

GTF 2/7/74 (Draft)

WATERGATE TASK FORCE

Prosecutive Report

THIS DRAFT SHOULD NOT BE PHOTOCOPIED.

THIS DRAFT SHOULD BE KEPT LOCKED WHEN NOT IN USE.

Note: There are only nine copies of this 128 page document. Each copy contains the copy number in the upper right-hand corner of each page, in red ink.

This draft should not be copied under any circumstances except with the permission of Mr. Jaworski.

Copies have been distributed as follows:

Copy No.

1	Mr. Jaworski
2	Mr. Ruth
3	Mr. Lacovara
4	Kreindler/Feldbaum
5	Ben-Veniste
6	Volner
7	Rient
8	Goldman
[original]	Frampton

TABLE OF CONTENTS

I.	INTRODUCTION AND SUMMARY	
A.	Summary and Analysis of Evidence	1
B.	Nature of Criminal Charges	4
II.	STATEMENT OF FACTS	
A.	President Nixon's Involvement in 1972	6
B.	The President's Pre-March 21 Knowledge of the Cover-Up	
	(1) <u>Facts</u>	7
	(2) <u>Analysis</u>	16
C.	Hunt's Threat	18
D.	March 21 Morning Meeting	
	(1) <u>Facts</u>	21
	(2) <u>Analysis</u>	54
E.	March 21 Afternoon Meetings	
	(1) <u>Facts</u>	61
	(2) <u>Analysis</u>	68
F.	The President's Recollections of March 21	
	(1) <u>Facts</u>	70
	(2) <u>Analysis</u>	73

CONTENTS (CONT.)

II. STATEMENT OF FACTS (CONT.)

G.	The Payment to Hunt on March 21; Communication of the Message That Hunt Has Been Taken Care of	
	(1) <u>Facts</u>	76
	(2) <u>Analysis</u>	79
H.	March 22 Meeting	
	(1) <u>Facts</u>	81
	(2) <u>Analysis</u>	85
I.	Post-March 23: The Collapse of the Cover-Up, March 22-April 15; and the President's Continued Participation in a Conspiracy to Obstruct Justice	
	(1) <u>Facts</u>	87
	(2) <u>Analysis</u>	110
J.	Evidence That the President Knew of and Participated In the Cover-Up Shortly After the Watergate Break-In, As Showing the Falseness of Post-April 17 Presidential Statements	115

I. INTRODUCTION AND SUMMARY

A. Summary and Analysis of the Evidence

The evidence before the Grand Jury clearly demonstrates that President Nixon knew prior to March 21, 1973, about the existence of a conspiracy to obstruct justice on the part of his closest White House aides and high officials of his Re-election Committee, and that on March 21, when the President learned many of the material details of the cover-up and the potential criminal liability of those involved, he joined the conspiracy (1) by urging that a cash payment be made to Howard Hunt to "buy time" and (2) by approving a new strategy to continue the cover-up which contemplated limited disclosure of some information together with continued concealment of the most damaging evidence.

Evidence that the President knew about some of the facts of the cover-up prior to March 21 includes: the tape recording of the President's meeting with John Dean on February 28 (when the President asked whether the defendants were expecting clemency, and indicated that Watergate was a CRP operation); the recording of his meeting with Dean on March 13 (when the President learned

that Strachan, Magruder, and Mitchell probably had prior knowledge of Watergate, that Strachan had falsely denied this and would continue to do so, and that others in the White House, including Haldeman, may have seen fruits of the first break-in); and the recording of the March 21 morning meeting (from which it is clear that the President already knew money had been channeled to the defendants under the "cover" of a "Cuban Committee" and that Colson had talked indirectly to Hunt about clemency).

Evidence that the President joined the conspiracy on March 21 includes (a) the recordings of the March 21 meetings, during which various strategies for continuing the cover-up were discussed and the President urged that Hunt be paid more cash in order to "buy time" for formulating a new cover-up strategy, (b) the payment to Hunt's attorney of \$ 75,000 in cash on March 21, (c) the passage of a message by Mitchell to Haldeman and Ehrlichman on March 22 that Hunt's "problem had been solved," and the passage of this message by Haldeman to the President and by Ehrlichman to Krogh, (d) the recording of the March 22 meeting where it was decided to prepare a false "Dean report" on Watergate in order to narrow the Senate's

inquiries and provide the President with a later excuse of "reliance" on the report should the cover-up collapse, (e) the President's failure to communicate information incriminating his highest aides to prosecutorial authorities, and (f) the President's post-April 16 strategy of allying himself with Haldeman and Ehrlichman and insisting on their innocence while attempting to discredit Dean and to prevent Dean from giving testimony damaging to the President.

While the President's persistent refusal fully to cooperate with a legitimate investigation of the conspiracy to obstruct justice, and the intentional destruction of evidence by a person or persons close to the President are outside the scope of this memorandum, and are not further considered here, this evidence must also be taken into account in interpreting the President's past actions and assessing his criminal intent.

