And that is an imprint of your credit card there above the registration card?

Mr. KALMBACH. Yes, sir.

Senator GURNEY. Those will be admitted into evidence as the proper exhibits.

Senator ERVIN. The papers identified by Senator Gurney and the witness will be marked appropriately as exhibits and admitted in the record as such.

[The documents referred to were marked exhibit No. 76.*]

Senator GURNEY. Now, let us go to your fundraising efforts and let me ask you this question, because there has been some and will be, I think, some speculation as to whether these are individual contribu-

* See p. 2209.

tions or otherwise. When you were soliciting funds at any time, like the one you solicited from Mr. Jones of the Northrup Corp., did you ever solicit corporate money, or were these always individual solicitations?

Mr. KALMBACH. I always solicited individuals, Senator, and never asked for corporate funds. I well knew that corporate fund contributions were illegal and I would never ask for corporate funds.

Senator GURNEY. As far as you knew, they were individual funds. That is what you thought you were receiving?

Mr. KALMBACH. Yes, sir.

Senator GURNEY. In Mr. Stans' May 8 interview with the committee—not his testimony here, his interview—he stated he held daily staff meetings with key associates of the finance committee, including Kalmbach, Washburn, Evans, Nunn, and on occasion, Reed, Hofgren, and Liddy. At these meetings, did the matter of Watergate ever come up in any respect, either in the planning stage or any other stage? Do you know?

Mr. KALMBACH. Pardon me, Senator. Would you repeat the question, please?

Senator GURNEY. When Mr. Stans was interviewed by the committee staff on May 8, he said he had daily staff meetings with his key associates of the finance committee, which included you, Mr. Kalmbach, Washburn, Evans, Nunn, and on occasion, Reed, Hofgren and Liddy. My question was, did the question of Watergate ever come up in any of these meetings?

Mr. KALMBACH. No, sir.

Senator GURNEY. I am talking now, of course, about the planning of the break-in, the bugging, the burglary, and all the rest of the business connected with Watergate.

Mr. KALMBACH. No, sir, I left the committee on Friday, April 7, and had been in attendance at several staff meetings for the period preceding, several weeks, and I recall at no time was any mention made of such a thing, no sir.

Senator GURNEY. Now, let's go to the moneys that you gave to Mr. Ulasewicz, and as I understand, these were given to him on four separate occasions. June 29 was the first one and I think you gave him at that time $75,100. Is that correct?

Mr. KALMBACH. Yes, sir. I think, Senator, that was on June 30; Friday, June 30.

Senator GURNEY. What instructions did you give Mr. Ulasewicz when you turned this money over to him?

Mr. KALMBACH. Again, my best memory is that I asked Mr. Ulasewicz to take the funds and return to New York, return to his home in New York, and that I would be in touch with him as to instructions.

Senator GURNEY. In other words, on June 30, you did not give him any specific instructions?

Mr. KALMBACH. I do not recall that, no sir.

Senator GURNEY. All right. What instructions did you give to him after June 30 about this particular $75,100?

Mr. KALMBACH. Senator, again, my memory is that sometime immediately after Mr. Ulasewicz returned to New York and I returned to California, I received instructions, I think from Mr. Dean, or it may have been from Mr. LaRue—I am not certain—asking that I give

the instructions to Mr. Ulasewicz to contact Mr. Caddy. And I think those instructions were received within a period of a few days after I returned on the 30th.

I thereupon called Mr. Ulasewicz' home in New York and gave him those instructions. He then went to Washington and there were several calls back and forth, I think, between he and Mr. Caddy. Then he would then call me. I would then contact either Mr. Dean or Mr. LaRue until finally, at one point, eventually, it was clear that Mr. Caddy would not receive the funds.

Senator GURNEY. You say he would not receive them?

Mr. KALMBACH. Yes, sir.

Senator GURNEY. Well, now, what eventually happened to them?

Mr. KALMBACH. Well, eventually, Senator, I think that an attempt was made to contact Mr. O'Brien, with the same result. Mr. O'Brien would not accept delivery of the funds.

Senator GURNEY. Now, this is an attempt on the part of Mr. Ulasewicz?

Mr. KALMBACH. Yes, sir; at my direction, and I had received the direction from either Mr. Dean or Mr. LaRue.

Senator GURNEY. Go on.

Mr. KALMBACH. Then I think it was in the second week of July that eventually, a delivery was made of $25,000, I think to Mr. Bittman, by Mr. Ulasewicz, again at my direction and after I had received directions from either Mr. Dean or Mr. LaRue.

Senator GURNEY. In other words, that $25,000 was turned over by either Dean or LaRue instructing you to instruct Ulasewicz to give it to Bittman?

Mr. KALMBACH. Yes, sir; that is right.

Senator GURNEY. Now, that accounts for $25,000. What about the $5,100—$50,100?

Mr. KALMBACH. Well, sir; my recollection is that I think Mr. Ulasewicz disbursed some $8,000 to Mr. Liddy. I know that I had instructed Mr. Ulasewicz to deduct from the funds that I gave to him whatever he needed for his expenses.

Senator GURNEY. Was this $8,000 to Liddy upon your instructions?

Mr. KALMBACH. Yes, sir; I am certain that it was.

Senator GURNEY. Received from whom?

Mr. KALMBACH. From Mr. Dean or Mr. LaRue.

Senator GURNEY. Go on.

Mr. KALMBACH. And also, $1,000 was—I received $1,000 which I had turned over to Mr. Strachan at the White House in response to his request for $1,000.

Senator GURNEY. All right.

Mr. KALMBACH. About that time, Senator, I received some $40,000 from Mr. LaRue—I think it was on the 19th of July—which I gave to Mr. Ulasewicz. And from that time forward, I think my memory is that almost all of the funds went to Mrs. Hunt, with some $30,000 going to Mr. LaRue on or about the 19th or—18th or 19th of September—that when the final payment was made to Mr.—one payment of some $30,000 to Mr. LaRue and, I think it was some little more than $50,000 to Mrs. Hunt at that time.

Senator GURNEY. Well, if we can go back now, we were down to, we accounted for $34,000 out of the $75,000.

Mr. KALMBACH. Yes, sir.

Senator GURNEY. Which would leave $41,000, plus another $40,000 from LaRue—$81,000. Now, at that point, what happened as far as the instructions to do something with the $81,000? What was the next step?

Mr. KALMBACH. Senator, throughout this period, several times, I received instructions to instruct Mr. Ulasewicz as to disbursals and as I say, I think most of those disbursals after mid-July, I think, went to Mrs. Hunt, who in turn distributed funds to various of the defendants and to various of the attorneys involved.

Senator GURNEY. Well, can you give us a little better understanding than that. Did you receive word from Dean or LaRue to give *x* amount to Mrs. Hunt?

Mr. KALMBACH. Yes, sir, I remember that, I was told from time to time to give *x* amount to Mrs. Hunt.

Senator GURNEY. Do you remember what those amounts were and when?

Mr. KALMBACH. No, sir. But in reconstructing this history in trying to develop what the amounts were and to whom these funds went, my memory is that approximately $150,000 or thereabouts went to Mrs. Hunt, out of which certain of the attorneys were paid and various of the defendants. Beyond that $150,000, there was $30,000 that was given to Mr. LaRue in the final disbursal. Twenty-five thousand dollars was given to Mr. Bittman. I think $8,000 was given to Mr. Liddy, as I remember it, $1,000 to Mr. Ulasewicz, and $1,000 which I retained and delivered to Mr. Strachan. Now that total is approximately $220,000.

Senator GURNEY. And the amount, as I recall, was $219,000?

Mr. KALMBACH. Yes, sir.

Senator GURNEY. So then as I understand it this rather large amount to Mrs. Hunt, approximately $150,000 was paid from time to time and you don't actually recall the specific dates and the amounts?

Mr. KALMBACH. No, sir; I do not. I don't recall—I recall with particularity the dates when I received funds, but I don't recall with anything like particularity as to the dates that I called Mr. Ulasewicz or when instructions were given to Mr. Ulasewicz to make these disbursals and, as I said, after mid-July, I think most of all of the money went to Mrs. Hunt who, in turn, distributed the funds to various attorneys and other defendants, plus the $30,000 that went to Mr. LaRue in September.

Senator GURNEY. What is your recollection of the instructions that you were receiving from Mr. Dean or Mr. LaRue at this time so far as payments to Mrs. Hunt are concerned?

Mr. KALMBACH. Well, the instructions as I remember it, were to give her funds for attorneys, and I recall the names of the attorneys over and above Mr. Bittman, Mr. Rothblatt, I think, Mr. Bailey and Mr. Maroulis, plus there were attorneys for—but I never, I could not, I do not remember the names of attorneys for other of the defendants, and a lesser amount was given to those attorneys, some three attorneys for three of the defendants.

Senator GURNEY. Who did the instructions come mainly from, Mr. Dean or Mr. LaRue?

Mr. KALMBACH. Well, initially it's my recollection that they came primarily from Mr. Dean, but shortly thereafter or shortly into the period there they began to come more from Mr. LaRue or although I always gained it interchangeably, Senator.

Senator GURNEY. In the raising of the money, as I understand it you received four amounts here that totaled $219,000. Where did most of the pressure come from to raise this money, do you recall that, from whom?

Mr. KALMBACH. No, sir. I was just—I was given my instructions, again by Mr. Dean or Mr. LaRue and then I recall that Mr. Ulasewicz would receive communications from the people that he was talking to and primarily Mrs. Hunt, which I would relay back to these people, and then I would relay again back down after I received my instructions, I would then call Mr. Ulasewicz.

Senator GURNEY. Just one final question, Mr. Kalmbach: Did you have any discussions following the break-in of Watergate down to now with the President?

Mr. KALMBACH. No, sir.

Senator GURNEY. About Watergate?

Mr. KALMBACH. No. Not at any time.

Senator GURNEY. Neither on the phone nor in person?

Mr. KALMBACH. No, sir.

Senator GURNEY. That is all, Mr. Chairman.

Senator ERVIN. Senator Talmadge.

Senator TALMADGE. Thank you, Mr. Chairman.

Mr. Kalmbach, I want to get into an area that you have not testified on, that we have had reports in the press about it. Are you familiar with funds going into the State of Alabama during the 1970 election?

Mr. KALMBACH. Senator, I am familiar with funds that I disbursed in 1970 under instructions. I, at that time—I had no knowledge as to where the ultimate distributees would be.

Senator TALMADGE. Will you tell us about that fund, please?

Mr. KALMBACH. Yes, sir. During the 1970 period I was raising funds toward the—in the senatorial races, and also I was directed by Mr. Higby on three different occasions to disburse funds out of trust funds that I had under my control. I recall that there was a call that Mr. Higby made to me, in—I think it was in late March of 1970—directing that I disburse $100,000 to someone there in New York.

I took these funds from the box, safe deposit box, at the Chase Manhattan Bank in New York and delivered them to an individual at the Sherry Netherlands Hotel in New York.

Senator TALMADGE. Who was the individual?

Mr. KALMBACH. I did not know his name, and do not know him.

Senator TALMADGE. How did you know you gave the $100,000 to the right man?

Mr. KALMBACH. I was advised at a later date that I had given the funds to the right person.

Senator TALMADGE. Who gave you the instructions as to whom to meet and where?

Mr. KALMBACH. I talked to Mr. Higby, and he instructed me, and I said that I would deliver the funds at the Sherry-Netherlands Hotel, and an individual then came up to me and the identification was proper, and I——

Senator TALMADGE. Was there a password?

Mr. KALMBACH. No, sir, I don't recall the procedure now, but it was definite that it was the man——

Senator TALMADGE. You didn't walk into the lobby and give the first hundred thousand, give the hundred thousand to the first man you saw, did you?

Mr. KALMBACH. No, sir. [Laughter.]

Senator TALMADGE. What was the arrangement whereby you could make the proper contact?

Mr. KALMBACH. I don't recall the specific arrangements, Senator. It was simply that he—I was in the lobby, and I think I was in a particular colored suit and he came up to me and identified himself as being from someplace and I don't recall where it was.

Senator TALMADGE. Did he have a Southern drawl?

Mr. KALMBACH. I don't remember it; no, sir.

Senator TALMADGE. You didn't hear his voice?

Mr. KALMBACH. I heard his voice but it was not distinctive.

Senator TALMADGE. What was the signal as to how he could identify himself to you to receive the $100,000?

Mr. KALMBACH. Well, I think the signal was that he asked me if I was—I forget whether I was—from some State, and I replied, yes, or something, and that was sufficient but I don't recall the exact procedure.

Senator TALMADGE. Did you have a code name?

Mr. KALMBACH. No, sir, I did not.

Senator TALMADGE. Did he have one?

Mr. KALMBACH. No, sir, I don't recall it.

Senator TALMADGE. Do you know what the purpose of that money was for?

Mr. KALMBACH. I did not.

Senator TALMADGE. Did you have any suspicions?

Mr. KALMBACH. No, sir, I did not.

Senator TALMADGE. You didn't think they were going to take it somewhere and burn it up, did you? [Laughter.]

Mr. KALMBACH. No, sir.

Senator TALMADGE. Now, tell us about the next contribution that you made and the circumstances thereof. That was the first $100,000?

Mr. KALMBACH. Yes, sir.

Senator TALMADGE. Where did that money come from?

Mr. KALMBACH. It was funds that I held in trust that Mr. Stans had entrusted to me.

Senator TALMADGE. Was that leftover money from the 1968 campaign?

Mr. KALMBACH. Yes, sir.

Senator TALMADGE. Proceed, please.

Mr. KALMBACH. Then I think within a month, Senator, I was again asked to disburse $200,000 following the same procedure.

Senator TALMADGE. Did Mr. Higby also request you the second time?

Mr. KALMBACH. That is correct.

Senator TALMADGE. All right. Go ahead.

Mr. KALMBACH. And my recollection is that I asked one of the signatories on the box, Mr. Franz Rain, to take the funds to the—again to the—Sherry-Netherlands Hotel, and disburse to an individual, which he did.

Senator TALMADGE. Was it the same individual?

Mr. KALMBACH. I do not know.

Senator TALMADGE. You didn't deliver the second $100,000?

Mr. KALMBACH. No, sir, I did not.

Senator TALMADGE. You just made it available?

Mr. KALMBACH. Yes, sir.

Senator TALMADGE. All right, that is $300,000. Now, tell us about the next amount.

Mr. KALMBACH. Then finally there was a third communication again, I think it was from Mr. Higby directing that another $100,000 be disbursed in the same manner, although at this time I was asked to disburse to an individual in Los Angeles, in the lobby of the Bank of California Building on Flower and 6th Street.

Senator TALMADGE. You delivered $200,000 and an agent delivered the other $200,000?

Mr. KALMBACH. That is correct.

Senator TALMADGE. And your directions or instructions to deliver the money came from Higby twice, and who the third time?

Mr. KALMBACH. From Mr. Higby the third time.

Senator TALMADGE. All three times?

Mr. KALMBACH. Yes, sir.

Senator TALMADGE. Did you have any suspicion as to where that money was going?

Mr. KALMBACH. No, sir, I did not. I made the assumption without knowing that it was going into campaigns but I did not know which campaign.

Senator TALMADGE. What was your assumption?

Mr. KALMBACH. That it was going into various of the campaigns but I did not know which.

Senator TALMADGE. What campaigns?

Mr. KALMBACH. The various of the campaigns in the 1970 election year.

Senator TALMADGE. More than one campaign or just one?

Mr. KALMBACH. Well, I think I made the assumption it was going into more than one.

Senator TALMADGE. Was that not, in fact, money that was used to try to defeat Governor Wallace in Alabama in 1970?

Mr. KALMBACH. Senator, I have never known this to be a fact. I think subsequent to the disbursals, I heard comments to the effect that part or all of those funds did, in fact, go to that campaign but I did not know at the time and the only evidence or indication that I have had subsequent was just various comments.

Senator TALMADGE. A man of your intelligence and ability and background certainly would not be in the business of just walking up to strangers in hotels and giving them $400,000 for nothing, would you?

Mr. KALMBACH. No, sir.

Senator TALMADGE. You suspected that it was going to stop Governor Wallace in Alabama, did you not?

Mr. KALMBACH. I did not at that time.

Senator TALMADGE. But you subsequently suspected that?

Mr. KALMBACH. Yes, sir.

Senator TALMADGE. Do you know that of your own knowledge?

Mr. KALMBACH. I do not know it as a fact, Senator.

Senator TALMADGE. It is common knowledge though, in circles that handled that money, is it not, Mr. Kalmbach?

Mr. KALMBACH. I beg your pardon, Senator?

Senator TALMADGE. It is common knowledge in the circles that raised the money and dispensed it, is it not?

Mr. KALMBACH. Well, I think there is a belief that part or all of it did go to that campaign but again, Senator, I would not have the certainty that that is true.

Senator TALMADGE. Now, there is one thing I did not understand from your testimony to date. Who made the decision as to how much of this money that would go to these defendants and their lawyers?

Mr. KALMBACH. Well, the decision, as I remember it, Senator, was always handed to me either by Mr. Dean or Mr. LaRue, and then it would be passed from me to Mr. Ulasewicz on to these individuals. I think Mr. Ulasewicz received certain communications again that he relayed to me, and I relayed on up, which perhaps was confirmed as to suggestions, but there was no negotiating at all on the part of either Mr. Ulasewicz or myself.

Senator TALMADGE. Your answer, then, is Mr. Dean or Mr. LaRue determined how much each of these people and their lawyers would get?

Mr. KALMBACH. Yes, sir, ultimately.

Senator TALMADGE. Did any of the attorneys that the money was delivered to ever indicate what source it came from or wonder what source it came from or make inquiries about what source it came from?

Mr. KALMBACH. I do not recall that any did. No, sir.

Senator TALMADGE. It would be strange to you as a lawyer if some intermediary came into your office and gave you $25,000 and never indicated the source, would it not?

Mr. KALMBACH. Yes, sir, it would.

Senator TALMADGE. Would you not have some deep dark suspicion about it and want to have more knowledge about it?

Mr. KALMBACH. I would be suspicious, yes, sir.

Senator TALMADGE. Now, you stated yesterday that you believed that the payment plan——

Mr. KALMBACH. Incidentally, Senator, I want to add that I had the feeling that these men were anticipating a call from Mr. Ulasewicz but I had no knowledge as to how or who had communicated with, for example, Mr. Bittman. I had no knowledge as to how or who had communicated with him, so that he was anticipating a call from Mr. Ulasewicz. That was handled, I think——

Senator TALMADGE. What you are saying is delivery of the money did not take the lawyers by surprise, is that it?

Mr. KALMBACH. No, sir, it did not or the calls did not.

Senator TALMADGE. You stated yesterday that you believe that this payment plan was so important because it came from Mr. Dean, the President's personal counsel. Did you, because of that, suspect that the President himself might have approved it?

Mr. KALMBACH. No, sir.

Senator TALMADGE. You did not?

Mr. KALMBACH. No, sir.

Senator TALMADGE. You just took it at face value because the President's counsel himself indicated that to you?

Mr. KALMBACH. Well, again, Senator, here was a man that I had been dealing with for a year and a half, or 2 years, at that time, a man in whom I had absolute and complete trust. He was standing, really, in the shoes of the President, on the President's legal work that a partner and I would be talking to him about. It was again without—because my own nature is that I trust my friends and trust my partners, and I had absolute trust in this man. And when he made this request of me, I did not hestitate.

Senator TALMADGE. Well, you, yourself, were the President's personal counsel. You represented him in personal matters.

Mr. KALMBACH. Yes, sir.

Senator TALMADGE. Mr. Dean represented him, I presume, primarily in offical matters, did he not?

Mr. KALMBACH. Yes, sir.

Senator TALMADGE. Well, did you not feel free as the President's personal lawyer, to check it out with him at that time?

Mr. KALMBACH. Senator, as I think I have testified, I think I have met with the President not more than four or five times since 1969. He has such a very busy schedule——

Senator TALMADGE. I would hope that my personal lawyer would feel perfectly free to communicate with me at any time and I am quite sure that he would, particularly if a matter arose that might be suspicious affecting my interest.

Mr. KALMBACH. Yes, sir.

Senator TALMADGE. You testified, I believe, that you finally became concerned about the James Bond nature of all of these affairs and finally, went to Mr. Ehrlichman to determine Mr. Dean's authority, is that not correct?

Mr. KALMBACH. Yes, sir, and to confirm the propriety.

Senator TALMADGE. And he told you that Mr. Dean did have the authority to do so. Now, you met with Mr. Ehrlichman a number of times, I believe, in July, did you not?

Mr. KALMBACH. I think once or twice in addition to that meeting, but I am not certain as to that, Senator.

Senator TALMADGE. I believe in your testimony and depositions in the suit filed by the Democratic committee, you had dinner with Mr. Ehrlichman in California, as I recall, July 6. You also, I believe, stated that you had met with Mr. Ehrlichman on July 14. And you finally, I believe, met with Mr. Ehrlichman on July 26, 1972, in his office to confirm the authority of Mr. Dean to authorize the payments.

Mr. KALMBACH. Yes, sir.

Senator TALMADGE. And you did meet with Mr. Enrlichman on those three occasions, did you not?