There is also considerable evidence, summarized rather briefly in a latter part of this memorandum, that the President knew about a conspiracy to obstruct justice and acquiesced in its aims as early as June 1972. Although much of this evidence is circumstantial, it includes both actions taken by the President himself and participation in the conspiracy by his closest aides in the Watergate matter (Haldeman, Ehrlichman, Mitchell, and Dean), and it

strongly supports an inference that the President knew that a cover-up was in progress and approved of it prior to September 15, 1972. The inference is strengthened by remarks made by Dean and the President in their meeting on September 15. However, because the evidence of the President's knowledge and affirmative action to advance the conspiracy in March and April 1973 is so clear and unmistakable, we believe evidence of his earlier participation is less critical to the problem of assessing his criminal liability.

In short, the later evidence of unlawful acts by the President conclusively demonstrates in any event that the President joined a conspiracy to obstruct justice (and possibly to further other illegal aims) no later than March 21, 1973.

B. Nature of Criminal Charges

The evidence set out in Part II of this memorandum is sufficient to show that beginning no later than March 21, 1973, and continuing to the present, the President has committed a violation of 18 U.S.C. 371 by conspiring (1) to obstruct justice and to defraud the United States, (2) to commit bribery (18 U.S.C. 201 (d)), and (3) to obstruct a criminal

investigation by endeavouring through bribery to prevent communication of information relevant to criminal violations to the prosecutors (18 U.S.C. 1510), and that accordingly the President would also be liable for the substantive offenses of obstruction of justice (18 U.S.C. 1503), bribery (18 U.S.C. 201 (d)), and obstruction of a criminal investigation (18 U.S.C. 1510). The President personally participated in that part of the conspiracy that involved (a) paying a large sum of cash to Howard Hunt to prevent him from imminently testifying concerning involvement of higher-ups in both Watergate and the Fielding break-in; (b) coordinating a strategy of formulating a false "report" on what the President's counsel had disclosed to him about Watergate in order to obstruct the Senate and Grand Jury investigations and to give the President a later excuse, should the cover-up collapse, of saying he knew only what was in the report; and (c) attempting to prevent information in his possession (and in Dean's possession) tending to incriminate the President's closest aides and former CRP officials in obstruction of justice and other crimes from coming to the attention of the prosecutors.

The President could also be charged, on the basis of the March 21 tape as a principal in the crime of bribery on account of his having aided, abetted, and counselled the payment to Hunt, 18 U.S.C. 2.

Moreover, given the knowledge in the President's possession after March 21 and his failure to report this information to Henry Petersen during March and April, together with other evidence showing the President's guilty intent, the President might be charged under 18 U.S.C. 3 and 4 as an accessory after the fact and for misprision of felony.

II. STATEMENT OF FACTS

A. President Nixon's Involvement in 1972

As noted above, there is considerable evidence tending to show that the President knew within a short time after the Watergate break-in on June 17, 1972, that the bugging of the DNC offices - - whether specifically authorized by top officials of CRP and/or the White House or not - - was conducted under the aegis of the large-scale covert intelligence program under way at CRP operating on a budget approved by Magruder and Mitchell and cleared by

Haldeman; that there was a concerted effort being mounted to prevent that fact from being discovered and to keep the White House and President from becoming involved in the scandal; and that the President approved of that effort. Remarks made by the President on the September 15 tape recording support this conclusion and permit an inference that the President also knew of some of the specific problems that had arisen and how Dean and others had handled them. At the very least, this evidence shows that the President has made false exculpatory statements about his actions in the summer of 1972, and in saying that before March 1973 he did not know there was anything to cover-up. This evidence is summarized below in part J.

B. The President's Pre-March 21 Knowledge of the Cover-up

(1) Facts

Dean met with the President on February 27, 1973.

This was their first substantive discussion since the September 15 meeting on Watergate.

FOIA(b)3 - Rule 6(e), Grand Jury

FOIA(b)3 - Rule 6(e), Grand Jury

Dean met with the President again on February 28. Dean recalls that at this meeting the President again told him to report directly to the President on Watergate, and that Dean described briefly to the President the fact that Dean had been a conduit for some of the decisions made after June 17 and thus could be involved in a potential obstruction of justice, which the President refused to accept, assuring Dean he had no problems. The tape recording of the February 28 meeting does not sustain Dean's recollections. However, Dean did tell the President that

road
we have come a long/on this thing now. I had thought it was an impossible task to hold together until after the election until things started falling out, but we have made it this far and I am convinced we are going to make it the whole road and put this thing in the funny pages of the history books rather than anything serious (WH Tr. 28)*

The President replied that "it will be somewhat serious but the important thing is the isolation of the President . . . because that, fortunately, is true." Dean said: "I know, sir." Most of the Watergate discussion on February 28 concerned potential witnesses, including Kalmbach, who Dean said was "tough" and was "hunkered down and he is ready to handle it." (WH Tr. 26) Dean's prediction about the Senate Hearings was that they would be "tough" "hot", and "gory in some regards" but that if all those with "various concerns" pulled their own oars "we can make it through these things and minimal people will be hurt." (WH Tr. 14)

In discussing the Watergate defendants, the President mentioned that he felt sorry for those in jail, especially Hunt.