Mr. KALMBACH. Senator, I am not certain on the first meeting if that was a large dinner meeting or if I was with him alone. I am just not certain of that.

Senator TALMADGE. I believe I am informed by a member of the staff that the first meeting, which occurred on July 6, occurred on your calendar, so that meeting might have been in your own office. Do you recall such a meeting?

Mr. KALMBACH. Sir?

Senator TALMADGE. Do you recall such a meeting in your office on July 6 in California?

Mr. KALMBACH. No, sir, but it could have happened. I do not recall.

Senator TALMADGE. Now, did you believe or have reason to believe that because Mr. Ehrlichman told you to go ahead with these matters that the message might have been relayed to the President by Mr. Ehrlichman?

Mr. KALMBACH. I think I made the assumption that it had been.

Senator TALMADGE. Did the President ever speak to you after the press had released an account of the stories involving you with Mr. Segretti in September of last year to ask you what had occurred?

Mr. KALMBACH. No, sir.

Senator TALMADGE. I believe you stopped raising money for the defendants in September 1972, did you not?

Mr. KALMBACH. Yes, sir.

Senator TALMADGE. Did you stop these fundraising efforts because your name had been publicly associated in connection with Donald Segretti?

Mr. KALMBACH. No, sir. I think that that was part, perhaps part of it, but the primary concern that had fed my earlier concern and came back on me, Senator, was these secrecy procedures. The fact that Mr. Segretti was asked by—talked to by the Bureau, by the FBI on the Segretti matter was something that—I had given him funds from about the 1st of October or the last of September, to the first of February, never knowing what he was involved in, and suddenly, these stories began coming out and I did not—it was something that I had concern about.

Senator TALMADGE. Did you notify anyone at that time that you thought that fundraising and distribution was improper?

Mr. KALMBACH. Sir?

Senator TALMADGE. Did you notify anyone at that time that it was your conclusion that this fundraising was improper?

Mr. KALMBACH. For this assignment?

Senator TALMADGE. For the payment of such affairs as Segretti, the defendants, their living expenses, their bail, their lawyers' fees, and one thing and another?

Mr. KALMBACH. I indicated, Senator, that I would not be involved in this.

Senator TALMADGE. And that was the time you stopped raising money for that purpose?

Mr. KALMBACH. Yes, sir.

Senator TALMADGE. Did the President call you after the election in November 1972?

Mr. KALMBACH. Yes, sir, he did.

Senator TALMADGE. That was after you had raised funds for payment to these defendants and other purposes, was it not?

Mr. KALMBACH. It was, and it was after the election and after I had raised a substantial amount of money for the reelection campaign beginning back in November of 1970, Senator.

Senator TALMADGE. What was discussed in that conversation relating to Watergate?

Mr. KALMBACH. Nothing.

Senator TALMADGE. Why did you not mention to the President at that time your fundraising activities?

Mr. KALMBACH. I had no reason to, Senator. He called me to thank me for all the help that I had been in the reelection campaign. It was something following the election. It was something that was very thoughtful of him to do, and it was——

Senator TALMADGE. Don't you think the President's personal lawyer, who had become so suspicious of what he was doing in the campaign that he quit, terminated his activities, that that would have been a good time for him to inform the President that these things occurred, Mr. President, and I think you ought to know about them?

Mr. KALMBACH. Senator, when I—in my dealings, I was dealing with Mr. Dean and Mr. Ehrlichman, two men that the President had implicit trust in. It was my belief that any concern I had was sufficient for me to not go forward, but it was just that feeling. I didn't have any belief in fact that this was improper. But I had sufficient concern about the procedures that I was following, distasteful, that I didn't want to be involved at all.

Senator TALMADGE. You didn't think you were performing a service for Mr. Dean, did you? You thought you were performing a service for the President of the United States, didn't you?

Mr. KALMBACH. Senator, I thought I was performing a service for the people that Mr. Dean referred to as "we."

Senator TALMADGE. Who did you think were "we"?

Mr. KALMBACH. I thought probably he was talking about the senior people at the Committee To Re-Elect, and possibly some of the people at the White House.

Senator TALMADGE. Let's see if I can put that in perspective, now. You thought all of these people that you were rendering service for——

Mr. KALMBACH. Yes, sir.

Senator TALMADGE [continuing]. Were on the same team, and all of you were rendering service for the President of the United States, isn't that true?

Mr. KALMBACH. Well, I thought that I was being helpful on this assignment.

Senator TALMADGE. You would not go all over the country, giving away hundreds of thousands of dollars in cash and engaging in surreptitious activities, for some clerk in the White House, would you?

Mr. KALMBACH. No, sir.

Senator TALMADGE. I don't blame you, sir.

Now, did Mr. Dean call you in California in January 1973 and urge you to see if you could talk Mr. Magruder out of running for elective office in California?

Mr. KALMBACH. He, I think that he did talk to me about Mr. Magruder, who was thinking of coming back to California, and his plans were not fixed.

Senator TALMADGE. Did you talk to Mr. Magruder?

Mr. KALMBACH. Yes, sir, I did.

Senator TALMADGE. Did you dissuade him?

Mr. KALMBACH. No, sir, I don't recall that I dissuaded him.

Senator TALMADGE. Did you urge him to run or not to run?

Mr. KALMBACH. I didn't—it was my recollection of that meeting, Senator, simply that Mr. Magruder was talking to people in California to make up his mind at a later date as to whether to return to

California to seek office or not. And I didn't encourage him one way or the other.

Senator TALMADGE. You didn't execute the Dean mission at that time, did you?

Mr. KALMBACH. I don't recall that it was a specific mission in that sense.

Senator TALMADGE. Didn't Mr. Dean urge you to try to dissuade Mr. Magruder from seeking public office in the State of California?

Mr. KALMBACH. Well, Senator, I don't recall that I understood it that way. I did meet with Mr. Magruder, and I think that he just had talked to many people in California and he was going back to Washington. I did not know whether he was planning to run for office or not.

Senator TALMADGE. Did you meet with him at Dean's request or not?

Mr. KALMBACH. No, sir.

Senator TALMADGE. You did not?

Mr. KALMBACH. No, sir.

Senator TALMADGE. So you deny Mr. Dean's statement that you did?

Mr. KALMBACH. I don't deny that Dean called me. I am not certain as to what was said specifically, Senator. But I don't recall that I spoke to Mr. Magruder to dissuade him from running for office.

Senator TALMADGE. Let's see who all raised money, to the best of your knowledge, for these defendants. What role did Mr. Stans play in that?

Mr. KALMBACH. No role, to my knowledge, other than giving me $75,100 on the 29th at my request, at which time I would not tell him the purpose of this assignment.

Senator TALMADGE. Other than that, you know of nothing?

Mr. KALMBACH. That is correct.

Senator TALMADGE. Mr. Haldeman?

Mr. KALMBACH. Nothing to my knowledge.

Senator TALMADGE. Mr. Ehrlichman?

Mr. KALMBACH. Mr. Ehrlichman I met with for the first time, I discussed this with Mr. Ehrlichman on July 26. Then my memory is that I confirmed that I had received an additional $75,000 from Mr. Jones in early August when I met with Mr. Ehrlichman.

Senator TALMADGE. Mr. Colson?

Mr. KALMBACH. Not at all.

Senator TALMADGE. Mr. Mitchell?

Mr. KALMBACH. I don't recall ever talking to Mr. Mitchell about this, except at the meeting in his office on Friday, the 19th of January 1973.

Senator TALMADGE. That was when he declined to raise funds for that purpose?

Mr. KALMBACH. Sir?

Senator TALMADGE. That was when Mr. Mitchell specifically declined to raise money for that purpose, wasn't it?

Mr. KALMBACH. No, sir. That was when I had been asked by Mr. Dean to come over to Mr. Mitchell's office. And Mr. Dean raised the subject then, and I said I would not do more and excused myself.

Senator TALMADGE. There was one thing that disturbed me in your statement, and Senator Weicker pursued it at some length. I still couldn't get a conclusive answer.

Mr. KALMBACH. Yes, sir.

Senator TALMADGE. Mr. Kalmbach, what made you think that there was any moral obligation to raise funds and pay lawyers and support their families and bail money for convicted burglars?

Mr. KALMBACH. Senator, it was a feeling that I had at the time, I know, that I felt that in some way, and I had no understanding as to what, how it had happened, but I had the feeling that in some way, someone in authority had pressed the green light and had encouraged these people to go forward—now, on a very stupid, idiotic assignment, an illegal act. I had the feeling that someone in authority someone or more, felt that the least that could be done for these people, who had perhaps discharged or followed an assignment, was to provide them with lawyers and to provide support for their families. And I felt that that is under the general head of a moral obligation.

Senator TALMADGE. Let me see if I can simplify it for you and see if you can agree. You thought they were part of the common team that you were playing on, is that right?

Mr. KALMBACH. Well, I felt that they were a team of individuals who had been asked to do this improperly, and that the human thing to do, the decent thing to do, is to at least provide them with legal help and provide them with support for their families.

Senator TALMADGE. Well, if an ordinary burglar had broken into the Mayflower Hotel, you wouldn't feel that way about him, would you?

Mr. KALMBACH. No, sir.

Senator TALMADGE. Was it because these people were on the same team and engaged in a common effort that you felt that you had a moral obligation, sir?

Mr. KALMBACH. Well, Senator, I had no knowledge at all, in any way, shape, or form as to the Watergate break-in. But I felt at the time that I was talked to by Mr. Dean that someone in authority must have had the feeling that the least that could be done for these people, who I felt had been ordered to go about this assignment——

Senator TALMADGE. Did Mr. Dean tell you that these are our boys; we got them into it; we have got to help them? Is that what you are trying to tell me?

Mr. KALMBACH. No, sir, I don't remember that conversation.

Senator TALMADGE. I don't see how you could have reached the conclusion that you have unless you thought they were on the same team, trying to achieve the same purpose, taking orders from the same captain.

Mr. KALMBACH. Well, I think that in the sense that they were receiving instructions from someone in authority, they were on the same team. But to the extent that they were directed to do something unlawful, that is beyond me. But I do feel, Senator, that the feeling must have been on the part of someone in authority that the least that could be done for these people is to give them this assistance.

Senator TALMADGE. Thank you, Mr. Kalmbach. I congratulate you on your testimony. I know some of these things have been difficult for you as one of the leading lawyers in the country. I compliment you on your candor, sir.

Mr. KALMBACH. Thank you, sir.

Senator TALMADGE. No further questions, Mr. Chairman.

Senator ERVIN. Senator Baker.

Senator BAKER. Mr. Chairman, thank you very much.

Mr. Kalmbach, I am not quite sure I fully understand the scope and consequence of this project, as you say. My first impression was that the project, or assignment is the way you put it——

Mr. KALMBACH. Yes, sir.

Senator BAKER. That this assignment was to raise money for, in effect, a defense fund?

Mr. KALMBACH. Yes, sir.

Senator BAKER. For these defendants. But in trying to reconstruct your testimony from the other information and data I have, you raised $75,000, I believe, from Mr. Jones with the Northrup Co., but I have no notes or recollection that you raised any other money. The rest of it was given to you by LaRue or Stans or someone else?

Mr. KALMBACH. Yes, sir. I think, Senator, that I did solicit Mr. Stans.

Senator BAKER. Yes; well, Mr. Stans, however, was part of the organization; that is, he was the general finance chairman of the campaign, so it was not solicitation in a sense that it was not a gift but rather calling on another part of your organization for funds.

Mr. KALMBACH. Yes, sir.

Senator BAKER. You see, I am not quite clear then what the assignment was, the $75,000 obviously is not inconsequential. It is a very substantial amount, but $144,000 was derived from internal sources, so to speak.

Mr. KALMBACH. Yes, sir.

Senator BAKER. Why were not those funds given directly to the parties involved instead of being channeled through you or flown to New York or delivered in a hotel lobby or the like?

Mr. KALMBACH. Well, Senator, I do not know. Now in retrospect, I believe there was a conscious attempt to separate by two or three or four people the actual payment to these individuals. I cannot—your question is apt, and there was—the only time that I solicited funds from an outside contributor was from Mr. Jones; yes, sir.

Senator BAKER. If you do not mind, and without burdening this record too extensively, would you tell me once again how you were initially contacted, by whom, and given this assignment?

Mr. KALMBACH. Yes, sir.

I was called on early, or midafternoon California time, on the 28th of June by Mr. Dean. In response to Mr. Dean's request that I come back to Washington for a very important assignment on the first available plane, I took a flight, 10:15, 10:30 that night from Los Angeles to Washington.

Senator BAKER. Stop. Did Mr. Dean impart to you any information as to the nature of the assignment?

Mr. KALMBACH. No, sir, he did not.

Senator BAKER. Did he indicate that it was a fundraising activity?

Mr. KALMBACH. No, sir, he did not.

Senator BAKER. Or a legal activity?

Mr. KALMBACH. No, sir.

Senator BAKER. Go ahead, sir.

Mr. KALMBACH. Upon arrival from Washington I went to the Statler-Hilton, checked in and by the time I had changed and breakfasted and all it was probably 9 o'clock. My memory then is that I then called

Mr. Dean in his office in the Executive Office Building, telling Mr. Dean that I was here in Washington, that I could come over to his office to meet with him to discuss whatever he had in mind.

He then told me, "No, you say you are at the Statler-Hilton, I am here in the Executive Office Building. The Hay-Adams is about halfway; why do we not both walk over and meet at the Hay-Adams?"

Senator BAKER. Did that strike you as an odd request?

Mr KALMBACH Well, it was the first time, Senator, that he had ever made such a request to me to meet other than in his office. I do not remember ever meeting in front of a hotel or in a park before.

Senator BAKER. I am not trying to lead you into entrapment.

Mr. KALMBACH. Yes, sir.

Senator BAKER. I am just trying to get the feel for the circumstances and your reaction to it, and very frankly, to establish at what point you came to have concern and apprehension about this.

Mr. KALMBACH. Yes, sir.

Senator BAKER. But in any event, that was unusual, at least to the extent that you had never done it before. Did it raise any other concerns in your mind?

Mr. KALMBACH. No, not really. I just felt that he decided he wanted to stretch and walk, and it did not strike me as odd beyond that.

Senator BAKER. All right, sir.

Mr. KALMBACH. I did not have any idea what he wanted to talk about.

Senator BAKER. All right.

Mr. KALMBACH. I then went over to—in front of the Hay-Adams. I think I was standing in front of the church on that corner across from the Hay-Adams and noticed Mr. Dean walking through the park. I had the light with me and crossed over as he came over through the park, and I think I suggested that we might go over to the Hay-Adams for some coffee. He then said, as I recall, "No, let us just walk in the park and talk." We walked over for a ways and then stopped by a bench, and talked, and it was at that point that he got into this assignment saying, "We would like to have you undertake the assignment to raise funds for these people who were involved in this Watergate break-in, raising funds so that they will have legal help and raising funds for the support of their families." and he said, "It is an absolutely important assignment and it is something we are asking you to take on."

Senator BAKER. Mr. Kalmbach, did you ask him who "we" was or "we" were?

Mr. KALMBACH. No, sir, I did not.

Senator BAKER. Did the thought occur to you?

Mr. KALMBACH. It must not have or I would have asked him but I just felt that he was saying "we" and just—again in the context, Senator, of my association with this man over the prior 2 years it was simply enough that he asked this.

Senator BAKER. Did the thought occur to you that there might be something odd or strange about a White House involvement or the involvement of a principal staff person, in this case Mr. Dean, in this fundraising effort for defendants who had received prominent publicity at that time and obviously were going to be charged with a serious offense; did that raise any ripples of concern?

Mr. KALMBACH. Again, Senator, it did not. I knew that Mr. Dean had been very involved in matters involving the Committee To Re-Elect, and he was probably wearing several hats but I know that he had had that association with the Committee To Re-Elect, and I felt that here was a man who I had this trust in asking me to take on this assignment, and I did not question it. It would have been inconceivable, as I have said, Senator, for me to have believed that this man would ask me to do something illegal.

Senator BAKER. That gets us to the point I would really like to inquire about, Mr. Kalmbach. You may or may not know, but with other witnesses, on occasion, I have asked for their perception of the arrangement in a situation or even the institution of the Presidency that would cause them to act or fail to act in a particular way. Can you visualize, in that vein, any other person or situation in the whole wide world for whom you would have done this other than a representative of the White House?

Mr. KALMBACH. Senator, I feel, as I look back on it, that almost certainly Mr. Dean had been asked to talk to me because the people knew of the relationship I had with this man and the relationship of trust.

Senator BAKER. You see what I am striving for once again is what is there about the nature of the White House or of the Presidency or of the aura that surrounds it?

Mr. KALMBACH. Yes, sir.

Senator BAKER. That would couse you to act without question, without concern, as apparently you did, placing great reliance on the propriety of the request because of its origins, is that——

Mr. KALMBACH. Total reliance on the trust.

Senator BAKER. Yes. You base that on your reverence for the institution of the Presidency, or on your personal friendship with him, or long acquaintance with either the President or Mr. Dean, or was it a composite of several things?

Mr. KALMBACH. I think it was a composite of all of those factors.

Senator BAKER. Did it ever occur to you—I know you testified that you spoke to Mr. Ehrlichman about the matter to verify Mr. Dean's authority—did it ever occur to you to speak to the President about it to find out whether he knew what was going on or did not know what was going on?

Mr. KALMBACH. No, sir. I felt that in talking to Mr. Ehrlichman, I was talking to someone who would give me the assurance that I required and I did not think to talk to the President.

Senator BAKER. Mr. Kalmbach, you have already testified that you have not spoken to the President about Watergate, although I believe you did talk to him the night of the election.

Mr. KALMBACH. No, sir, it was several days after the election.

Senator BAKER. I see. Well, sometime shortly after the election?

Mr. KALMBACH. Yes, sir.

Senator BAKER. After the events about which you have now testified, after the continuing publicity and further developments, after the defendants were indicted and, in fact, convicted, after you had a greater source of information and knowledge than you had at the time you first met with Mr. Dean, after you yourself had been, I believe, before the grand jury?

Mr. KALMBACH. Yes, sir.

Senator BAKER. Did it ever occur to you to talk to the President about this and find out what the situation was or how this situation might relate to him?

Mr. KALMBACH. No, Senator. All during this period from August to September, when I discontinued and withdrew, on through until the time that Mr. Ehrlichman left the White House, I had the feeling always that these men were—Mr. Dean and Mr. Ehrlichman had the absolute trust of the President, and all I had was this concern. I had no certainty at all, Senator, that there was an impropriety. The level of concern that I had was simply it was—it bothered me to the point that I would not be involved in it but I did not know that it was, in fact, what it is, and it—all through this period, I just had that level of concern, and here was Mr. Ehrlichman and Mr. Dean continuing at the White House, and I was certain with those people there that my concern probably really was not based on anything at all, but it was sufficient for me, Senator, at that early time to desist.

Senator BAKER. What about at a later time? Would you, say, 3 months later, have undertaken the same assignment?

Mr. KALMBACH. No, sir, I would not.

Senator BAKER. What would have changed your mind? What factor, or would it once again be the accumulation or the composite of several years——

Mr. KALMBACH. Yes, sir.

Senator BAKER [continuing]. Could you describe it for me a little better?

Mr. KALMBACH. No, sir. I think that my first—when I was approached, within a matter of days of this break-in by this man, it was just no question. The secrecy and all of that, plus the press, plus the other things that came along, raised the level of concern which was washed out actually when I spoke with Mr. Ehrlichman on the 26th, but shortly after I had seen Mr. Jones, a fine person, who had had no knowledge of this at all but he trusted me and gave me these funds, I was again approached and talked to, and again the telephone calls, and just the accumulation of that and the press and other factors were sufficient that I just didn't want to be involved any longer.

Senator BAKER. Now, if you didn't want to be involved any longer at that point, did the thought occur to you that if your concern was that great, that there was some obligation or at least an opportunity to take this matter up with the President and see if he was aware of all these circumstances?

Mr. KALMBACH. No, sir, it did not. Again, I had been advised by Mr. Dean, and then Mr. Ehrlichman, that this was proper and to go forward, and frankly, my concern was based on the secrecy and these procedures, and I felt it would be presumptuous, frankly, with just rumor and just a sixth sense, to have gone to the President.

Now, I again, I have not met with the President more than four or five times other than in social gatherings over these entire—throughout this period.

Senator BAKER. Were you still his personal attorney at that time?

Mr. KALMBACH. Yes, sir.

Senator BAKER. Did such things as take care of his personal business affairs and transactions? What about the preparation of his income tax return?

Mr. KALMBACH. Yes, sir, we were involved in all those matters, dealing always with Mr. Ehrlichman or Mr. Dean.

Senator BAKER. You see, I am still a little perplexed. Here we have a man who had known the President for a long time, who was his personal counsel, who accepted a job, in effect, on faith, who became concerned about it, concerned to the point that he sought out a verification of the authority of Mr. Dean to give you this assignment, and later became so concerned that you disengaged from it.

Now surely the body, the substance, of your concern, at some point must have flickered a warning light that there is trouble here, at least potential trouble, for you, and did it never flicker the light that there might be trouble for the President in that respect?

Mr. KALMBACH. It didn't flicker the light, as you put it, that there was trouble in that sense. There was—it bothered me, the secrecy, that was the primary thing, it was distasteful to me, this back and forth in the telephone booth. The press, the accumulation, as you put it, Senator, the composite of several factors, but it never reached the point in my mind where I felt that I should go to the President. I had been assured first by this man in whom the President had complete trust, Mr. Ehrlichman, and earlier by Mr. Dean to go forward in this, and I thought frankly it would be presumptuous of me to take it beyond my own decision to desist.

Senator BAKER. How big a problem would—I will not ask that.

Mr. Kalmbach, I really don't think I can ask you to help me with the inquiry that I am trying to make because it, in turn, will be answered, if it is ever answered, by the composite of the testimony of several witnesses and my perception of their testimony. What I would really like to find out is what caused you to act in the way you did or other witnesses to act in the way they did. You have been fairly explicit in your answers in that respect. More importantly I am trying to find out what there is about the Presidency or the White House or the staffing of the White House that would cause, as in the case of the testimony of Mr. Mitchell, if it is accepted at its face value, a man, a public servant, a Cabinet officer to make a conscious decision not to tell the President, or in your case to be concerned, concerned to the point for many reasons that you chose to disengage from this, but never told the President, what is there about it that says, you know, "I am never going to tell this man," or "It is not something that I am going to concern him with."

What is there about the nature of the situation that would cause you to act in that way? It is not consonant, for instance, with my conception of a long friendship or attorney-client relationship.

What is there that moderated what otherwise might have been expected to be a normal reaction?

Mr. KALMBACH. It wasn't the relationship, Senator, of easy access and I had not seen the President in other—again, in other—than in social gatherings since 1971.

Senator BAKER. Maybe easy access is the key to it. Maybe you cannot ever have easy access to a modern President of the United States, to a current, contemporary President. But are you telling me, in effect, that the question of easy access caused you to act in a way different from the way you would have acted had there been easy access to the President?

Mr. KALMBACH. No; but again, I think the root of this, Senator, is

that I had talked to the man that I knew to be, if not his right arm—that would perhaps be Mr. Haldeman—at least his left arm, Mr. Ehrlichman. I had expressed myself to this man. This man was in the total confidence of the President. This is the man that I dealt with, really, through the years in legal work as the President's alter ego. I felt that I had communicated to Mr. Ehrlichman that, based just on a visceral feel that I had from the nature of the secrecy and all, I felt it was not something that I would go to the President about.

Senator BAKER. Talk about easy access just for a moment more. The very fact that the situation as you have described it created in fact a little President, created a man who is so important, at least the left hand of the President, that he could verify the authority of another person to act and that would obliterate from your mind any concern for the propriety of these actions. Does the creation of that staff relationship have some bearing on your isolation or your lack of access to the President to the extent that you might have acted a different way if John Ehrlichman had not been there and vested with that authority?

Mr. KALMBACH. Yes, sir.

Senator BAKER. Would these visceral feelings have led you then, if you had easy access by phone or by personal contact, would these visceral feelings have led you to go to the President, say something is going on and I do not like it and I am getting out; I suggest that you look into it. Might that then have happened?

Mr. KALMBACH. Yes, sir.

Senator BAKER. Thank you, Mr. Chairman.

Senator ERVIN. You have stated that you got $75,000, I believe mostly in $100 bills, from Maurice Stans, and a contribution of $75,000 in a wrapped-up package of money from Mr. Jones of the Northrup Co. That makes $150,000. Where did you get the other $70,000?

Mr. KALMBACH. From Mr. LaRue, Senator.

Senator ERVIN. So with the $75,000 you got from Maurice Stans, the $70,000 from Fred LaRue, and the $75,000 you got from Mr. Jones, you managed to distribute in a surreptitious manner to the families and counsels of the people indicted in the Watergate affair sums totaling $220,000?

Mr. KALMBACH. Substantially that.

Senator ERVIN. And you did this at the instance of John Dean and Fred LaRue and with the approval of John Ehrlichman?

Mr. KALMBACH. Yes, sir.

Senator ERVIN. Well, did not John Dean and Fred LaRue and John Ehrlichman live in Washington, whereas you lived in California?

Mr. KALMBACH. Yes, sir.

Senator ERVIN. Was there anything to prevent them from delivering the money to these lawyers or their families or to Mrs. Hunt here in Washington?

Mr. KALMBACH. I am sorry, Senator?

Senator ERVIN. Was there anything whatever to prevent John Dean or Fred LaRue or any of the other associates here from delivering this money to the lawyers and the defendants and Mrs. Hunt in Washington?

Mr. KALMBACH. No.

Senator ERVIN. Well, did it not occur to you at all times and did you not know at all times that the reason that you were asked, a resident of California, to arrange for the distribution of this money through

the agency of Ulasewicz was to conceal from the American people what was happening?

Mr. KALMBACH. Mr. Chairman, my understanding was that I was being given an assignment that was very confidential and was asked to carry it forward.

Senator ERVIN. Well, to go back to my question, did you not know at all times that this arrangement was made by John Dean and Fred LaRue with the approval of John Ehrlichman to have you deliver this money in a surreptitious manner through Ulasewicz, a resident of New York, to hide from the American people what was happening?

Mr. KALMBACH. No, sir, I did not understand that. I understood that I was being given an assignment, very confidential in nature, to effect the payment of these funds.

Senator ERVIN. Well, did you not understand that you were being given an assignment that was so confidential in nature, it was going to be hid from everybody except those concerned?

Mr. KALMBACH. Well, Mr. Chairman, I was again—just understood that it was to be absolutely confidential and for the reasons that I have stated.

Senator ERVIN. Well, does not absolute confidentiality imply absolute secrecy?

Mr. KALMBACH. Yes, sir.

Senator ERVIN. And does not absolute secrecy imply hiding things from the world in general?

Mr. KALMBACH. Well, in this, Mr. Chairman, in the election year, that was the case in midyear 1972; I was advised that the reason for the confidentiality, the absolute secrecy, was for that purpose and to avoid misinterpretation.

Senator ERVIN. Well, are not the people entitled to know more in an election year when they have to choose a President than at any other time?

Mr. KALMBACH. They are entitled to know, yes, sir.

Senator ERVIN. Well, it is inescapable to me that this arrangement was set up in order to conceal what was the distribution of this money and the identity of the parties who were distributing it and the identity of the parties who were receiving it. Is that not an inescapable conclusion from your testimony?

Mr. KALMBACH. From my testimony, Mr. Chairman, it is true that the reason I was asked to do this was to raise these funds for these individuals and for attorneys and the reason for the confidentiality requirements was expressed to me as I have testified.

Senator ERVIN. Well, I think we come to the same conclusion but in different phraseology.

Now, did you have any reason to conceal your relationship to John Ehrlichman?

Mr. KALMBACH. Sir?

Senator ERVIN. Did you have any reason to conceal your relationship to John Ehrlichman?

Mr. KALMBACH. No, sir.

Senator ERVIN. Did you not loan him $20,000?

Mr. KALMBACH. Yes, sir, I did.

Senator ERVIN. And instead of giving him a check for $20,000, you gave your check to the Security Pacific National Bank on May 5, 1972,

for $20,000, and with its proceeds purchased a cashier's check from the Security National Bank, dated the same day, to John Ehrlichman for $20,000?

Mr. KALMBACH. That is correct.

Senator ERVIN. Why did you do that?

Mr. KALMBACH. Again, Mr. Ehrlichman asked me to, for confidentiality. It was a personal loan and between friends, and I gave him the cashier's check for that purpose, from my own funds, Mr. Chairman.

Senator ERVIN. I understand. But you also, on one occasion, June 30, 1970, loaned $20,000 to Mr. Robert H. Finch, did you not?

Mr. KALMBACH. On what date?

Senator ERVIN. On June 30, 1970?

Mr. KALMBACH. That is correct.

Senator ERVIN. But instead of getting a cashier's check in that case, you gave him your personal check, did you not?

Mr. KALMBACH. Yes, sir, I did; but he had not asked that I treat it as confidential.

Senator ERVIN. Now, did you take a note from Mr. Ehrlichman when you loaned him the $20,000?

Mr. KALMBACH. Yes, sir, I did.

Senator ERVIN. Now, you stated that there was nothing wrong, or nothing, at least, illegal in your destruction of the records of the moneys that you held in your capacity as trustee which had been derived from contributions to the 1968 election.

Mr. KALMBACH. Mr. Chairman, I have testified that I gave over to the finance committee what I considered to be the base or original records for all of my activities, which included an accounting for what I disbursed from the boxes from the time that the trusteeship arose.

Senator ERVIN. Well, as the trustee of these funds, did you not occupy a fiduciary relationship?

Mr. KALMBACH. I certainly did.

Senator ERVIN. And does not the law require that one who occupies a fiduciary relationship maintain and keep records of his transactions in that capacity?

Mr. KALMBACH. I think that it is true, Mr. Chairman, that a fiduciary must maintain accurate records, which I did. I met with Mr. Stans, reviewed with him and gave him a seven- or eight-page accounting for funds that had been disbursed through this period. I gave him base or original records of everything that had gone on. There was, except for the inadvertent destruction of some checks, all of these records that were given to Mr. Stans were original; and again, except for that inadvertency, all the records that I retained, which were in my view personal and supportive of the records, I had given to Mr. Stans, I felt that I wanted to destroy—again, for the purpose, Mr. Chairman, that I wanted to protect the confidentiality of my relationship with the people that I had talked to.

Senator ERVIN. So you destroyed your records which supported the records which you gave to Mr. Stans?

Mr. KALMBACH. I destroyed, again, with that one exception.

Senator ERVIN. Didn't that make it impossible for anybody to ever discuss who had made the contributions which you collected?

Mr. KALMBACH. No, sir, the records that I gave to Mr. Stans

accurately reflect the people that I saw and the amounts and funds that I had received.

Senator ERVIN. Well, if you destroyed the records you retained after giving those records to Mr. Stans, you did it for the purpose of making it impossible to determine from the records you retained the contributions you had received, the identity of the people who had made those contributions, didn't you?

Mr. KALMBACH. Mr. Chairman, what I did was to destroy supportive records, not personal records, personal and supportive records again for the reason to protect confidentiality.

Senator ERVIN. Isn't it a fact that the only thing you gave to Mr. Stans was an accounting of the money that you had on hand to turn over to Mr. Stans?

Mr. KALMBACH. No, sir, there were several pages involved in that accounting, tracing the funds that I had originally started with, through the various boxes and disbursements.

Senator ERVIN. But didn't you destroy all of the bank records and all of the checks that you had issued?

Mr. KALMBACH. The bank records themselves were destroyed, but the disbursements were reflected, Mr. Chairman in this accounting.

Senator ERVIN. But the disbursements didn't show to whom they were disbursed, did they?

Mr. KALMBACH. I don't recall in that accounting, Mr. Chairman.

Senator ERVIN. So all that you turned over to Mr. Stans showed only the amounts?

Mr. KALMBACH. No, sir, I showed—there was a very detailed accounting.

Mr. Stans, Mr. Chairman, retrieved 2 or 3 pages of that accounting, and it was very specific.

Senator ERVIN. Now, didn't you suspect that when you raised this money and distributed it in this surreptitious manner to the lawyers and families of the parties that had been indicted in the Watergate, that you were aiding the Nixon campaign for reelection?

Mr. KALMBACH. I was carrying out an assignment, Mr. Chairman.

Senator ERVIN. Well, didn't you suspect that you were asked to do this because it would aid the campaign of the President for reelection?

Mr. KALMBACH. No, sir. I was doing this for the purpose that I stated, that it was an assignment. I thought a moral obligation had in some manner been created, and I was raising funds for the purposes stated.

Senator ERVIN. You didn't have the remotest idea that you were doing anything to assist the reelection of the President?

Mr. KALMBACH. No, sir.

Senator ERVIN. And you didn't even suspect and you didn't even have any idea of that kind in your mind when you applied to Mr. Jones for a contribution for the President's campaign funds?

Mr. KALMBACH. No, sir.

Senator ERVIN. Well, you left the impression in Mr. Jones' mind that you were raising money for the reelection of the President, didn't you?

Mr. KALMBACH. I told Mr. Jones that I was raising funds for a special assignment, and I did not go beyond that.

Senator ERVIN. You didn't tell him whether it was a special assignment to create a foundation for the feeding of trans-Atlantic whales or something?

Mr. KALMBACH. No, sir.

Senator ERVIN. Well, had you raised campaign funds from Mr. Jones before?

Mr. KALMBACH. Funds had been raised from Mr. Jones prior to that time.

Senator ERVIN. Well, didn't you believe at the time Mr. Jones gave you the $75,000 in this package of money that he believed you were raising campaign funds for the President's campaign?

Mr. KALMBACH. I think that would have been a logical feeling.

Senator ERVIN. But you weren't doing that. You were raising money to pay the fees of the lawyers who were defending the people indicted in the Watergate matter and supporting their families while their trials were pending, weren't you?

Mr. KALMBACH. And I was doing that, Mr. Chairman, in the belief that it was absolutely proper.

Senator ERVIN. Yes. But do you believe Mr. Jones would have given you $75,000 if you had told him that you were going to give it to aid in the defense of some burglars who had broken into the Democratic headquarters in Washington?

Mr. KALMBACH. Well, Mr. Chairman, I don't know. If I had told Mr. Jones that in my view, this is for the purpose, I think he may well have given those funds, for a very proper purpose, where there was a moral obligation involved.

Senator ERVIN. Well, now, as a matter of fact, however, you conceded, as I understand it, that you left Mr. Jones under the impression that you were raising these funds for campaign purposes?

Mr. KALMBACH. Yes, sir.

Senator ERVIN. Now, can you tell me why you thought or suspected that men like John Dean and Fred LaRue and John Ehrlichman were interested in raising funds to give to the attorneys and for five burglars who were caught redhanded in the Watergate and two accessories before and after the fact of that burglary?

Mr. KALMBACH. Again, Mr. Chairman, I think it was simply that they felt and had so advised me that this was a proper thing for me to do, a proper assignment for me to carry out, and for the reasons that I have stated.

Senator ERVIN. Didn't you have enough curiosity to ask anybody as to why it was a proper assignment to you to handle the money in such surreptitious fashion for the benefit of some burglars and their accomplices?

Mr. KALMBACH. Mr. Chairman, when I spoke to Mr. Ehrlichman on the 26th, I made it plain, very plain, to him that these secrecy procuredures were bothersome to me. And I asked that he confirm John Dean's authority, confirm the propriety, and to ask him if I should go forward.

Senator ERVIN. Now, as I deduced from the testimony you gave under examination to Senator Talmadge——

Mr. KALMBACH. Yes, sir.

Senator ERVIN [continuing]. You suspected that there was some connection between somebody, either in the White House or somebody

involved in the Committee To Re-Elect the President, and the burglary at the Watergate.

Mr. KALMBACH. Yes, sir.

Senator ERVIN. Yes.

Mr. KALMBACH. I think again that Mr. Dean, whether he was speaking—and I don't know who he was speaking for when he came to me and I still don't. But I felt that he had ties and I knew that he had ties with the Committee To Re-Elect, and, of course, ties in the White House.

Senator ERVIN. And when you talked to John Ehrlichman about this, John Ehrlichman told you that it was an important assignment, that you should carry it out, and that if this money was not raised, they would have our heads in their laps.

Mr. KALMBACH. No, sir, he did say that it was an important assignment, that John Dean did have the authority, and that I should go forward.

The statement that Mr. Ehrlichman made about heads in the laps was meant that if—this is the reason for the secrecy procedures—that if in fact, I didn't follow these secrecy procedures and it got into the press, it could be misinterpreted and would jeopardize the campaign.

Senator ERVIN. Well, he did tell you that if this assignment was not kept secret, that they would have our heads in their laps. And you took that to mean that "they" were some Democrats.

Mr. KALMBACH. Yes, sir.

Senator ERVIN. Or the public press?

Mr. KALMBACH. Yes, sir.

Senator ERVIN. Yes.

Now, you knew at that time, did you not, that it had appeared in the public press all over the Nation, and on TV, that five burglars had been caught redhanded in the Watergate and that at that time, they had in their pockets money which had come from the Nixon campaign fund, didn't you?

Mr. KALMBACH. Yes, sir, I think I knew that.

Senator ERVIN. And that was one of the things that excited in your mind the suspicion that there might be some connection between somebody in the White House or in the Committee To Re-Elect the President that they had procured the burglary at the Watergate, didn't it?

Mr. KALMBACH. I think it entered my mind, Mr. Chairman, that that was certainly a fact which indicated that they had been given the go-ahead by somebody at the Committee To Re-Elect.

Senator ERVIN. Now, didn't you have a phone conversation with John Ehrlichman on April 19, 1973, at 4:50 p.m., the day before you were scheduled to go before the grand jury?

Mr. KALMBACH. Yes, sir, I did.

Senator ERVIN. And didn't John Ehrlichman suggest to you that you should emphasize that he and Bob Haldeman had nothing to do with any of these matters?

Mr. KALMBACH. I don't recall that that was what was stated, but I do recall the conversation. I think that he indicated in that conversation that Mr. Dean had talked to both he and Mr. Haldeman; yes, sir, I remember that.

Senator ERVIN. Yes; well, John Ehrlichman told you in that conversation that Dean had gone to the prosecuting attorney and was

seeking immunity and that he, Dean, had sworn off on Bob Haldeman and John Ehrlichman, didn't he?

Mr. KALMBACH. I think that is substantially what I remember.

Senator ERVIN. And didn't he suggest that you testify as far as you could so as to implicate Dean and exonerate Haldeman and Ehrlichman?

Mr. KALMBACH. I did not so understand it, Mr. Chairman. I understood him to say to tell the complete truth.

Senator ERVIN. Well, let's see. Didn't he tell you, among other things—didn't he say this: "I wouldn't haul the President into it if I could help it."

Didn't Ehrlichman ask you that?

Mr. KALMBACH. Excuse me, Senator, may I read this, please?

Senator ERVIN. The top of page 4.

Senator WEICKER. Mr. Chairman, in fairness, wouldn't it be proper to give the witness a few minutes to read the entire document that has been presented to him? Apparently, it is the first time he has seen it.

Mr. KALMBACH. It is.

Thank you very much.

Senator BAKER. Mr. Chairman, I would also like to say that it is my understanding—I missed it in your inquiry—that what you are reading from is a question and answer telephone conversation transcript, which was apparently recorded and submitted to us by Mr. Ehrlichman in the course of his interview. And also in fairness, as Senator Weicker said, to the record, I wonder if we might have the entire document included in the record so that it will be available for ready reference.

Mr. O'CONNOR. May I say this, Mr. Chairman?

Consistent with the fact that as of March 15, when Mr. Kalmbach and I first declared that we would cooperate with this committee and have done so up until this time, I believe it was upon our advice that Mr. Dash and Mr. Lenzner became aware of this very tape. We have not, however, as yet, read it and we would appreciate that opportunity.

Senator ERVIN. I was under the impression, and I am sorry if my impression was wrong, that Mr. Kalmbach had a copy of this. Certainly, I don't want to be unfair to anybody and I certainly would accord him an opportunity to read it.

Mr. KALMBACH. Thank you.

Senator BAKER. Mr. Chairman, I wonder if there is any objection on the behalf of the committee or the witness to including this as an exhibit in the record?

Senator ERVIN. None.

Senator BAKER. May I ask unanimous consent that it be included as an exhibit in this record, appropriately numbered.

Senator ERVIN. That will be done and it will be numbered as an exhibit and included in the record as such.

[The document referred to was marked exhibit No. 77.*]

Mr. KALMBACH. Yes, sir.

Senator ERVIN. In this telephone conversation which was taped by John Ehrlichman, is it not recorded that John Ehrlichman told you, and I refer to page 3, that they, that is, the prosecuting attorneys, were trying to get at him, that is John Ehrlichman, and that they would

*See p. 2215.

give Dean no consideration unless they can corroborate Haldeman and Ehrlichman's liability. In other words, did he not tell you in substance that the prosecuting attorneys were trying to get at him, John Ehrlichman?

Mr. KALMBACH. He indicated here and, incidentally, Mr. Chairman, I cannot again tell you or the members of this committee my reaction of the time that I learned I had been taped without my knowledge or consent. I just cannot express the feelings at that time. But I am sure you understand.

Senator ERVIN. Well, did he not state that to you at that time?

Mr. KALMBACH. He stated as per the testimony; yes, sir.

Senator ERVIN. Yes; and he stated that there was no chance for Dean to get immunity unless Dean could substantiate some liability in the matter on the part of Haldeman and Ehrlichman?

Mr. KALMBACH. Again, per this testimony, Mr. Chairman.

Senator ERVIN. I call your attention to the statement made by Ehrlichman at the bottom of page 2: "And so it was necessary for Dean to come to me," that is, Ehrlichman, "and then in turn to Bob and plead a very urgent case without really getting into any specifics except to say you had to trust me, this is very important, and Mitchell is up his tree, or you know, I mean is really worked up, he did not use that phrase, but is really exercised about this. And I said well, John, if you tell me it is that important, why, yes." Now, was not Ehrlichman thereby saying that John Dean had come to him and Bob Haldeman with this plan to use this money and pay it to the defendants and their families, and that he said to Dean: "If that is important, he asked for him to go ahead with the project"?

Mr. KALMBACH. That is the way I would read this.

Senator ERVIN. Yes; and then you said back to John Ehrlichman, "You know, when you and I talked and it was after John had given me that word, and I came in to ask you, 'John, is this an assignment I have to take on?' You said, 'Yes, it is—period—and move forward.' Then, that was all that I needed to be assured, that I was not putting my family in jeopardy."

And Ehrlichman said, "Sure."

Mr. KALMBACH. That is correct.

Senator ERVIN. Then, you said, "And I would just understand that you and I are absolutely together on that," meaning you both agreed on that point.

Mr. KALMBACH. That is what he had told me in the office; yes, sir.

Senator ERVIN. Now, this conversation indicates an agreement on your part to testify that the use of this money was for humanitarian purposes.

Mr. KALMBACH. No, sir.

Senator ERVIN. Well, let us see what does this mean.

Ehrlichman said, "Well, I do not know of any attempt to target you at all. My hunch is that they're trying to get at me; they're trying to corroborate. See what they said to Dean is he gets no consideration from them unless they can corroborate Haldeman and my liability." And you stated, "God, if I can just make it plain that it was humanitarian and nothing else."

Mr. KALMBACH. That is exactly what I understood at the time.

Senator ERVIN. Yes.

Well, was either the White House or the Committee To Re-Elect the President at this time an eleemosynary institution? [Laughter.]

Mr. KALMBACH. No, sir. But I believe, Mr. Chairman, as I have stated, that at that time that I felt that these people had been ordered to go forward on this project, and by someone in responsibility, probably as the Committee To Re-Elect the President, and that I had been asked by these people through Mr. Dean to do this, and I understood it to be humanitarian and I understood it to be for that purpose, and certainly not for any illegal purpose. I would never have ever agreed to undertake any illegal act.

Senator ERVIN. Well, did not Mr. Ehrlichman's conversation to you, when you went to check on whether Dean had authority, suggest to your mind that Mr. Ehrlichman was afraid it would not be kept secret unless this money was raised and these people paid?

Mr. KALMBACH. I am sorry, Mr. Chairman; would you repeat that?

Senator ERVIN. Did not Mr. Ehrlichman's conversation with you about this mission and about John Dean's authority to ask you to perform this assignment, and his statement about the necessity of secrecy engender in your mind a conviction that Ehrlichman thought if this money was not raised that these people might disclose what the connection was between the Watergate burglary and them, and some other people?

Mr. KALMBACH. No, sir. My—again, my testimony is, and my belief at that time was, that the reason that he asked me to undertake this, and the reason that he asked me to follow the secrecy procedures that were followed was to make certain that this did not get into the press, be misinterpreted and jeopardize the campaign.

Senator ERVIN. But you embarked upon this or engaged in it because you stated that you felt like there was some connection between somebody in authority either in the White House or in the Committee To Re-Elect the President, and the Watergate burglary?

Mr. KALMBACH. Yes, sir.

Senator ERVIN. And you said that one reason about keeping it secret was so that the payment of the money would not be misinterpreted?

Mr. KALMBACH. That is correct.

Senator ERVIN. Well, did you not fear and did not John Ehrlichman's language to you suggest that he feared that if these people were not paid this money that they might speak up and reveal what the connection was between them and some person in authority?

Mr. KALMBACH. No, sir. My belief was that, again, that the reason for this secrecy was to prevent it from getting into the press, being misinterpreted, and jeopardizing the campaign. I had no question, Mr. Chairman, on the propriety of doing this for these people. I thought again, it was a human thing to do, a very human thing.

Senator ERVIN. Have you ever known a political party to engage in humanitarian acts like this before or since?

Mr. KALMBACH. Well, I again, Mr. Chairman, I believe that it was proper.

Senator ERVIN. Well, what was the misinterpretation you feared might be placed upon this payment of this money to the defendants and their families if it became known to the press?

Mr. KALMBACH. At the time that the misinterpretation comment was made that was all that was stated, that it would be misinterpreted in the press in whatever manner that would jeopardize the campaign.

Senator ERVIN. Well, can you conceive of any interpretation that was likely to be put upon it in the press except the interpretation that this was money to cover up the connection between the person in authority that you suspected, but do not know, or identify, and the Watergate burglary?

Mr. KALMBACH. Mr. Chairman, again, in retrospect certainly, that was the misinterpretation that was feared. But at the time that I was asked to do this it did not even cross my mind.

Senator ERVIN. Although you suspected that somebody in authority, either in the White House or in the Committee To Re-Elect the President, had procured the burglarizing of the Watergate, it never occurred to you that the fact that money was paid to the people who did burglarize the Watergate would raise a suspicion that they were paid to keep silent?

Mr. KALMBACH. It did not. I would not have undertaken any assignment for illegal act; I would not.

Senator ERVIN. Can you imagine any interpretation that would have been placed on the matter other than that?

Mr. KALMBACH. I have testified as to my state of mind at that time, and my state of mind was prompted by being asked by Mr. Dean and then Mr. Ehrlichman.

Senator ERVIN. Now, Mr. Ehrlichman was John Dean's superior, wasn't he, in authority in the White House?

Mr. KALMBACH. Yes, sir.

Senator ERVIN. And yet in this phone conversation Mr. Ehrlichman suggests to you on page 4: "Well, as far as propriety is concerned, I think we both were relying entirely on Dean." And you say "Yes."

Mr. KALMBACH. He told—Mr. Dean told me that it was proper, and then when I talked to Mr. Ehrlichman on the 26th he reaffirmed that.

Senator ERVIN. And Ehrlichman said, "I made no independent judgment," that is Ehrlichman made no independent judgment about the matter, and you say here, "Yep. Yep."

Mr. KALMBACH. He told me that when I talked to him on the 26th that it was proper and to go forward.

Senator ERVIN. Well, I was asking you what you had said to him not on the 26th but I was asking what you said to him in this taped phone conversation—page 4.

Mr. KALMBACH. Yes, I see that.

Senator ERVIN. Well, you stated you thought at the time Ehrlichman told you that the assignment was right and to be carried out, you thought he had made an independent judgment about the matter and was not relying entirely on Dean, did you?

Mr. KALMBACH. He didn't indicate, Mr. Chairman. He indicated simply to go forward.

Senator ERVIN. Well, how could you testify or—how could you say—give your affirmative assent to the fact that John Ehrlichman had made no independent judgment about this matter at all?

Mr. KALMBACH. I am sorry, I didn't understand your question.

Senator ERVIN. Well, John Ehrlichman is talking to you evidently about the fact you were going before the grand jury and he said: "As

far as propriety is concerned, I think we both were relying upon Dean," you and he, as to the wisdom and the propriety of this assignment?

Mr. KALMBACH. I did not know what was the background for his judgment and direction to me on the 26th of July 1972.

Senator ERVIN. I am asking you about what you said in this tape conversation on April 19, 1973. And you agreed, by using the word "Yep" in response to his statement that, as to the propriety of this transaction, that is the propriety of surreptitiously paying this money to the Watergate defendants and their lawyers, that you and Ehrlichman both relied upon Dean alone.

Mr. KALMBACH. I have indicated to you, Mr. Chairman, that I relied completely on Mr. Dean and Mr. Ehrlichman. Mr. Ehrlichman in this statement says that he relied on Mr. Dean. I did not know as far as my answer in the affirmative, yes, well, if that is what he relied on, well, whatever it was.

Senator ERVIN. That is the reason I could not understand why you gave your assent to the proposition that he, Ehrlichman, relied solely upon Dean.

Mr. KALMBACH. I just—Mr. Chairman, again I did not know the background for Mr. Ehrlichman's assurance to me at the time.

Senator ERVIN. Well, you knew you did not rely solely upon Dean because Dean had already given you the assurance about it and you were not satisfied with his assurance and you went to John Ehrlichman to get assurance from him, didn't you?

Mr. KALMBACH. Mr. Chairman, I went to Mr. Ehrlichman almost a month later after I began to receive a degree of concern and that is when I went to see Mr. Ehrlichman.

Senator ERVIN. Well, that is the reason I am asking you this question: If you yourself did not rely, after you had been furnished money to be conveyed in this surreptitious fashion to these defendants and their lawyers, you had doubts about Dean's authority and about the propriety of the action and you went to Ehrlichman to get reassurance about that, didn't you?

Mr. KALMBACH. Yes, sir, I did.

Senator ERVIN. And you relied thereafter upon Ehrlichman because you had ceased to rely upon Dean?

Mr. KALMBACH. Yes, sir, I had it confirmed by Mr. Ehrlichman.

Senator ERVIN. Then after John Ehrlichman suggested to you in this telephone interview that he had no independent judgment and he said, "I am sure Bob," that is referring to Bob Haldeman, I imagine "didn't either." He had no independent judgment about the matter. And you say "Nope."

Mr. KALMBACH. Mr. Chairman, what page are you on?

Senator ERVIN. That is on page 4 near the bottom of the page.

Mr. KALMBACH. Again, Mr. Chairman, I did not have any knowledge as to whether Mr.—at the time whether Mr. Ehrlichman was relying on Mr. Dean or on whatever. He simply made it a flat statement, categorical statement that it was proper, that Mr. Dean had the authority and that I should go forward.

Senator ERVIN. But in this conversation you stated—Ehrlichman was telling you a prospective witness before the grand jury the next day which was investigating his, Ehrlichman's conduct, that both you and

Ehrlichman relied solely upon Dean's judgment as to the propriety of this transaction, and you agreed with him.

Mr. KALMBACH. Mr. Chairman, in this comment I indicated to him. "Yep," and asked him to go forward in our conversation. Now I did not understand at the time that he had—whether he had independent judgment or not.

Senator ERVIN. But this is a conversation which occurred many months, in other words, after you ceased to operate in this field, you said in September. This is a conversation which you had with Ehrlichman in the following April of the next year, so you could not have been talking about going forward with the original distribution of the money.

Mr. O'CONNOR. Mr. Chairman, if I may——

Senator ERVIN. Yes.

Mr. O'CONNOR [continuing]. As I reminded the Chairman, perhaps the Chairman was not aware, this document that the Chairman is using was furnished through us to Mr. Dash and Mr. Lenzner. We had not until this time had an opportunity to read it. I am just looking at your opening statement again, Mr. Chairman, that the purpose of these hearings is not prosecutorial.

Senator ERVIN. It is not.

Mr. O'CONNOR. But investigative.

Senator ERVIN. Yes.

Mr. O'CONNOR. And I think in fairness there, Mr. Chairman, it would be proper to ask the witness the occasions for this phone call between himself and John Ehrlichman, which took place in April of this year, just several months ago. In the light of that, or in the context of the setting of that phone conversation, Mr. Chairman, I believe some of the questions and answers that are coming out now would be fairer in an investigative manner, sir.

Senator ERVIN. Mr. O'Connor, this committee is engaged, among other things, in an effort to determine whether there was an organized effort among any group of people to cover up the truth in respect to the Watergate affair, and it is trying to find out particularly whether or not the money was paid to these people to keep them or to get them to plead guilty and to keep silent. I think these questions are very relevant along that point, and the fact that Mr. Ehrlichman, and I don't consider it derogatory fundamentally to Mr. Kalmbach, but one of the persons we are investigating is Mr. Ehrlichman, and here Mr. Ehrlichman, according to the way I interpret this and if I am wrong Mr. Kalmbach can correct me, Mr. Ehrlichman is talking to Mr. Kalmbach the afternoon of the day before he knows Mr. Kalmbach is going before the grand jury to testify about these matters, and he is suggesting to Mr. Kalmbach that, as I construe it, expressing at least, indicating at least an unexpressed hope, which seems to have been very real, that Mr. Kalmbach would testify that Mr. Ehrlichman had no independent judgment about this matter and he was relying solely upon John Dean as to the ethics and propriety of this payment of money, and Mr. Kalmbach is asked if he can testify on that—that is the way I construe it.

If my construction is wrong, that is Mr. Ehrlichman's proposal, not Mr. Kalmbach's proposal, and as I construe this right after the discussion of this, that Mr. Kalmbach says in the line right after this, after

Ehrlichman had suggested that Bob Haldeman didn't know, and relied on Dean, too, that Mr. Kalmbach said, "John, that I don't know if this is a weak reed, is it?" And I think that Mr. Kalmbach was asking Mr. Ehrlichman if this, the idea Mr. Ehrlichman was trying to get him to express in his testimony was not a very weak reed for anybody to lean on.

Now, I think he can answer that. Did you express the opinion, did you intend to express the opinion to Mr. Ehrlichman that the notion that Mr. Ehrlichman was trying to get over, that neither he nor Bob Haldeman exercised any independent judgment about the ethics or propriety of this payment of money was a weak kind of a reed to try to lean on before the grand jury.

Mr. KALMBACH. Mr. Chairman, I, in this conversation, I had no knowledge that Mr. Ehrlichman back in July of 1972 was relying on anything other than he just made a flat statement to me to go forward and that it what I have testified to, Mr. Chairman.

Senator ERVIN. Well, I am not asking you about that. I am asking you about the conversation you had with John Ehrlichman by telephone on April 19, 1973, and if you didn't in effect tell John Ehrlichman in that conversation that the notion that they could lay the responsibility, sole responsibility for persuading him—that is, Erlichman—and Haldeman that there was propriety in this use of money, was a weak reed to lean on.

Mr. KALMBACH. May I read this again, please?

Senator ERVIN. Yes.

Mr. KALMBACH. Mr. Chairman, I just don't know how to answer your question. I don't know how to read this, other than again to repeat what I have stated several times to you and to the other members of this committee, that I relied on Mr. Dean and then Mr. Ehrlichman, and as far as I knew, at that time, when I spoke to Mr. Ehrlichman, he was telling me his own judgment.

Senator ERVIN. Well, are you unable to testify that you expressed an opinion to John Ehrlichman on the 19th day of April 1973, that any attempt on his part to establish the proposition that he and Bob Haldeman believed that this was entirely proper because John Dean told them, was a weak reed to lean on in the court or before the grand jury? That is exactly what I think you are saying.

I am not trying to impeach you. I am trying to commend what may turn out to be wisdom on your part in observing that this proposition that John Dean, who seems to have been something in the nature of a messenger boy around the White House and subject to Haldeman and Ehrlichman, was the man responsible for leading them astray and responsible for Ehrlichman sanctioning this assignment that you performed.

Mr. KALMBACH. It seems to say that, Mr. Chairman, but I am just not certain. But it does seem to say that.

Senator ERVIN. Well, that is the only thing I have been trying to find out.

Senator BAKER. Mr. Chairman, either now or at the conclusion of your questioning, I would like to go into this point. I started out thinking I had this point clearly in mind and now I think I am thoroughly confused, so I will do it at this point or I will do it when you are finished. So, I do want to reserve the right to discuss that.

Senator ERVIN. Let's invite your attention to page 5.

The committee will recess and go to vote. In the meantime, I want to ask you about your testimony on the bottom of page 5, about when you had the conversation with him, what John Ehrlichman wanted you to say on the basis of a conversation with you.

[Recess.]

Senator ERVIN. I have some difficulty interpreting the last part. It is clear enough at the start of your statement: "Now, can I get in to see you tomorrow before I go in there at 2 o'clock?" I presume that was referring to the time you were scheduled to go before the grand jury?

Mr. KALMBACH. Yes. Mr. Chairman, as I have reviewed this and remembering, Mr. Chairman, that this conversation was taped without my knowledge, without my consent, I must feel that this is self-serving.

Senator ERVIN. Well, now, Mr. Kalmbach, I am sorry that you misconstrued my examination.

Mr. KALMBACH. Yes, sir, I did.

Senator ERVIN. Because I am just a country lawyer from way down in North Carolina and I probably make inquiries with a little bit more vigor than some of these highfalutin city lawyers do. But what I was trying to ascertain is whether or not I could infer from the statements that this tape recording indicates that John Ehrlichman made in this conversation represented an effort on his part to advance the theory that John Dean should be made a scapegoat and sent out into some wilderness, legal wilderness, bearing the full responsibility for any impropriety or unethical aspects of the disuse of the money. I was not seeking in asking you these questions to impeach you about connection with the conversation, because my information is that you have cooperated fully with the prosecution and also fully with this committee.

Mr. KALMBACH. Yes, sir.

Senator ERVIN. Now, I am going to ask you if the last part of this, where it says that maybe you should see Ehrlichman the next day before you went before the grand jury and what follows that—Ehrlichman says this:

> They'll ask you to whom you have spoken about your testimony and I would appreciate it if you would say you've talked to me in California, because at that time I was investigating this thing for the President.

And then you put the answer "And not now?" in the form of a question, back to him?

Mr. KALMBACH. Yes, sir.

Senator ERVIN. What did you understand him to be saying to you by that statement?

Mr. KALMBACH. I think that my understanding, Mr. Chairman, is that when I was in, when Mr. Ehrlichman was in California, I had several things I needed to talk to him about. I met with him on, I think it was the 6th or the 7th, in San Clemente, met alone with him, and at that time, indicated to him that I was going to appear before the U.S. attorney and the grand jury and I indicated to him that I was prepared to cooperate fully with the U.S. attorney's office and with the Select Committee and that I would tell the absolute and full truth.

Senator ERVIN. Now, you had talked to him in California?

Mr. KALMBACH. Yes, sir.

Senator ERVIN. Did you ever have any knowledge that he was investigating this thing, whatever that is, for the President?

Mr. KALMBACH. Well, sir, I think that my understanding was that he was conducting the investigation for the White House after Mr. Dean—the assignment for Mr. Dean was terminated.

Senator ERVIN. Well, did you construe this statement, that he said that they, referring evidently to the grand jury or to the assistant district attorney who might be in the grand jury room: "They'll ask you to whom you have spoken about your testimony and I would appreciate it if you would say you've talked to me in California because at that time I was investigating this thing for the President."

Did you construe that to be a request that if you were asked who you talked to and you said that you talked to him, that you would say that you talked to him in California rather than on the day that this conversation occurred?

Mr. KALMBACH. Yes, sir.

Senator ERVIN. Yes.

Now, on page 6, he, Ehrlichman, says to you, "They're out to get me and they're out to get Bob." And you say:

> My God. All right, well, John, it'll be absolutely clear that there was nothing looking toward my coverup or anything. It was strictly for the humanitarian, and I just want—when I talked to you, I just wanted you to advise me that it was all right on that basis.

Mr. KALMBACH. Yes, sir; that was my understanding.

Senator ERVIN. Now, unfortunately, I do not know whether in California you have lightning bugs, but we have them in North Carolina. Sometimes, I wish that people were not like lightning bugs. Lightning bugs carry their illumination behind them. [Laughter.]

I would like to ask you if, in retrospect and with your illumination behind you instead of in front of you——

Mr. KALMBACH. Yes, sir.

Senator ERVIN [continuing]. If you do not think that people could reasonably conclude that this money was paid to these defendants and their families to induce them to keep silent?

Mr. KALMBACH. Yes, sir, I do; now, again, in hindsight.

Senator ERVIN. I want to commend your testimony and commend your frankness. I am glad I do not have quite as much faith as you reposed in certain individuals. Not referring to those individuals, but I have not seen such faith in individuals since Bernard L. Barker testified about the faith he had in E. Howard Hunt. [Laughter.]

Senator BAKER. Mr. Chairman, it is 5:25, and even though I have some other questions, I also have a highway conference at 5:30, trying to pick up a few stitches on other senatorial activities. I have one or two points that I am going to leave with Mr. Thompson to try to clarify, and I will only end by saying that I, too, thank you, Mr. Kalmbach, for coming. I have marked a great big markup for Senator Ervin and his lightning bugs. We have been blessed with a good bit of hindsight, but I want to especially thank you for your candid reply on the question of whether or not the institutional arrangements of the White House had some bearing on what did in fact happen—not in hindsight, but at the time. Because a year or 2 or 10 from now, this will be hind-

sight, and the purpose of this committee is to try to find ways to avoid this in the future, rather than to pass judgment necessarily on what happened at the moment.

So, Mr. Chairman, I will leave my questions with Mr. Thompson and I will go now to that highway conference.

Senator ERVIN. Senator Inouye.

Senator INOUYE. Thank you, Mr. Chairman.

Mr. Kalmbach, I have been listening to your testimony very intently and I just have a few questions for my personal clarification.

Mr. KALMBACH. Yes, sir.

Senator INOUYE. In your testimony you indicated that someone pressed the "green button" thereby putting into motion the Watergate burglary, something that you described as being idiotic and I agree with you; it was idiotic and monumentally stupid.

However idiotic, I gather from your testimony that you assumed that this burglary was carried out to benefit the reelection campaign of the President of the United States. Is my assumption correct, sir?

Mr. KALMBACH. Yes, sir; I would agree with that.

Senator INOUYE. Therefore, there existed in this, moral obligation?

Mr. KALMBACH. I believe so, sir.

Senator INOUYE. But, however, you did not know as to the identity of the person who pressed the green button?

Mr. KALMBACH. No, sir.

Senator INOUYE. Now, when Mr. Dean directed you to raise these funds for humanitarian purposes, and was later assured by Mr. Ehrlichman that Mr. Dean was authorized to ask you to risk your career and carry out this covert fundraising, you must have assumed that these men either participated in pressing the button or knew who pressed the button; is that assumption correct, sir?

Mr. KALMBACH. Yes, sir.

Senator INOUYE. And without question, you obeyed the direction of Mr. Dean and Mr. Ehrlichman?

Mr. KALMBACH. Without question.

Senator INOUYE. Because you were certain that, as you said, they were trusted implicitly by the President of the United States?

Mr. KALMBACH. And, sir, trusted by me.

Senator INOUYE. And everything in that was done in the President's best interest?

Mr. KALMBACH. Everything that was done I know was done in the President's best interest and in the best interest of the campaign.

Senator INOUYE. I do not suppose you listened to Mr. Dean because you were convinced he was the button pusher or the mastermind?

Mr. KALMBACH. I did not understand that he was the button pusher. I think Mr. Dean was—had received the assignment to approach me, knowing whoever gave him the directions, Senator, knowing that I would trust Mr. Dean.

Senator INOUYE. Now, in the hierarchy of influence and authority in the committee and in the White House, above Mr. Dean you will find Mr. Ehrlichman, is that not correct, sir?

Mr. KALMBACH. Yes, sir.

Senator INOUYE. And above Mr. Ehrlichman, Mr. Haldeman?

Mr. KALMBACH. Yes, sir.

Senator INOUYE. And above Mr. Haldeman?

Mr. KALMBACH. Yes, sir, the President.

Senator INOUYE. The President. I do not suppose you considered Mr. LaRue to be the mastermind?

Mr. KALMBACH. No, sir. I think Mr. LaRue again was doing what had been requested of him.

Senator INOUYE. I do not suppose you considered Mr. Ehrlichman to be the button pusher?

Mr. KALMBACH. I did not know, Senator. I just did not.

Senator INOUYE. What did you think when Mr. Ehrlichman told you that Mr. Dean had authority? From whom?

Mr. KALMBACH. I was not certain, Senator. I did not know whether it was someone in authority at the Committee To Re-Elect or someone in authority at the White House. I just did not know.

Senator INOUYE. Was it possible that someone in the Committee To Re-Elect would have ordered Mr. Ehrlichman to do something? Was there anyone greater in influence or authority in the committee?

Mr. KALMBACH. No, Senator, no one could have ordered Mr. Ehrlichman to do anything, but Mr. Ehrlichman——

Senator INOUYE. It would have to be Ehrlichman, the button pusher, Mr. Haldeman, the button pusher, or someone higher than Mr. Haldeman.

Mr. KALMBACH. Well, Senator, I think it could be someone in authority in the Committee To ReEelect, and Mr. Ehrlichman was advised of this, and Mr. Ehrlichman agreed that this was the proper thing to do. I don't know what went through his mind. I know when I spoke to Mr. Ehrlichman he told me that "It was proper and to go forward, Herb," and without more and that was good enough for me. But I do not know, Senator, I do not know whether Mr. Ehrlichman knew that it was someone in authority at the Committee To Re-Elect or someone else.

Senator INOUYE. In listening to your testimony, would I be correct to contend that it was your suggestion to the committee that your candidate for the putton pusher is Mr. Ehrlichman?

Mr. KALMBACH. No, sir. I don't have a candidate for—as the button pusher. I had the feeling, as I think I have expressed, Senator, that it was someone in authority at the Committee To Re-Elect, but I don't know.

Senator INOUYE. My final question, sir. Throughout your testimony you used certain words. For example, you were ordered by Mr. Dean, you were directed by Mr. Higby, you were directed by Mr. LaRue, for example, when Senator Talmadge questioned you, to distribute $400,000 to unknown persons?

Mr. KALMBACH. Yes, sir.

Senator INOUYE. And you didn't know for what purpose and you didn't ask for what purpose?

Mr. KALMBACH. That is correct.

Senator INOUYE. Are you suggesting to this committee that in this assignment your sole job was that of a messenger?

Mr. KALMBACH. Yes, sir; that is really what it amounted to. This job as trustee was to act when I was requested to do so by Mr. Haldeman or one of his deputies.

Senator INOUYE. Don't you feel that it was rather demeaning as a senior partner in a prestigious law firm to be used as a messenger by people like Dean and Haldeman and Ehrlichman?

Mr. KALMBACH. Yes, sir.

Senator INOUYE. I thank you very much, sir. Thank you very much, Mr. Chairman.

Senator ERVIN. Senator Weicker.

Senator WEICKER. Mr. Kalmbach, what were your feelings upon learning that you were taped by Mr. Ehrlichman?

Mr. KALMBACH. Senator, I can't describe the feelings. I think I have indicated before when I recognized that this whole program that I had been asked to get into, and which made me feel like I had been kicked in the stomach, well, I can't describe to you, Senator, the feeling that I had when I learned that I had been taped. It was just as if I had been kicked in the stomach.

Senator WEICKER. And when did you first learn that you had been taped?

Mr. KALMBACH. I first learned of it when I went before the U.S. attorney.

Senator WEICKER. And your feeling was, how do you describe it, just as if you were kicked in the stomach?

Mr. KALMBACH. Absolutely.

Senator WEICKER. Would you feel the same way if you learned you were taped by the President of the United States?

Mr. KALMBACH. Yes, sir; I would feel that way if I learned I had been taped by anyone.

Senator WEICKER. Now, just a couple of brief questions that I still am not clear in my own mind on on the taped telephone conversation, the one that was taped by Mr. Ehrlichman. Let me put this in as proper context, as I gather in response to the chairman's question you feel this was a self-serving telephone conversation insofar as Mr. Ehrlichman was concerned; is that correct?

Mr. KALMBACH. Yes, sir; I would assume that.

Senator WEICKER. Nevertheless, I do have to come back to that point on page 4, and it is repeated again back on page 6 where Ehrlichman says, "I made no independent judgment." You say "Yep, yep," and then Ehrlichman says, "I am sure Bob didn't either," and I imagine he is referring to Mr. Haldeman there?

Mr. KALMBACH. Yes, sir.

Senator WEICKER. And you say, "Nope, and I'm just, I just have the feeling, John, that I don't know if this is a weak reed"; the chairman put his emphasis on the last portion of the statement, but I would like to get to the beginning of that. How did you know that Bob Haldeman didn't have any independent judgment?

Mr. KALMBACH. I didn't. I did not.

Senator WEICKER. So why did you agree with Mr. Ehrlichman?

Mr. KALMBACH. I just continued the conversation, Senator. That was it.

Senator WEICKER. Well, again back on page 6, again he indicates that "They are out to get me and they are out to get Bob," and you say, "My God. All right, well, John, it will be absolutely clear that there was nothing looking toward any coverup or anything."

Now, again I have to repeat my question: Did you have any direct knowledge that Mr. Haldeman had no knowledge of these matters?

Mr. KALMBACH. I did not. I did not know really prior to this time that Mr. Haldeman had even known really of my involvement in the

role that I played in this, Senator. As I think I have testified, I thought this entire time up until when I spoke with Mr. Ehrlichman who again had made the statement to me in California that he had been approached, he and Mr. Haldeman had been approached by Mr. Dean on this, for this, so that Mr. Dean would come to me, and then here in this taped conversation that was the first time that I knew that Mr. Haldeman had any knowledge of my role.

Senator WEICKER. Now, again on page 4, could you give to me the meaning behind Mr. Ehrlichman's statement, "Yes, I wouldn't haul the President into it if you can help it," and you replied, "Oh, no; I will not."

Mr. KALMBACH. Of course, Senator, I did not know that the President had any knowledge in any way, shape, or form either of the break-in or anything regarding this post-June 17 period.

Senator WEICKER. Now then, one last question on the taped telephone conversation; referring to page 6, you make the statement, "Do you feel, John, that calling it straight shot here, do you feel assured as you did when we were out there that there's no culpability here?"

Why did you ask that question?

Mr. KALMBACH. Well, Senator——

Senator WEICKER. Do you think I am correct in assuming there are some real second thoughts arising here as a result of this conversation on your part?

Mr. KALMBACH. No, sir. I wanted to be—when I talked to John Ehrlichman in California, he said, "Herb, you have absolutely no culpability in this matter." And when this meeting—he knew the complete situation and I just wanted, again, the assurance. Because he knew exactly what he had told me and what I had, the instructions I had received from Mr. Dean.

Senator WEICKER. Well now, in the course of this, and again I repeat, you make a statement, "Do you feel, John, that calling it a straight shot here, do you feel assured as you did when you were out there that there is no culpability here."

Then in several instances you indicate surprise in response to information that Mr. Ehrlichman gives you relative to what Mr. Dean is doing, et cetera: did this phone conversation shake you?

Mr. KALMBACH. No, sir, the phone conversation that I had really was triggered when I was—this conversation on this date of this was triggered when I was in the hotel room with Mr. O'Connor and my partner, Mr. Demarco, and we just learned that the—there was the—Mr. Dean had said that he would not be the scapegoat, and I wanted to be assured that he would tell it—Mr. Dean would tell the whole story and the entire truth.

Senator WEICKER. Mr. Ulasewicz, if I am not mistaken, is on, or was on, your payroll; is that correct?

Mr. KALMBACH. He was—I disbursed funds to Mr. Ulasewicz, Senator, but not firm funds. They were funds that I held under the trust.

Senator WEICKER. In other words, what is known as a lawyer's trustee account, is that correct?

Mr. KALMBACH. Yes, sir.

Senator WEICKER. All right, then. Who supplied these funds?

Mr. KALMBACH. Those were funds that had been entrusted to me by Mr. Stans on or about the middle of January 1969, Senator.

Senator WEICKER. So that these trustee account funds were ones given to you by Mr. Stans and they were used to go ahead and pay Mr. Ulasewicz; is that correct?

Mr. KALMBACH. That is correct.

Senator WEICKER. Do you know Mr. James Knapp?

Mr. KALMBACH. Yes, sir.

Senator WEICKER. Do you consider him to be a confident—a friend of yours?

Mr. KALMBACH. A very close friend of mine.

Senator WEICKER. Have you ever told Mr. Knapp anything in the way of a relationship between you and Mr. Haldeman, the fact that possibly you might be being used by Mr. Haldeman? Did you ever converse with Mr. Knapp on this subject?

Mr. KALMBACH. I think I have been, in recent times, I think that I have indicated that I feel that I was used.

Senator WEICKER. That you were used?

Mr. KALMBACH. Yes, sir.

Senator WEICKER. Used by who?

Mr. KALMBACH. Used by the people who knew the true purpose of this assignment without my knowledge.

Senator WEICKER. Now, I think we really have come past the point—and again, I want to commend you. I do not want to give any other impression, but the fact that it is obviously a difficult situation for you, and I think you are honestly trying to respond to the questions of the committee. But the term "we" is wearing a little thin, and I refer specifically now to the conversation that you had with Mr. Knapp. Do you feel that you have been used by Mr. Haldeman in this matter?

Mr. KALMBACH. Yes, sir.

Senator WEICKER. You do? Do you feel you have been used by Mr. Ehrlichman?

Mr. KALMBACH. If they, Senator, if they had knowledge of the true—what has been alleged to be the true purpose of this and did not advise me, then I think I was used.

Senator WEICKER. Do you feel that you have been used by Mr. Ehrlichman within that response?

Mr. KALMBACH. I do, sir.

Senator WEICKER. Do you feel you have been used by Mr. Mitchell?

Mr. KALMBACH. In that same context, yes, sir.

Senator WEICKER. Do you feel you have been used by Mr. Dean?

Mr. KALMBACH. Again, the same.

Senator WEICKER. Is there any other individual—I have mentioned four—that you feel within the description of the response that you gave to me would fit in this category?

Mr. KALMBACH. Any other individual in authority who had knowledge would fit in this category; yes, sir.

Senator WEICKER. Do you have any other names aside from those four which I have mentioned?

Mr. KALMBACH. I do not.

Senator WEICKER. So in effect that the "we" that you have referred to, these are the individuals that you associate?

Mr. KALMBACH. Well, I do not know if that would include Mr. Magruder. I am not sure, as to deputy director, whether or not he

would be included in that or not. But again, if he had knowledge and he had been the one, then he would be included.

Senator WEICKER. And do you believe that these four individuals had such knowledge?

Mr. KALMBACH. I am certain, of course, that Mr. Dean had that knowledge. Now, as far as I remember, I do not know as to the others for certain, as to whether or not they did have the true—have the knowledge that this was for the purpose that Mr. Dean has stated.

Senator WEICKER. I have no further questions, Mr. Chairman.

Senator ERVIN. What date was it that you accepted this assignment originally? Was it June 29, 1972?

Mr. KALMBACH. Yes, sir.

Senator ERVIN. There is some discrepancy between your testimony and that of Mr. Dean as to where you met. He was under the impression that you met either in the Mayflower Hotel or in the Mayflower Coffee Shop of the Statler-Hilton. You are positive, however, that the meeting occurred in front of the Hay-Adams Hotel and that you went out into the park to talk?

Mr. KALMBACH. Yes, sir; that is my best memory as to the first meeting, it was on the 29th in front of the Hay-Adams, and then a meeting in the park.

Senator ERVIN. But you have no doubt about the matter that it was on that day, wherever the meeting occurred, that Dean asked you to accept this assignment?

Mr. KALMBACH. I have no doubt as to the date, which was the 29th of June.

Senator ERVIN. And you accepted the assignment for the reasons that you have stated and performed it for several weeks?

Mr. KALMBACH. Yes, sir.

Senator ERVIN. Then, as the time passed, you got misgivings about the wisdom or propriety of the assignment and refused to do anything further to carry it out?

Mr. KALMBACH. Yes, sir.

Mr. ERVIN. And that occurred about August or September?

Mr. KALMBACH. August and September.

Senator ERVIN. Then several months after you had come to the conclusion that you wanted no part, and that you would not participate further in carrying out this assignment, you were asked to come to a meeting in John Mitchell's office at which John Mitchell, Fred LaRue, and Dean were present?

Mr. KALMBACH. Yes, sir.

Senator ERVIN. And Dean asked you in the presence of the others to reaccept this assignment to raise some more funds for this purpose, and you declined to do so?

Mr. KALMBACH. Yes, sir.

Senator ERVIN. Do you have any questions, Mr. Dash?

Mr. DASH. No, I have no further questions, Mr. Chairman.

Senator MONTOYA. Mr. Chairman, I have two questions.

Senator ERVIN. OK.

Senator MONTOYA. Now, as you have previously testified, the strongest motivation for this project was the desire to protect the President's position in the campaign. That is about right, isn't it?

Mr. KALMBACH. My motivation was that I was asked by Mr. Dean, the counsel, and knowing that it was—whatever was proper and in support of the campaign.

Senator MONTOYA. And he put it to you in that context, did he not?

Mr. KALMBACH. He put it to me in the context that we want you to take on this very important assignment, Senator; yes, sir.

Senator MONTOYA. Because he was concerned about what would happen to the President?

Mr. KALMBACH. I don't recall that he said that, Senator.

Senator MONTOYA. Well, anyway, as a lawyer, didn't you stop to think that the assumption of a moral obligation to help the defendants would tend to bring closer to reality the triggering of the very thing you were trying to avoid, namely, the implication that the President, the White House, or the CRP might have been involved?

Mr. KALMBACH. No, sir.

Senator MONTOYA. As a lawyer, wouldn't you? Did you stop to think that this might be the wiser course?

Mr. KALMBACH. I beg your pardon, Senator?

Senator MONTOYA. Let me repeat the question: As a lawyer, didn't you stop to think that the assumption of a moral obligation to help the defendants would tend to bring closer to reality the triggering of the very thing you were trying to avoid?

Mr. KALMBACH. No, sir.

Senator MONTOYA. Now, as a lawyer, wouldn't it have been more prudent to stay clear away from the very clouds of complicity represented by the defendants so as to avoid the implication that has followed because of what was done?

Mr. KALMBACH. Absolutely; yes.

Senator MONTOYA. That is all, Mr. Chairman.

Senator ERVIN. I want to thank you on behalf—oh, excuse me. Mr. Thompson.

Mr. THOMPSON. Mr. Kalmbach, let me see if I can clear up in my own mind, anyway, just what was meant by this "weak reed" statement on page 4 of the transcription of the telephone conversation. I would like to read a little further than I think we have gone.

Ehrlichman says, "Yeah, well, as far as propriety is concerned I think we both were relying entirely on Dean."

You say, "Yep."

He says, "I made no independent judgment."

You say, "Yep. Yep."

He says, "And I'm sure Bob didn't either."

You say, "Nope, and I'm just, I just have the feeling, John, that I don't know if this is a weak reed; is it?"

Then he says, "Who, Dean?"

Then you say, "No. I mean they are still going to say, well, Herb, you should have known."

And he says, "I don't know how you could have," et cetera.

By this "weak reed" statement, were you referring back to the reliance upon Dean, or were you in effect changing the subject and worrying about what people might have thought about your judgment in the matter?

Mr. KALMBACH. Yes.

Mr. THOMPSON. Which one?

Mr. KALMBACH. The last.

Mr. THOMPSON. The latter. You in effect had changed the subject and the weak reed was what you thought might be raised in some people's minds?

Mr. KALMBACH. Yes.

Mr. THOMPSON. In fairness to you, Mr. Kalmbach, I think we might refer to two or three other statements that I think are consistent throughout this transcription.

On page 2 in the general context of how you got involved and where you stood at the end, as I understand it, you did not know that this telephone conversation was being recorded.

Mr. KALMBACH. Absolutely did not.

Mr. THOMPSON. And Kalmbach says "And also—that you knew I was your friend and you knew that I was the President's attorney"—you say that.

He says "Sure."

And you say, "Never do anything improper, illegal, unethical, or whatever."

Then on page 3, you say, as has been stated, "God, if I can just make it plain that it was humanitarian and nothing else."

Further down on page 3, you discuss it and you say, "And there was nothing illegal about it."

And on page 5 again, where Ehrlichman says, "And the point being here without attempting to induce them to do a damn thing."

You say, "Absolutely not and that was never, that was exactly right."

Of course, we know that Ehrlichman knew the conversation was being taped, but you did not, is that correct?

Mr. KALMBACH. Yes, sir, that is correct.

Mr. THOMPSON. This represents your sentiments and feelings at the time on April 19 and I assume they represented your feelings during the period of June and July 1972 when you became involved.

Thank you, Mr. Kalmbach.

Senator ERVIN. Just one thing suggested by Mr. Thompson's question. You stated that you never attempted to influence any of the defendants or their counsel or anybody to do anything. As a matter of fact, you never had any personal contact with them?

Mr. KALMBACH. No, sir, I did not.

Senator ERVIN. So if anybody tried to influence them in any way, it was somebody other than you, without your knowledge?

Mr. KALMBACH. That is correct.

Senator ERVIN. Thank you on behalf of the committee.

I would like to put into the record a letter that the chairman sent to the President pursuant to today's meeting.

[The letter follows:]

U.S. SENATE,
SELECT COMMITTEE ON PRESIDENTIAL CAMPAIGN ACTIVITIES,
Washington, D.C., July 17, 1973.

The PRESIDENT.
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: Today the Select Committee on Presidential Campaign Activities met and unanimously voted that I request that you provide the Committee with all relevant documents and tapes under control of the White House that relate to the matters the Select Committee is authorized to investigate under S. Res. 60. I refer to the documents mentioned in my letter to Mr. Leonard

Garment of June 21, 1973, and the relevant portions of the tapes alluded to by Mr. Alexander Butterfield before the Committee on July 16, 1973.

If your illness prevents our meeting to discuss these issues in the next day or two, I should like to suggest that you designate members of your staff to meet with members of the Select Committee staff to make arrangements for our access to White House documents and tapes pertinent to the Committee's investigation.

I should like respectfully to relate that the Committee's investigation is on-going and that access to relevant documents should not be delayed if the Committee is to perform its mission. May we hear from you at your earliest convenience?

The Committee deeply regrets your illness and hopes for you a speedy recovery.

Sincerely,

SAM J. ERVIN, Jr., *Chairman.*

Senator ERVIN. Thank you very much. You are excused at this time. I understand you are willing to remain under the same subpena and return for further testimony in the event the committee desires further testimony and gives you ample notice of the time and place.

Mr. KALMBACH. Yes, sir, I am.

Senator ERVIN. Thank you very much.

The committee will stand in recess until 10 o'clock tomorrow.

[Whereupon at 5:52 the committee recessed to reconvene at 10 a.m., Wednesday, July 18, 1973.]

EXHIBITS SUBMITTED FOR THE RECORD

EXHIBIT NO. 75A

[illegible]
3D DISTRICT, MICHIGAN

COMMITTEE ON
BANKING AND CURRENCY

COMMITTEE ON
GOVERNMENT OPERATIONS

JOINT COMMITTEE ON
DEFENSE PRODUCTION

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(MON.-WED.-FRI.)

July 9, 1973

The Honorable Sam J. Ervin, Jr.
Chairman
Select Committee on Presidential
Campaign Activities
Senate Office Building
Washington, D. C.

Dear Mr. Chairman:

The attached statement is submitted as my response and rebuttal to the allegations made by Mr. John Dean before your Committee which involved me in the subject of your hearings.

It is in the format of testimony since I had hoped your Committee would provide me with an opportunity to present the statement personally, my requests in this regard to date having been denied.

Since the inter-mixing of my testimony with that of the other witnesses you intend to call would be most inappropriate, I transmit for filing this sworn statement in lieu of the giving of testimony at some future date, although I will be glad to submit to any interrogation or cross-examination you or the Committee might deem appropriate at any time.

Respectfully submitted,

GARRY BROWN

Enclosures

STATEMENT OF HON. GARRY BROWN, MEMBER OF CONGRESS

Mr. Chairman and Members of the Committee: At the outset, let me express my deep appreciation to you, Mr. Chairman, and the Committee for providing me with this opportunity to respond in kind to the allegations made by Mr. Dean in his statement and earlier presentation to this Committee. To say that I was somewhat dumbfounded to learn of the allegations made by Mr. Dean is a gross understatement since my participation in the bipartisan effort by members of the House Banking and Currency Committee, which resulted in the denial of the granting of subpoena authority to the Chairman of our Committee, was in no way connected with the so-called "cover-up" activities in which Mr. Dean has testified he participated.

Perhaps it would be best for me to provide the Committee with a chronological statement of what occurred in this regard on the House side, as best I can recall it, and then provide the Committee with a particularized response to Mr. Dean's several allegations.

Assuming the concurrence of the Committee in this proposed format of my testimony, let me proceed with the chronological statement of activities on the House side, the period of time over which these activities occurred having been late August of 1972 to October 3, 1972, the latter date being the date of the meeting of the House Banking and Currency Committee at which, by a vote of 15 to 20, Chairman Patman's request for subpoena authority was denied.

While back in Michigan fulfilling commitments during the August Recess of the Congress, on either the late afternoon of August 30 or the morning of August 31, 1972, I heard on my car radio that the Banking and Currency Committee was interviewing Mr. Maurice Stans, the Chairman of the Finance Committee to Re-Elect the President, with respect to the handling of campaign contributions since there appeared to be a connection between the handling of some of such funds and the Watergate burglary.

Inasmuch as I had not been notified by my office in Washington, nor had I received any notice in Michigan, that the Committee was meeting for this purpose, I immediately got in touch with my Washington office and determined that Chairman Patman had not called a meeting, nor had he notified my office of the interviews with Stans. I then contacted the Banking and Currency Committee staff to determine the facts with respect to the news broadcast I had heard and determined that no Committee meeting had been called, but rather that certain members of the Banking and Currency Committee staff, at the direction of the Chairman, had individually interviewed Stans. I was unable to ascertain at that time from the staff the justification therefor or the reasons why Committee members had not been advised of Chairman Patman's initiation of such investigation by staff members.

In view of the media attention provoked, it appeared to me Patman's action was prompted by political considerations, so I again called my Washington office and asked my legislative assistant to carefully examine the Rules of the House and the Rules of the Banking and Currency Committee to determine by what authority Patman had initiated such investigation without first seeking the authority of the Committee and by what authority he could do so without even notifying Committee members. As a result of such research by my legislative aide, on Thursday, August 31, 1972 I dictated a letter to Chairman Patman citing the Rules of the House and the Committee and indicating my displeasure over the fact that he had initiated such investigation without seeking the concurrence of the Committee or even notifying Committee members. This letter is attached as Exhibit No. 1.[1]

At this juncture, I should point out that to the best of my recollection, there had been no Committee discussion of our Committee's jurisdiction over, or involvement in, an investigation of the Re-Elect Committee's handling of contributions or their possible involvement in the financing of the Watergate burglary. In short, the Committee staff investigation hit me as a complete surprise.

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[1] See p. 2188.

It being necessary for me to attend the fall Republican State Convention in Detroit September 1 and 2, I did not return to Washington until late Monday, Labor Day, September 4.

Inasmuch as the only information I had been able to develop regarding the content of the interviews by Patman's staff members of Stans was from a Republican staff member who had been present during only a portion of such interviews, I contacted Mr. Stans to attempt to determine the particulars about the staff inquiry, whether or not a transcript had been made of such interviews or any other record of the discussions in order that I might be apprised of the substance of such interviews to the same extent as were the staff members and Mr. Patman. In the course of my discussion of the matter telephonically with Mr. Stans, I requested an opportunity to discuss the matter personally with him and arranged to see him on the morning of September 6.

In view of Mr. Dean's statements on pages 103 and 104 to the effect that he and others associated with the White House were aware of and concerned about the Banking and Currency staff investigation as early as mid-August, I should point out that my first contact of any kind with anyone from the White House or the Finance Committee to Re-Elect the President was this call to Mr. Stans on September 5, 1972. At no time, before, during and since the period covered by this chronology, have I discussed the Committee's action or the Watergate matter with the President, Mr. Haldeman, Mr. Ehrlichman, Mr. Dean, Mr. Mitchell, Mr. Colson, or any similar person within the inner-group mentioned by Mr. Dean.

Also, in view of Mr. Dean's association of the Banking and Currency Committee with what he alleges were cover-up discussions going on at this time, it is essential to keep in mind the limited scope of the Patman investigation. In his letter to me, received September 5, responding to my letter of August 31, 1972, Chairman Patman said that his interest in an investigation was prompted by a letter he had received from a Committee member who urged either Patman or the International Finance Subcommittee Chairman to look into possible violations of the Foreign Bank Secrecy Act by the Committee to Re-Elect the President in connection with the transfer of some of its funds through Mexico. In addition, and subsequently, Patman brought into the scope of his interest the circumstances surrounding a $25,000 contribution to the Committee to Re-Elect the President by one who was interested in a national bank charter application which was pending. In short, by Patman's own statements, he was justifying jurisdiction of the Banking and Currency Committee over the investigation by limiting its scope to the use of banks in the financial transactions of the Committee to Re-Elect the President, the bank charter matter, and to the Watergate burglary by virtue of the surfacing of funds in the bank account of Mr. Barker, one of those who had been arrested for participation in such burglary.

Not satisfied with Patman's response of September 5, 1972, I immediately drafted a letter to him, which letter was co-signed by several of my Republican colleagues on the Committee, in which we demanded that Patman call a meeting of the Committee to discuss the whole matter. Our letter of September 5, 1972 is attached as Exhibit No. 2.[2]

In view of Patman's rationale for conducting the investigation, in my interview with Mr. Stans on September 6, I attempted to ascertain the true facts from him concerning the handling of campaign contributions, the alleged Mexican "laundering" of such funds, and their apparent ultimate deposit in Barker's bank account. Mr. Stans informed me he did not know how or why the funds went to Mexico and ended up in Barker's account, stating that Mr. Gordon Liddy, the general counsel for the Committee, had been the one who made the decisions regarding how contributions were reported, handled, etc. under the new campaign expenditure law. Since my inquiry involved the legality of the handling of such funds, it was agreed I should talk with Mr. Kenneth Parkinson who was the new legal counsel for the Finance Committee to Re-Elect the President, having succeeded Mr. Liddy, whose services had been terminated.

I met with Mr. Stans personally only this one time, but I may have talked with him three or four times on the phone. During the course of these conversations, I am quite sure I suggested that it might be better for Mr. Stans to testify than to give Patman the opportunity to publicize and take political advantage of Stans' non-appearance, it being the position of most Republican Committee members that Patman's interest in an investigation was more political than anything else.

I discussed the application of the Bank Secrecy Act, the campaign expenditure law, and other aspects of the matter telephonically with Mr. Parkinson several

[2] See p. 2191.

times and met with him on one occasion of which I am certain and possibly a second time very briefly, although I cannot specifically recall a second occasion.

During this time, I had asked my legislative assistant, who is an attorney and a former law clerk for a Federal Court of Appeals Judge, to brief for me the question of the propriety of the appearance of Mr. Stans and others before our Committee. In the course of this research done by both my legislative assistant and myself, it became apparent that such an appearance could prejudice the rights of those who might be indicted as a result of the grand jury proceedings that were then in progress. Appreciation of this problem prompted me to write to both the Attorney General and Mr. Stans requesting the opinion of the Attorney General with respect to the propriety of Mr. Stan's appearance as well as the opinion of Mr. Stans' attorney concerning his own position on the appropriateness of such appearance. These letters are attached as Exhibits No. 3 and 4,[3] respectively. At the time of the writing of these letters, Mr. Stans had not, to my knowledge, decided whether or not he would voluntarily appear before the Committee.

It is this letter of September 8 to the Attorney General which Mr. Dean has said in his statement, ". . . was, in fact, drafted by Parkinson for Congressman Brown." I unequivocally deny this charge. The letter to the Attorney General was dictated by me to my secretary and is my work product in every respect. It is my best recollection that from the conversations I had with Mr. Stans and Mr. Parkinson up to this point it appeared to me no decision had been made as to whether or not Mr. Stans would appear. The decision to write such letters was wholly my own and stemmed from my concern about the propriety of his appearance regardless of what his decision might be, such concern having been prompted by the limited research done by my legislative aide and myself to this time.

It would be asinine for me to say that in the course of my discussions of the matter with Stans and Parkinson I did not mention the concern I felt about the legal ramifications of Mr. Stans' appearance before the Committee and of my belief that the legal opinions of those most closely involved, namely, the Attorney General and Stans, should be obtained. In any such discussions, however, it was always a mattter of my apprising Stans and Parkinson of what I proposed to do, rather than receipt by me of suggestions, requests, urgings, etc. from them.

Although I received no written response from the Attorney General to my letter of September 8, on September 12 Ralph Erickson, the Deputy Attorney General, telephoned my office and talked with a member of my staff and advised that he was calling in response to my letter of September 8 and indicated that the Attorney General would be happy to talk with me about the matter but did not intend to respond in writing, suggesting that the questions I had asked were now moot because in the interim Mr. Stans had notified the Committee that he was declining the invitation to testify.

During this period of time, the Banking and Currency Committee, although considering other legislation, had been embroiled in the controversy about the conduct of hearings by the Committee into the Patman charges, the scope of which I have already described. But none of the activities regarding political espionage, bugging, cover-up, etc. which have now surfaced and which are now being discussed were known at the time the Banking and Currency Committee was contemplating its hearings and it must also be kept in mind that Patman's effort to investigate the matter of the laundered funds and Barker's involvement was analyzed by most of us at that time as being blatantly political in view of the up-coming election.

Chairman Patman finally did discuss the matter with the Committee and, although objection was voiced by many of us, he scheduled a meeting of the Committee for September 14 to receive the testimony of Stans and Phillip S. Hughes, Director of the Office of Federal Elections, General Accounting Office. This was the meeting at which Stans declined to appear.

Because Stans had failed to appear voluntarily, Chairman Patman notified the Committee on September 25, 1972 that he intended to seek the authority of the Committee to issue subpoenas for Stans and several others at a meeting of the Committee to be held October 3. When it became certain that the Chairman would seek subpoena authority, my earlier concern about the propriety of such appearance was renewed and intensified since in the meantime the legal research done by me and my office had clearly established the danger of conducting a Congressional hearing when criminal proceedings were pending regarding the same matter.

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[3] See pp. 2194 and 2196 respectively.

As a result, I again wrote to the Attorney General on September 26, 1972, pointing out to him that although the questions I had raised in my September 8 letter might have become moot after Stans had declined to voluntarily testify, Patman's plans to seek subpoena authority made my questions and concerns very real once again. This letter of September 26 is attached as Exhibit No. 5.[4]

Despite my insistence in my letter to the Attorney General of September 26, 1972 for an opinion to be expressed, it wasn't until the late afternoon of October 2 that I learned Mr. Henry Petersen, Assistant Attorney General, had replied to my letter of September 26, not to me, but to Patman. In fact, Patman had received the response from Petersen before I knew that a response had been provided, since I was not given a copy until I requested the same. This letter from Petersen is attached as Exhibit No. 6[5] and is the same as Dean's Exhibit No. 21.[6]

In this regard, I felt at the time that the Department of Justice and the Attorney General's Office was being most uncooperative and, in fact, was taking a rather untenable position of not wanting to get involved when my research had clearly satisfied me that the success of their prosecutive efforts of those who had been indicted by the grand jury could be seriously jeopardized by public hearings of the Banking and Currency Committee under the law applicable thereto, especially the holding in the *Delancy* case. It having been my position then, and it continues to be my position, as well as that of Archibald Cox, the Special Prosecutor, that public hearings in prejudicing the rights of those who have been accused, necessarily also seriously jeopardize the successful prosecution of these individuals.

In any case, the Committee met on October 3 and, as is well known, voted 20–15 against authorizing the Chairman to issue the subpoenas he had requested. In view of Mr. Dean's testimony about the proposed Patman witness list, I should add at this point that I attempted to determine who Patman wanted to subpoena, but it wasn't until I received such list, hand-delivered at 5:05 P.M. on 10/2/72, the evening before the 10/3/72 meeting, that I or anyone else, to my knowledge, knew who Patman intended to subpoena and call as witnesses.

Although it is of little pertinence to this chronology, I wish to add that consistent with my many-times stated position regarding the Banking and Currency Committee's investigation of this matter, to wit, that such investigation should await completion of criminal proceedings, I wrote to Chairman Patman in early January of this year urging him to designate a staff member or hire outside counsel to monitor the criminal trials of the "Watergate Seven" so that we might be kept current on the proceedings of those trials so we would be prepared to conduct a Committee investigation upon completion of the criminal proceedings.

Needless to say, the Chairman declined to grant my request and in a reply expressing many reasons, closed the door upon any investigation by our Committee.

From the foregoing, it is obvious that Mr. Dean, in his testimony before the Senate Select Committee, either has stated things to be true which he does not know to be true or has engaged in absolute falsehoods. More particularly, I recite the following: (References are to the statement presented to your Committee on June 25, 1973.)

On page 104, Mr. Dean states: "At some point in time during these investigations Mr. Parkinson was put in touch with Congressman Gary (sic) Brown who was a member of the Banking and Currency Committee."

The fact is, Mr. Parkinson was not put in touch with me. I requested an opportunity to talk to Mr. Parkinson during my original contact with Mr. Stans when he could not explain to me the several legal aspects of the handling of funds by Mr. Liddy, the legal interpretation given to the campaign expenditure law as it applied to contributions made to the Committee to Re-Elect the President before and after April 7, 1972, and other aspects of the staff interrogation of Mr. Stans.

Also on page 104, Mr. Dean states:

"To the best of my recollection this may have resulted from discussions between members of the White House Congressional Relations staff with the Republican members of the Banking and Currency Committee to determine who would be most helpful on the Committee *and Brown indicated his willingness to assist.*" (emphasis added)

The fact is, I recall no conversation with anyone which could be interpreted as my indicating a "willingness to assist." This is especially true if one interprets,

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[4] See p. 2197.
[5] See p. 2199.
[6] Committee exhibit No. 34–23. See p. 1194, Book 3.

as he must, Mr. Dean's word "assist" as being willingness to assist in the White House efforts to block the Patman Committee hearings for the second reason he states on page 103; that being, and I quote . . . "and second, they just might stumble into something that would start unraveling the cover-up."

Although Dean cites no time frame for this statement, it should be remembered I independently and aggressively had commenced opposing the Patman action as early as 8/31/72 and had no knowledge of what Dean says were on-going conversations within his group on the subject.

It should be pointed out that as of even September 8, 1972, or for that matter as late as October 3, 1972, to my recollection, there had been no public suggestion that a "cover-up" was in progress. The fact that I opposed such hearings at that time because I was satisfied the law made inappropriate and undesirable the conduct of hearings of our Committee while the criminal proceedings were pending and, in addition, thought Patman's desire for such hearings was purely political, while *for other reasons* the White House may have opposed such hearings, may make our goal similar, namely, the blocking of the hearings, but it is totally improper to attribute the same motivation, as Mr. Dean has done.

Again on page 104, Mr. Dean states:

"On September 8th Congressman Brown sent a letter to the Attorney General regarding the forthcoming appearance of Secretary Stans and others before the Patman Committee. I have submitted to the Committee a copy of this letter (Exhibit No. 18), *which was, in fact, drafted by Parkinson for Congressman Brown.*" (emphasis added)

The fact is, this letter was not drafted by Parkinson for me, nor to the best of my recollection does my letter to the Attorney General contain any input from Parkinson, although, of course, as I have already indicated I had apprised Stans and Parkinson of my plans to solicit the opinion of the Attorney General. On this same page 104, Dean again refers to "Parkinson's drafting the letter for Congressman Brown," which is a repetition of the previous erroneous statement.

I wish to advise the Committee with respect to this statement that upon learning of this charge made by Mr. Dean, I knew it to be so completely erroneous that I sought an explanation for the making of same by Mr. Dean. I attempted to contact Mr. Parkinson to determine whether or not he, or anyone else to his knowledge, might have suggested or stated to Mr. Dean that he, Parkinson, had drafted such letter. Mr. Parkinson was not immediately available and I was unable to talk with him until the late afternoon of Tuesday, June 26, 1973, Dean's statement having been made, as you will recall, in his testimony before this Committee on June 25, 1973. In this telephone conversation with Mr. Parkinson on June 26, Mr. Parkinson unequivocally denied that he had drafted such letter or that he, or anyone else to his knowledge, had advised Mr. Dean that such letter had been drafted by him, Parkinson.

However, in the course of my attempting to learn from Parkinson how Dean could possibly have made this statement, Parkinson recalled that he had prepared a draft of a letter at the request of Mr. Dean which he, Parkinson, understood was to be furnished to the Attorney General *as a proposed response by the Attorney General* to my letter of September 8, 1972 (Dean's Exhibit No. 18,[7] my Exhibit No. 3). He requested a copy of this proposed draft which was prepared by Mr. Parkinson for Mr. Dean and it is attached hereto as Exhibit No. 7.[8] It is Mr. Parkinson's further recollection that subsequent to his preparation of this draft, Mr. Dean took the same for what Mr. Parkinson understood to be a further review or revision by Mr. Dean. Of course, this proposed draft was apparently never used as intended since no response was made at that time to my letter of September 8, 1972.

Although it is relatively insignificant, on page 105 of his testimony, Dean states that no response was sent by the Justice Department to my letter of September 8 prior to the scheduled appearance of Mr. Stans on September 14; whereas, although Dean's discussion of this matter on page 105 may be substantially accurate, I did receive a telephonic response to my letter of September 8 from Deputy Attorney General Erickson in which, as I have above pointed out, he indicated no written response would be provided and that he felt the questions I had raised in my letter of September 8 were moot because of Stan's decision not to appear before the Committee voluntarily.

On page 108, Mr. Dean states:

"I began receiving increasing pressure from Mitchell, Stans, Parkinson and others to get the Justice Department to respond to the September 8th letter of Congressman Brown as a vehicle that Congressman Brown could use in per-

[7] Committee exhibit No. 34–20. See p. 1181, Book 3.
[8] See p. 2205.

suading others not to vote in favor of the subpoenas. *Congressman Brown felt that with this document in hand he would give the Republicans and others something to hang their vote on.*" (emphasis added)

The fact is, I know of no basis for these statements since my only purpose in writing to the Attorney General on both occasions, that is, September 8 and September 26, was to attempt to get the Attorney General to recognize the law for what I knew it to be and to appreciate the prosecutorial problems which would be created by public hearings of the Committee. I especially know of no basis in fact for the underlined portion of the foregoing quote from Dean's statement, since I cannot recall having expressed the same to anyone. However, there can be little question but what such a letter would have a favorable impact upon other members.

At the bottom of page 108 and on page 109 of Dean's statement he states that much effort was put forth by many people, including Mr. Timmons, to persuade members of the Committee to vote against the hearings. I can only speak for this member of the Committee in this regard, but I do not recall receiving any urging from anyone at the White House to cast my vote against such hearings.

In fact, I am very certain I had no significant contact from anyone associated with the Administration or the White House regarding the hearings other than the contacts I have already discussed with Mr. Stans and Mr. Parkinson.

To the best of my recollection, my only contacts with White House personnel were insignificant contacts I had in the course of normal legislative business with Dick Cook, the White House liaison agent for the House of Representatives, who, rather than suggesting or urging me to take any course of action, merely inquired of me as to how things were going and whether or not I thought those of us who opposed the hearings would be successful in our opposition. In my discussions with other members of the Committee at that time and since, I have yet to find one who indicated that he or she was pressured in any way to vote as he or she did.

In conclusion, I wish to thank you, Mr. Chairman, and the members of the Committee for your patience in permitting me to provide this probably unnecessarily lengthy statement. My purpose in doing so was to establish for the record not only the absence of culpability on my part, but the absence of culpability on the part of the other members of the House Committee on Banking and Currency in opposing the Patman investigation, to the extent that I have any knowledge of other members' actions.

I hope I have satisfied the Committee and the listening, viewing, and reading audience that what Mr. Dean has concluded was causally related action by the majority of our Committee to what he was doing at the White House, has no basis in fact and should not be so presumed. If opposition to action proposed by one's colleagues, when that opposition is based on principle and proper political motivation, cannot be voiced without such opposition being interpreted as culpable conduct and obstruction of justice, then we certainly have reached a sorry state of affairs in our political and legislative system.

If I have done nothing else, I trust that I have at least somewhat dispelled the "guilt by association" implicit in Mr. Dean's testimony by his linking of the House Banking and Currency Committee action with the whole gamut of culpable conduct about which he has testified.

I will be glad to answer any questions the members of the Committee might care to pose.

Thank you.

EXHIBIT NO. 1.

GARRY BROWN
3D DISTRICT, MICHIGAN

COMMITTEE ON
BANKING AND CURRENCY

COMMITTEE ON
GOVERNMENT OPERATIONS

JOINT COMMITTEE ON
DEFENSE PRODUCTION

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August 31, 1972

The Honorable Wright Patman
Chairman
House Committee on Banking and Currency
2129 Rayburn House Office Building
Washington, D. C.

Dear Mr. Chairman:

I was shocked and dismayed to learn that yesterday certain staff members of the Banking and Currency Committee conducted an ad hoc hearing regarding the financial transactions involved in the so-called Watergate bugging incident and called former Secretary Stans as a witness without any authority to do so and, even more disturbing, members of the Committee were not notified of this session nor were we given an opportunity to be present.

Surely I do not need to remind you of the Rules of the House and the Rules of the Committee on Banking and Currency which expressly prohibit the very type of proceeding which occurred; the Rules of the House applicable being:

Jefferson's Manual and Rules of the House of Representatives

Rule XI., §735.(f)(1) Each committee of the House (except the Committee on Rules) shall make public announcement of the date, place, and subject matter of any hearing to be conducted by the committee on any measure or matter at least one week before the commencement of that hearing, unless the committee determines that there is good cause to begin such hearing at an earlier date. If the committee makes that determination, the committee shall make such public announcement at the earliest possible date. Such public announcement also shall be published in the Daily Digest portion of the Congressional Record as soon as possible after such public announcement is made by the committee. (Emphasis added)

Rule XI., §735.(h) Each committee may fix the number of its members to constitute a quorum for taking testimony and receiving evidence, which shall be not less than two. (Emphasis added)

And, the applicable Rules of the Committee on Banking and Currency being:

Rules of Procedure of the Committee on Banking and Currency

Rule 3. A majority of the members of the Committee shall

constitute a quorum for the purpose of reporting any bill or making decisions on any matters before the Committee; two or more members of the Committee shall be present for the purpose of hearing witnesses and taking testimony. (Emphasis added)

Rule 4. The date, time, place, and subject matter of all hearings shall be publicly announced at least one week before the commencement of that hearing, unless the chairman and ranking minority member determine that there is a good cause to begin the hearing at an earlier date to the extent feasible. If the chairman and ranking minority member make that determination, the committee shall make such public announcement and provide telephonic and written notice to the members of the Committee, at the earliest possible date. Such public announcement also shall be published in the Daily Digest portion of the Congressional Record as soon as possible after such public announcement is made by the committee.

* * *

Rule 17. . . . Seven days prior notice shall be given to all members of the Committee of any proposed Committee or subcommittee inquiries and investigations other than routine requests for reports and information in connection with bills and resolutions pending before the Committee. Similar notice shall be given to all member(sic) of the Committee of any proposed studies and reports by the Committee or any subcommittee, and of any print or document to be filed with the Clerk of the House or printed as a House document. Such prints or documents shall clearly indicate that the views expressed therein do not reflect the views of any member of the Committee not a signatory thereto.

* * *

I will not question, although many may, the wisdom of our Committee becoming involved in still another investigation of this matter although several other investigations of the incident are already in progress. However, I do lodge my serious protest to such an investigation being initiated and conducted by staff personnel without any authorization from the Committee and even without at least this member's knowledge.

I demand that the staff be instructed to immediately cease and desist from any further investigation of this matter until such time as you have called the Committee together for the purpose of discussing and determining appropriate Committee action.

The Watergate incident is a serious matter and is deserving of as full and complete an investigation as is possible. I totally concur in the need and

The Honorable Wright Patman August 31, 1972

the right for the Congress, as well as the public, to be fully informed regarding all of its ramifications. In fact, the very nature of this matter dictates each member's personal involvement, not the involvement of only staff members engaging in a frolic of their own.

Respectfully,

GARRY BROWN

cc: All Members of Committee on Banking and Currency

EXHIBIT NO. 2.

GARRY BROWN
3d District, Michigan

COMMITTEE ON
BANKING AND CURRENCY

COMMITTEE ON
GOVERNMENT OPERATIONS

JOINT COMMITTEE ON
DEFENSE PRODUCTION

Congress of the United States
House of Representatives
Washington, D.C. 20515

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404 Cannon House Office Building
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DISTRICT OFFICE:
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74 North Washington
Battle Creek, Michigan 49017
Telephone: (616) 962-1551

September 5, 1972

The Honorable Wright Patman
Chairman
House Committee on Banking and Currency
2129 Rayburn House Office Building
Washington, D. C.

Dear Mr. Chairman:

Thank you for your letter of explanation relative to the activities being carried on by staff members of the Banking and Currency Committee relative to the Watergate affair and your interpretation of your authority under the Rules of the House and the Rules of the Committee concerning your authority to assign staff work and authorize staff investigations in the absence of any Committee action.

At the outset, let me put aside once and for all the suggestion you have incorporated in your letter that my objection to the conduct of this investigation by staff members is an "attack" upon the investigation itself and the jurisdiction of our Committee to conduct such an investigation. You seem to have missed the thrust of my letter wherein I repeatedly objected to the investigation by staff members without the authorization of the Committee and even without the Committee's knowledge. Specifically, I said:

> I will not question, although many may, the wisdom of our Committee becoming involved in still another investigation of this matter although several other investigations of the incident are already in progress. However, I do lodge my serious protest to such an investigation being initiated and conducted by staff personnel without any authorization from the Committee and even without at least this member's knowledge.

And, in my letter to you of August 31, 1972, I further said:

> The Watergate incident is a serious matter and is deserving of as full and complete an investigation as is possible. I totally concur in the need and the right for the Congress, as well as the public, to be fully informed regarding all of its ramifications. In fact, the very nature of this matter dictates each member's personal involvement, not the involvement of only staff members engaging in a frolic of their own.

In further critique of your response of September 5, 1972, let me state that the

activities of the staff members in interrogating Mr. Stans cannot be considered "normal staff procedures," under any circumstance as you have suggested, and such activity on the part of staff members with respect to a matter which you have described as one "carrying . . . serious political implications" can only be viewed as highly unusual, especially so in the absence of any Committee authorization to initiate an investigation.

Your letter attempts to suggest that Mr. Stans somehow imposed himself upon the staff members as a witness when you say that "Mr. Stans appeared voluntarily to answer questions at my request." I trust you don't believe that Mr. Stans and I are politically naive enough to accept the proposition that his refusal to appear at your request would have been benignly neglected and silently received by you.

In addition, I take serious issue with the innuendo incorporated in your letter to the effect that I consider an investigation of the Watergate incident as a mere "frolic." The use of that term in my original letter, and as again referenced herein, could only have been interpreted by any reasonable person as suggesting that staff members do not have the same obligation of accountability to constituents and the people of the country as a whole as do the Members of Congress. To that extent they have much greater freedom of activity, and I need not point out to you that on occasion this freedom of activity of staff members has even reached the point of being irresponsible.

In summary, I restate my basic contention; namely, that the investigation of the Watergate incident to the extent that it falls under the jurisdiction of our Banking and Currency Committee should be an investigation discussed with and authorized by the full Committee; and, to the extent testimony, answers to questions, or whatever you wish to call it, are to be taken from persons having knowledge about the matter, Committee members shall be fully apprised and informed of such plans and intentions.

For the reasons above set forth, I request that you immediately call a meeting of the Committee for the purposes of informing the members of the status of the investigation which has been conducted by staff members as well as the areas of concern within the jurisdiction of the Committee which you feel should receive further attention from the Committee and its staff.

Inasmuch as we have a meeting scheduled for tomorrow morning at 10:00 A.M., I request that before continuing with the markup of the Housing Bill we

The Honorable Wright Patman September 5, 1972

devote such time in Executive Session as is necessary to properly apprise the Committee members regarding this matter.

Respectfully,

GARRY BROWN

I concur in the request for a meeting for the purposes stated as set forth in the last paragraph of Representative Brown's letter.

EXHIBIT NO. 3.

GARRY BROWN
3D DISTRICT, MICHIGAN

COMMITTEE ON
BANKING AND CURRENCY

COMMITTEE ON
GOVERNMENT OPERATIONS

JOINT COMMITTEE ON
DEFENSE PRODUCTION

Congress of the United States
House of Representatives
Washington, D.C. 20515

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BATTLE CREEK, MICHIGAN 49017
TELEPHONE: (616) 962-1551

September 8, 1972

The Honorable Richard G. Kleindienst
Attorney General of the United States
Department of Justice
Washington, D. C. 20530

Dear Mr. Attorney General:

It no doubt has come to your attention that the Banking and Currency Committee of the House of Representatives, upon which I serve, has, through its Chairman and activities of staff members, become interested and involved in the investigation of the so-called Watergate bugging incident.

Although many of us on the Committee may question the wisdom of still a further investigation of this matter under the auspices of our Committee, it would appear that some of the financial transactions tangential to the incident may come within the purview of our Committee's jurisdiction and, therefore, the Chairman of the Committee may be justified in the interest he has expressed. However, the plans of the Chairman for pursuit of this investigation have raised a serious question in my mind.

The notice members have received from the Chairman indicates that the full Committee will meet at 10:00 A.M., Thursday morning, September 14 to hear testimony from The Honorable Maurice Stans, Chairman of the Finance Committee of the Committee to Re-Elect the President, as well as the testimony of Phillip S. Hughes, Director of the Office of Federal Elections, General Accounting Office, concerning their knowledge of the "financial aspects of the Watergate burglary." I am sure the testimony of these gentlemen would add significantly to the Committee's knowledge of the incident; however, I am well aware of the restrictions which have been placed on or are applicable to the testimony of Mr. Stans regarding this matter and feel that in the interest of all concerned your advice with respect to the propriety of Mr. Stans testifying before our Committee in either Executive or Open Session should be sought.

Specifically, I would appreciate as prompt as possible answers to the following questions:

1) Would it be inappropriate or improper for Mr. Stans to testify before our Banking and Currency Committee with respect to his knowledge of the financial aspects of the Watergate incident in view of the embargo which has been placed by Judge Richey on his testimony by deposition which has been taken in the civil suit arising out of the Watergate incident?

2) Would it be inappropriate or improper for Mr. Stans to testify before our Committee with respect to this matter in view of the pending action of the Grand Jury in returning criminal indictments arising out of the Watergate incident?

3) Would it be inappropriate or improper for Mr. Stans to testify before our Committee with respect to this matter because of the impact publicizing of such testimony might have on the ultimate trial of any or all of those indicted as a result of the Grand Jury action, especially insofar as such publicity might be used as a basis for a claim that the accused, or any of them, may have been prejudiced thereby?

I realize that your office is not technically involved in the civil action. However, your opinion with respect to the substance and significance of Judge Richey's Order placing an embargo upon the testimony of Mr. Stans in that action would be most helpful.

With respect to question "2" above, it has also occurred to me that the absolutely secret nature of the Grand Jury deliberations makes it impossible for any of us to know whether or not Mr. Stans might be called upon to testify before our Committee with respect to matters which he may have been called upon to testify about before the Grand Jury, if he so testified, and that his testimony before the full Committee would be violative of the secrecy mandates of the Grand Jury proceedings.

Inasmuch as I know not what position Mr. Stans will take with respect to the Chairman's request that he appear to testify before our Committee on Thursday, I ask these questions only for the purpose of being better informed should a confrontation arise and should I be called upon as a member of the Committee to support or oppose whatever position is taken by Mr. Stans on the Chairman's request for his appearance. I hasten to add that although this inquiry relates only to Mr. Stans' testimony, it is equally relevant to whomever else, similarly situated, the Chairman might feel prompted to call as a witness should this investigation be expanded upon.

In view of the significance of the questions I have asked and the limited time involved, I urgently request that my questions receive your immediate attention and response.

With best regards,

Respectfully,

CARRY BROWN

EXHIBIT NO. 4.

GARRY BROWN
...D DISTRICT, MICHIGAN

COMMITTEE ON
BANKING AND CURRENCY

COMMITTEE ON
GOVERNMENT OPERATIONS

JOINT COMMITTEE ON
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House of Representatives
Washington, D.C. 20515

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September 8, 1972

The Honorable Maurice Stans
Committee to Re-elect the President
1701 Pennsylvania Avenue N. W.
Washington, D. C. 20006

Dear Mr. Stans:

Having been out of town yesterday afternoon and this morning, Chairman Patman's notice of a Banking and Currency Committee meeting set for Thursday morning, at which you have apparently been requested to appear and testify, did not come to my attention until this time.

Obviously, I know not whether you have agreed to so testify or what will be your decision in this regard if you have not as yet accepted or declined the Chairman's invitation. However, as a lawyer, your proposed appearance and testimony before the Committee prompts serious questions in my mind.

In view of Judge Richey's embargo upon the depositions which have been taken in the civil case involving the Watergate incident and in view of the Grand Jury's deliberations, I feel the propriety of your testifying before the Committee, especially since it has been suggested in news accounts that such session would be "open," should be carefully considered.

I, therefore, request that whether or not you have responded to the Chairman's invitation to testify, you discuss this matter promptly with your legal counsel. Inasmuch as I would like to be as well informed as possible about the ramifications of your acceptance or nonacceptance of the Chairman's invitation, I would appreciate being provided with any memorandum your legal counsel might be willing to prepare in this regard.

Since members of the Committee, including myself, may be called upon to take further procedural action with respect to a declination of the Chairman's invitation by you on Thursday morning, I would appreciate receiving any communication from your legal counsel that you may care to provide at the earliest possible moment.

With best regards,

Sincerely,

GARRY BROWN

EXHIBIT NO. 5.

GARRY BROWN
3d District, Michigan

COMMITTEE ON
BANKING AND CURRENCY

COMMITTEE ON
GOVERNMENT OPERATIONS

JOINT COMMITTEE ON
DEFENSE PRODUCTION

Congress of the United States
House of Representatives
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September 26, 1972

The Honorable Richard G. Kleindienst
Attorney General of the United States
Department of Justice
Washington, D. C. 20530

Dear Mr. Attorney General:

You will recall I wrote to you on September 8, 1972 requesting your opinion with respect to the appropriateness and propriety of the Banking and Currency Committee calling to testify in Open Session persons connected with the Committee to Re-elect the President insofar as the testimony of such persons might have bearing on the Watergate incident. At the time I wrote to you, my particular interest concerned the calling of former Secretary Stans since the Chairman of our Committee, Mr. Patman, had already requested his appearance.

Subsequent to my writing to you, I received a telephonic communication from Deputy Attorney General Erickson's office which advised me that a response would not be made to my letter at that time since it appeared that issues I had raised were moot due to the declination by Mr. Stans of Chairman Patman's invitation to appear before the Committee.

Last evening, I received notification from Chairman Patman that on October 3 a meeting of the Committee would be held for the purposes of considering further proceedings in connection with the investigation, such notice specifically stating that a resolution would be presented calling for the issuance of subpoenas for unnamed persons. I have every reason to believe that among those called would be former Secretary Stans, former Attorney General Mitchell, and others who have been named in the media as having had some connection with the financial transactions allegedly associated with the Watergate incident.

Although the issues raised in my referenced letter may have been moot for a time, those issues are very real and require comment at this time, especially since the publicizing of our hearings and testimony of those who may be called will clearly have an impact upon prosecution of the indictments which have issued in this matter. I don't presume to consider myself extremely well-informed on this subject; however, I have reviewed the Delaney case, 199 Fed. 2d 107 (1st Cir. 1952), and find it to be extremely pertinent to what our Committee proposes to do, especially if any of those who have been indicted

are called to testify. In turn, it seems to me that the thorough investigation the Chairman of the Committee proposes to conduct cannot be accomplished without the calling of some of those who have been indicted.

Your prompt reconsideration of my earlier request and appropriate response will be much appreciated.

With best regards,

Respectfully,

GARRY BROWN

EXHIBIT NO. 6.

OCT 2 1972
Hand delivered 4:55

Honorable Wright Patman
Chairman
Committee on Banking and Currency
House of Representatives
Washington, D. C.

Dear Mr. Chairman:

Congressman Garry Brown has informed us by letter of September 26 that the Committee on Banking and Currency of the House of Representatives is considering extensive public hearings into financial aspects of the so-called Watergate "bugging" incident. Mr. Brown's letter and recent newspaper reports of the Committee's plans indicate that the Committee may hear a number of persons who are likely to be called as witnesses for the Government or for the defendants in the pending criminal prosecution of seven persons indicted in connection with the Watergate incident.

While it is of course important that the public be fully informed concerning the subject matter involved in the Committee's hearings, the Department of Justice feels obliged to draw to the attention of the Committee some law enforcement and civil liberties' considerations that may bear on the desirability or propriety of such hearings being held shortly before the criminal trial at which some of these persons are likely to be called as witnesses. The public interest in a prompt and successful prosecution may be imperiled by widely publicized hearings held at this time. And the basic rights of the defendants to a speedy, fair and impartial trial may be jeopardized by prejudicial publicity or the delay engendered by it.

In a remarkably similar situation some 20 years ago, the conviction of a former public official for corruption was vacated by the United States Court of Appeals for the First Circuit because of the pretrial publicity engendered by a congressional investigation between the time of indictment and the time of trial. The official, a Collector of Internal Revenue, was removed from office and indicted on various charges of corruption in office. Prior to the trial, the House Ways and Means Committee conducted an investigation and public hearing of the official's conduct, over the protest of both his counsel and the Department of Justice. The Government expressed its concern to the Committee with respect to what the court subsequently found to be the case: "the committee hearing afforded the public a preview of the prosecution's case against Delaney without, however, the safeguards that would attend a criminal trial." Delaney v. United States, 199 F.2d 107, 110 (C.A. 1, 1952). The defendant's objection to the hearing was, of course, the adverse publicity which the court also found had prejudiced the fairness of the trial.

In Delaney the court emphasized that the prejudicial publicity had been generated by the Government, rather than by independent press inquiry. It held that the fact that the hearing was not conducted by the same branch of Government responsible for the prosecution did not diminish the harm to the defendant. "[W]e perceive no difference between prejudicial publicity instigated by the United States through its executive arm and prejudicial publicity instigated by the United States through its legislative arm." 199 F.2d at 114. While the court did not question the authority of Congress to proceed with the hearing while the indictment was pending, it held that the constitutional rights of the defendant were nevertheless entitled to protection either by a change of venue or a delay in the trial sufficient to offset the adverse publicity.*

* Supreme Court decisions subsequent to the Delaney case reinforce the Sixth Amendment right of a criminal defendant to a speedy trial and suggest that a lengthy continuance may prevent a subsequent prosecution, at least where the defendant requests an early trial. See Dickey v. Florida, 398 U.S. 30 (1970); Klopfer v. North Carolina, 386 U.S. 988 (1967).

> "We think that the United States is put to a choice in this matter: If the United States, through its legislative department, acting conscientiously pursuant to its conception of the public interest, chooses to hold a public hearing inevitably resulting in such damaging publicity prejudicial to a pending indictment, then the United States must accept the consequence that the judicial department, charged with the duty of assuring the defendant a fair trial before an impartial jury, may find it necessary to postpone the trial until by lapse of time the danger of prejudice may reasonably be thought to have been substantially removed." Id. at 114.

Other courts, in discussing Delaney, have suggested that the congressional committee should not have conducted the public hearings prior to the defendant's trial. The Second Circuit, in United States v. Flynn, 216 F.2d 354, 375 (C.A. 2, 1954), cert. denied, 348 U.S. 909, suggested that the hearings should either have been postponed until after Delaney's trial or held in private. Similarly, in Silverthorne v. United States, 400 F.2d 627, 633 (C.A. 9, 1968) the court commented: "While the reversal in Delaney was necessitated because of the fact of prejudicial publicity, this result is inextricably bound up in the rationale that such publicity was caused by the action of the United States Government at a time when restraint would have been the more prudent course of action."

This emphasis on governmental involvement in the generation of adverse publicity has been repeated by the Supreme Court. In Rideau v. Louisiana, 373 U.S. 723 (1963), the Court found a violation of due process in the trial of a defendant in the same parish where television publicity of his interrogation by the sheriff was intense.

> "Under our Constitution's guarantee of due process, a person accused of committing a crime is vouchsafed basic minimal rights. Among these are the right to counsel, the right to plead not guilty,

> and the right to be tried in a courtroom presided over by a judge. Yet in this case the people of Calcasieu Parish saw and heard, not once but three times, a 'trial' of Rideau in a jail, presided over by a sheriff, where there was no lawyer to advise Rideau of his right to stand mute." 373 U.S. at 726-27 (footnotes omitted).

The courts, largely because of a proper concern for freedom of the press, have been reluctant to regulate press coverage of sensational trials. At the same time, the courts have the responsibility to preserve the right of criminal defendants to an impartial trial. Perhaps the most extensive judicial discussion of the balancing of these interests in recent years was the decision in Sheppard v. Maxwell, 384 U.S. 333 (1966). There the Court again vacated a criminal conviction because of excessive publicity, not only prior to but during the trial. While there were a variety of factors involved in that case, the Court emphasized the special obligation of insuring that government officials, in that case the prosecutor, police officers, and the coroner, not contribute to the production of adverse publicity. 384 U.S. at 359.

The United States District Court here in the District of Columbia has recognized its responsibility in this regard by adopting a special rule to guard against adverse publicity prior to criminal trials. Rule 100 of the Court's rules strictly enjoins court personnel and prosecutors not to disclose matter prejudicial to the defendant and further authorizes the judge in a widely publicized or sensational case to issue a special order governing extrajudicial statements by parties and witnesses. It was this rule that Judge Richey invoked in a pending civil action, also emanating from the Watergate incident, in order to protect the rights of the criminal defendants.

This Department is seriously concerned that public hearings on matters related to the Watergate case at this

time may not only jeopardize the prosecution of the case but also seriously prejudice the rights of the defendants. It is distinctly possible that matters which adversely reflect on the defendants, and which would not be admissible at the criminal trial, will become known to the public and to potential jurors as a result of the proposed congressional investigation. This was the result of the advance publicity in the Sheppard case and was one of the principal reasons for the reversal of the conviction.

This matter of prejudice through adverse pretrial publicity has been a matter of grave concern to all lawyers in the United States. It was for this reason that the American Bar Association commissioned a study of the problem as part of its formulation of minimum standards for the administration of criminal justice. In the report on Fair Trial and Free Press the Committee on Minimum Standards observed:

> "Freedom of speech and of the press are fundamental liberties guaranteed by the United States Constitution. They must be zealously preserved, but at the same time must be exercised with an awareness of the potential impact of public statements on other fundamental rights, including the right of a person accused of crime, and of his accusers, to a fair trial by an impartial jury.
>
> * * * * It is important both to the community and to the criminal process that the public be informed of the commission of crime, that corruption and misconduct, including the improper failure to arraign or to prosecute, be exposed whenever they are found, and that those accused of crime be apprehended. If, however, public statements and reporting with respect to these matters assume the truth of what may be only a belief or a suspicion, they may destroy the reputation of one who is innocent and may seriously endanger the right to a fair trial in the event that formal charges are filed.
>
> * * * * [D]uring the period prior to trial, public statements originating from officials,

96-296 O—73—bk. 5——25

> attorneys, or the news media that assume the guilt of the person charged, that include inaccurate or inadmissible information, or that serve to inflame the community, may undermine the judicial process by making unobtainable a jury satisfying the requisite standard of impartiality." pp. 16-17.

Committees of Congress have been careful in the past to give proper regard to law enforcement and civil liberties' concerns in performing their investigative functions. The Department of Justice is highly concerned that a well publicized congressional investigation at this time will jeopardize the rights of criminal defendants and endanger the prospects of a prompt and successful prosecution. For these reasons the Department, as it did in the Delaney case, asks that the Committee give serious consideration to these concerns before holding hearings on this matter which will undoubtedly come to trial in the very near future.

Sincerely,

Henry E. Petersen
Assistant Attorney General
Criminal Division

EXHIBIT NO. 7.

The Honorable Garry Brown,
Congress of the United States,
House of Representatives,
Washington D.C.20515 .

Rec'd
JUN 20 19[illegible]

Dear Mr. Brown:

I have carefully considered your letter to me of September 8,1972 noting that Chairman Patman of the House Banking and Currency Committee has announced that the full Committeewill meet at 10:00a.m.,Thursday morning, September 14, to hear testimony from the Honorable Maurice Stans, Chairman of the Finance Committee to Re-elect the President, as well as the testimony of Phillip S. Hughes, Director of the Office of Federal Elections, General Accounting Office, concerning their knowledge of the "financial aspects of the Watergate burglary". You say that many members of the Committee may question the wisdom of still a further investigation of this matter by the Committee and you have asked for my advice with respect to three important questions as follows:

1.

2.

3.

Let me first say that while the jurisdiction of the Committee to conduct such an investigation appears to be most unclear as no committee resolution has been passed to support such an investigation and thus the perameters of the investigation are unknown, the question of Committee jurisdiction is a matter for the Committee to decide. Therefore, the appropriateness of Mr. Stans appearance before the Committee is a question that must be decided by the Committee in the first instance and finally by Mr. Stans himself. However, your questions raise many troublesome problems.

This Department and the United States Attorneys Office for the District of Columbia have conducted an intensive investigation of the Watergate episode of June 17th, a Federal grand jury here bears the responsibility to present an indictment of those individuals who have violated the law in that regard. The United States Attorney bears the responsibility, following indictment, to prosecute those indicted and to insure that justice is done. At trial the petit jury must decide guilt or innocence. This process, well known to you, and the members of your Committee must be safeguarded and protected from outside influence, prejudice and passion. I am therefore deeply concerned that hearings before your Committee, open to the public, widely reported in the media in this city where the grand jury sits and from which the petit jury must be selected at trial, must necessarily have an adverse impact upon the proper administration of justice in this case.

Government attorneys have sworn to uphold the Constitution of the United States and the laws of the land, and while we are duty bound to prosecute those accused of crime we also have a duty to see that the civil rights of accused are honored and protected.

My answers to your three questions are as follows:

1. It would not be proper for Mr. Stans to testify before your Committee on these matters which he may have testified on deposition in O'Brien v. McCord, et al., Civil Action No.1223-72 as Judge Charles R. Richey has ordered that all depositions be sealed and not be made public in order to protect the rights of the individual accused.

2. It would not be proper for Mr. Stans or any witness who may have appeared before the grand jury to testify before your Committee with respect to testimony given before the grand jury, as this would violate the secrecy of the grand jury which is fundamental to our system of justice. The

secrecy of the grand jury must always be maintained to prevent a miscarriage of justice resulting from undue influence upon the jury or reprisals resulting from premature disclosures.

3. Five individuals have been arrested and charged with burglary arising out of the June 17th event. Their counsel have on numerous occasions claimed that their constitutional rights to a fair trial before an impartial jury have been impaired by the very considerable publicity in the media since June 17th. Further publicity flowing from hearings before your Committee can only serve to provide them with additional constitutional arguments that justice may be denied to them.

I trust that your important questions and those answers will receive the careful attention of your Committee.

ROBERT H. GRAY (1908-1967)

THOMAS SEARING JACKSON *
JOHN T. LASKEY *
ARTHUR C. ELGIN *
H. DONALD KISTLER
KENNETH WELLS PARKINSON
THOMAS PENFIELD JACKSON *
ARTHUR C. ELGIN, JR. *
JAMES P. SCHALLER
KARL H. MICHAELSEN
HERMAN G. LAUTEN
DIANE M. SULLIVAN
JAMES F. HAMMER
PATRICIA D. GURNEE
JOHN S. MILES
NICHOLAS S. McCONNELL

* ADMITTED IN MARYLAND

LAW OFFICES
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1828 L STREET, N.W.
WASHINGTON, D.C. 20036

TELEPHONE 466-8850
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414 HUNGERFORD DRIVE
ROCKVILLE, MARYLAND 20850
301-340-0450

June 29,1973

The Honorable Garry Brown,
404 Cannon House Building,
Washington, D.C.20515

Dear Mr. Brown:

I listened to the testimony of John W. Dean, III on June 25,1973 when he testified that I had drafted your letter to the Attorney General dated September 8,1972. Of course, as you know, I did not, nor did I have anything to do with expressing any of the ideas which you set out in the letter.

I believe Mr. Dean is confused on this subject. The facts are that after you wrote your letter to the Attorney General on September 8, 1972, Mr. Dean asked me to prepare a draft response to be signed by the Attorney General. This I did and I enclose a copy of this draft.

I hope this matter can be cleared up.

Sincerely yours,

Kenneth Wells Parkinson

KWP:daa
Enc.

EXHIBIT NO. 76

The Mayflower

WILLIAM N. HULETT, GENERAL MANAGER

EXECUTIVE OFFICES

1127 CONNECTICUT AVE., N. W.
WASHINGTON, D. C. 20036
202 347-3000

June 27, 1973

Senator Gurney
Select Committee on
Presidential Activities
U. S. Senate Office Building
Washington, D. C.

Dear Senator Gurney:

In reply to your request of June 27, 1973, to the best of our knowledge our records do not reflect a Mr. Herbert B. Kalmbach as being a registered guest during the period of June 1, 1972 through July 1, 1972.

Very truly yours,

Ray Sylvester

Ray Sylvester
Senior Assistant Manager

RS:df

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June 27, 1973

The Honorable
Edward J. Gurney
Room 5107
New Senate Office Building
Washington, D. C.

Re: Subpoena of Records
Herbert W. Kalmbach

Dear Senator Gurney:

Attached, please find photostat copies of a previous Subpoena served on the Washington Statler Hilton, Registration Card and Folio B 96403 for Mr. Herbert W. Kalmbach who was registered in our hotel June 29-30, 1972.

The original Folio and Registration Card were received in compliance with the previous Subpoena, by Angelo J. Lano, S.A. F.B.I. Telephone Number 324-2685.

We are unable to locate any further records on Mr. Kalmbach.

Sincerely,

William J. Utnik
General Manager

Received by:

for The Honorable
Edward J. Gurney

UNITED STATES OF AMERICA

Congress of the United States

To Statler Hilton Hotel, 1001 16th Street, N.W., Washington, D.C.

, Greeting:

Pursuant to lawful authority, YOU ARE HEREBY COMMANDED to appear before the SENATE SELECT COMMITTEE ON PRESIDENTIAL CAMPAIGN ACTIVITIES of the Senate of the United States, on Forthwith, 197, at o'clock m., at their committee room 1418, New Senate Office Building, Washington, D.C., then and there to testify what you may know relative to the subject matters under consideration by said committee.

And produce all records from June 1, 1972, to July 1, 1972, of the registration of Herbert W. Kalmbach, including but not limited to statement of account, registration card, telephone charges, record of box to store valuables and all related documents.

Hereof fail not, as you will answer your default under the pains and penalties in such cases made and provided.

To Peter Lloyd Woolsey Brathwaite

to serve and return.

Given under my hand, by order of the committee, this 26th day of June, in the year of our Lord one thousand nine hundred and seventy-three.

Chairman, Senate Select Committee on Presidential Campaign Activities.

Telephone (202) 225-3041

Ex 76 p 7

United States District Court

For the District of Columbia

THE UNITED STATES
vs.
Title 18 Sections 2511 & 2512, USC

REPORT TO UNITED STATES DISTRICT COURT HOUSE
Between 3d Street and John Marshall Place and on Constitution Avenue NW.
ROOM 3812
Washington, D.C.

To: Custodian of Records, Statler Hilton Hotel, 16th and K Streets, N.W. Washington, D.C. BRING with you all records pertaining to registration and toll records of any calls placed by HERBERT KALMBACH who resided at your Hotel during the period covering June, 1972 through April 1973. (Compliance with this subpoena can be made by turning over the records requested to the Federal Bureau of Investigation.) Received 5/2/73 Gayle D. Lane, SA FBI

You are hereby commanded to attend before the Grand Jury of said Court on FORTHWITH
the ..... day of ....., 19....., at ..... o'clock ..... M., to testify on behalf of the United States, and not depart the Court without leave of the Court or District Attorney.

WITNESS: *The Honorable* JOHN J. SIRICA, *Chief Judge of said Court, this* 30th *day of* April, 19 73

EARL J. SILBERT
Attorney for United States of America

JAMES F. DAVEY, *Clerk.*
By James W. Ballo, Deputy Clerk.

Form No. USA-81-184 (Rev. 7-1-71)

B 96403

ROOM | (LAST) NAME (FIRST) (INITIAL) RATE DEP. DATE

CITY STATE

ROOM CLERK

DATE | ROOM NO | RATE

WHY

TO CARD FROM

MO.		DATE	EXPLANATION	CHARGES	CREDITS	BAL. DUE	PICKUP	ROOM NO
	1	JUN29-72	ROOM Board	* 28.75				E# W55
	2	JUN29-72	TAX Board	* 1.54				E# W55
	3	JUN29-72	TAX Board	* 0.10		* 30.29	* 30.29	E# W55
	4	JUN30-72	[illegible]	* 2.97		* 33.26	* 33.26	M#SW55
	5	JUN30-72	ROOM E—	* 4.00				DD W55
	6	JUN30-72	TAX E—	* 0.21		* 37.46	* 37.46	DD W55
	7	JUN30-72	---- PAID		* 37.46	* 0.00		DD W55
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TRANSFER TO CREDIT LEDGER

I AGREE THAT MY LIABILITY FOR THIS BILL IS NOT WAIVED AND AGREE TO BE HELD PERSONALLY LIABLE IN THE EVENT THAT THE INDICATED PERSON, COMPANY OR ASSOCIATION FAILS TO PAY FOR ANY PART OR THE FULL AMOUNT OF THESE CHARGES.

GUEST'S SIGNATURE

CHARGE TO

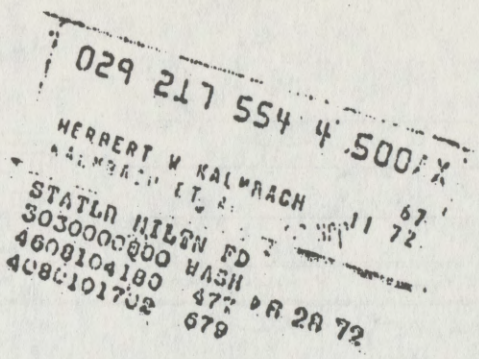
STREET

CITY-STATE

C. C. NO. OK. BY

THE STATLER HILTON-WASHINGTON, D. C.

B 96413



TIME STAMP

HILTON

GUEST NAME - PLEASE PRINT HERBERT W. KALMBACH

CHECK OUT TIME 1:00 P.M.

GUEST SIGNATURE

FIRM 1056 SANTIAGO DR.

FIRM ADDRESS FH '72

HOME ADDRESS

CITY NEWPORT BEACH, STATE CALIF. ZIP CODE

TELEPHONE

ROOM NO. 1053

RATE 58.75

CODE R

DEPARTURE DATE 6/30

FOLIO 40403

CLERK 30

R1-28

PLEASE INDICATE FORM OF PAYMENT

- ☐ AMERICAN EXPRESS
- ☐ AMERICAN TORCH CLUB
- ☐ AIR CANADA C.N.R.
- ☐ BANKAMERICARD
- ☐ CARTE BLANCHE
- ☐ DINERS CLUB
- ☐ HILTON ISSUED CARDS
- ☐ MASTER CHARGE
- ☐ NATIONAL CAR RENTAL V.I.P.
- ☐ PAN AM
- ☐ TWA GETAWAY
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NOTICE TO GUEST

Valuables must be placed in office safe otherwise we cannot assume responsibility.
Rates do not include applicable Sales, Occupational, or other taxes.

EXHIBIT No. 77

Conversation with Herb Kalmbach—April 19, 1973, 4:50 p.m.

E Ehrlichman
K Kalmbach.
E Hi, how are you?
K I'm pretty good. I'm scheduled for 2 tomorrow afternoon.
E Where—at the jury or the U.S. Attorney?
K At the jury and I'm scheduled at 5:30 this afternoon with Silver.
E Oh, are you?
K Yeah. I just wanted to run through quickly several things, John, in line with our conversation. I got in here last night and there was a telephone call from O'Brien. I returned it, went over there today and he said the reason for the call is LaRue has told him to ask him to call me to say that he had to identify me in connection with this and he wanted me to know that and so on.
E Did he tell you about Dean?
K Nope.
E Well Dean has totally cooperated with the U.S. Attorney in the hopes of getting immunity. Now what he says or how he says nobody seems to be able to devine but he
K The whole enchilada?
E He's throwing off on Bob and me heavily.
K He is?
E Yep.
K He is.
E And taking the position that he was a mere agent. Now on your episode he told me before he left, so to speak, he, Dean, told me that really my transaction with him involving you was virtually my only area of liability in this thing and I said, well, John, what in the world are you talking about? He said, well I came to you from Mitchell and I said Mitchell needs money could we call Herb Kalmbach and ask him to raise some. And I said, and Dean says to me, and you said yes. And I said yep, that's right. And he said well that does it. And I said well that's hard for me to believe, I don't understand the law but I don't think Herb entered into this with any guilty intent and I certain didn't and so I said I just find that hard to imagine. Now since then I've retained counsel.
K Oh, you have?
E Very good and who agrees with me that it is the remotest kind of nonsense but the point that I think has to be clarified, that I'm going to clarify if I get a chance, is that the reason that Dean had to come to me and to Bob where you were concerned is that we had promised you that you would not be run pillar to post by Maurice Stans.
K And also that you knew I was your friend and you knew I was the President's attorney
E Sure
K Never do anything improper, illegal, unethical or whatever.
E Right.
K And
E But the point is that rather than Mitchell calling you direct Mitchell knew darn well that you were no longer available.
K Yep
E Now this was post April 6, was it not?
K Yep, April 7.
E So that Mitchel and Stans both knew that there wasn't any point in calling you direct because we had gotten you out of that on the pretext that you were going to do things for us.
K That's right.
E And so it was necessary for Dean to come to me and then in turn to Bob and plead a very urgent case without really getting into any specifics except to say you had to trust me, this is very important, and Mitchell is up his tree or, you know, I mean is really worried: he didn't use that phrase, but he is really exercised about this. And I said well, John, if you tell me it's that important, why yes.

K You know, when you and I talked and it was after John had given me that word, and I came in to ask you, John is this an assignment I have to take on? You said, yes it is period and move forward. Then that was all that I needed to be assured that I wasn't putting my family in jeopardy.

E Sure.

K And I would just understand that you and I are absolutely together on that.

E No question about it, Herb, that I would never knowingly have put you in any kind of a spot.

K Yeah. Well and when we talked you knew what I was about to do, you know, to go out and get the dough for this purpose; it was humanitarian.

E It was a defense fund.

K . . . to support the family. Now the thing that was disquieting about this thing with O'Brien was that he said that there is a massive campaign evidently under way to indict all the lawyers including you, Herb, and I was a little shocked and I guess what I need to get from you, John, is assurance that this is not true.

E Well I don't know of any attempt to target you at all. My hunch is that they're trying to get at me, they're trying to corroborate. See what they said to Dean is that he gets no consideration from them unless they can corroborate Haldeman and my liability.

K God, if I can just make it plain that it was humanitarian and nothing else.

E Yeah, and the point that I undoubtedly never expressed to you that I continually operated on the basis of Dean's representations to me.

K Yep. It was not improper.

E Right.

K And there was nothing illegal about it.

E See, he's the house lawyer.

K Yep, exactly and I just couldn't believe that you and Bob and the President just too good friends to ever put me in the position where I'd be putting my family on the line.

K And it's just unbelieveable, unthinkable. Now shall I just—I'll just if I'm asked by Silver I'll just lay it out just exactly that way.

E Yeah, I wouldn't haul the President into it if you can help it.

K Oh, no, I will not.

E But I think the point that which I will make in the future if I'm given the chance that you were not under our control in any sort of a slavery sense but that we had agreed that you would not be at the beck and call of the committee.

K And, of course, too, that I act only on orders and, you know, on direction and if this is something that you felt sufficiently important and that you were assured it was altogether proper, then I would take it on because I always do it and always have. And you and Bob and the President know that.

E Yeah, well, as far as propriety is concerned I think we both were relying entirely on Dean.

K Yep.

E I made no independent judgment.

K Yep. Yep.

E And I'm sure Bob didn't either.

K Nope and I'm just, I just have the feeling, John, that I don't know if this is a weak reed, is it?

E Who, Dean?

K No, I mean are they still going to say well Herb you should have known.

E I don't know how you could've. You didn't make any inquiries.

K Never. And the only inquiries I made, John, was to you after I talked to John Dean.

E And you found that I didn't know just a whole helluva lot.

K You said this is something I have to do and——

E Yeah, and the reason that I said that, as you know, was not from any personal inquiry but was on the basis of what had been represented to me.

K Yeah, and then on—to provide the defense fund and to take care of the families of these fellas who were then

E Indigent

K Not then been found guilty or not guilty

E And the point being here without attempting to induce them to do a damn thing.
K Absolutely not and that was never, that was exactly right.
E OK.
K Now, can I get into see you tomorrow before I go in there at 2?
E If you want to. They'll ask you.
K Will they?
E Yep.
K Well, maybe I shouldn't.
E They'll ask you to whom you've spoken about your testimony and I would appreciate it if you would say you've talked to me in California because at that time I was investigating this thing for the President.
K And not now?
E Well, I wouldn't ask you to lie.
K No, I know.
E But the point is
K But the testimony was in California
E The point is. Well, no your recollection of facts and so forth.
K Yes, I agree.
E See, I don't think we were ever seen together out there but at some point I'm going to have to say that I talked to O'Brien and Dean and Magruder and Mitchell and you and a whole lot of people about this case.
K Yeah
E And so it would be consistent.
K Do you feel, John, that calling it straight shot here, do you feel assured as you did when we were out there that there's no culpability here?
E Yes.
K And nothing to worry about?
E And Herb from everything I hear they're not after you.
K Yes, sir.
E From everything I hear
K Barbara, you know
E They're out to get me and they're out to get Bob.
K My god. Alright, well, John, it'll be absolutely clear that there was nothing looking towards any cover-up or anything. It was strictly for the humanitarian and I just want, when I talked to you I just want you to advise me that it was alright on that basis.
E On that basis.
K To go forward
E That it was necessary
K And that'll be precisely the way it is.
E Yeah, OK.
Thanks, Herb. Bye

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