* References prefaced "Tr." are to Watergate Special Prosecution Force transcripts. References prefaced "WH Tr." are to transcripts provided by the White House which do not necessarily purport to be verbatim transcripts and which have not been verified by us.

DEAN: Well, there is every indication they are hanging in tough right now.

PRESIDENT: What the hell do they expect, clemency in a reasonable time?

DEAN: I would think so.

PRESIDENT: What would you advise on that?

DEAN: Well, I think it is one of those things we will have to watch very closely; for example . . .

PRESIDENT: You couldn't do it in, say, six months.

DEAN: No, you couldn't. This thing may become so political as a result of these hearings that it is a vendetta. (WH Tr. 23)

During the conversation, there is a point at which the President seems to be speaking about Hunt talking, about a "break-through" and about what they might do then; in the middle of a sentence the President's words are obliterated by a high-pitched tone lasting several seconds.

Near the end of the February 28 meeting, the President instructs Dean to get together with Kleindienst because he's the man who can make the difference. The President goes on:

PRESIDENT: Also point out to him what we have. Colson's got [inaudible] but I really, this stuff here, let's forget this. But let's remember this was not done by the White House. This was done by the Committee to Re-Elect, and Mitchell was the Chairman, correct?

DEAN: That's correct.

PRESIDENT: And Kleindienst owes Mitchell everything . . . Baker's got to realize this, and that if he allows this thing to get out of hand he is going to potentially ruin John Mitchell. He won't, Mitchell won't allow himself to be ruined. He will put on his big stone face. But I hope he does and he will. There is no question what they are after. What the Committee is after is somebody at the White House. They would like to get Haldeman or Colson, Ehrlichman.

DEAN: Or possibly Dean. You know, I am a small fish.

PRESIDENT: Anyone at the White House . . . But in your case I think they realize you are the lawyer and didn't have anything to do with the campaign

DEAN: That's right. (WH Tr. 29)

Dean met with the President on March 1, 1973, to help prepare the President for a press conference the next day. During the meeting the President told Dean that there should be no problem with the fact that Dean had received FBI reports, since Dean had been conducting an investigation for the President.

On March 6, 1973, the President again reminded Dean to report directly to the President rather than involving Haldeman and Ehrlichman in Watergate related matters.*

* Following his March 6, 1973, meeting with the President, Dean also met with the President on March 7 and 8, and spoke with the President on March 10, but these conversations concerned the Gray hearings and the White House statement on Executive Privilege, according to Dean.

Dean met with the President concerning Watergate again on March 13, 1973, with Haldeman present during the first part of the meeting. During a discussion of the Ervin Committee hearings, Dean told the President that Kalmbach and Stans "will have a greater problem as a result of Sloan's testimony." (Tr. 31) The President replied that "Kalmbach will be a good witness," (Tr. 31) and said, "Anyway we don't want to back off of him." When Dean replied that Kalmbach was "solid," the President asked, "He will, how does he tell his story?" The President also observed that "He [Kalmbach] has a hard row to hoe, he and Stans have." (Tr. 32)

With respect to the hearings, the President told Dean that "Bob's problem is Chapin," apparently a reference to the Segretti affair. Dean replied that Chapin didn't know anything about Watergate, but that Strachan did, which prompted the President to say, "Well, then he probably told Bob. He may not have." Dean then said that Strachan was "judicious in what he relayed," was "tough as nails," and would "stonewall" it; Dean said Strachan had twice denied knowledge in interviews already. To this the President replied: "I guess he should, shouldn't he? I suppose we can't call that justice, can we? (inaudible)." Dean then

explained that Strachan was motivated by personal loyalty to "him" (apparently meaning Haldeman). (Tr. 38)

The President, although apparently surprised to learn of Strachan's prior knowledge of Watergate, did not question Dean about the basis of Strachan's knowledge, but stated: "Well, that is the problem in Bob's case. Isn't it? Not Chapin then, but Strachan. Strachan worked for him, didn't he?" Dean replied affirmatively, but added that, "They would have one hell of a time proving that Strachan had knowledge of it, though." The President then asked "Who knew better? Magruder?" Dean replied "Well, Magruder and Liddy." The President then said "Oh, I see. The other weak link for Bob is Magruder. He hired him and so forth." Dean then added "That applies to Mitchell, too." (Tr. 39)

The conversation then turned to the question of Colson's prior knowledge, with Dean concluding "I think that Chuck had knowledge that something was going on over there. A lot of people around here knew that something was going on over there. They didn't have any knowledge of the details of the specifics of the whole thing." (Tr. 39-40)

The President then remarked, "you know, (that?) must have been an indication that we had Goddamn poor pickings. Because . . . either Chuck or Bob were always reporting to me what was going on. If they ever got any information they would certainly have told me that we got some information, but they never had a Goddamn thing to report. What was the matter? Did they never get anything out of the damn thing?" Dean replied that the Watergate bugging was a "dry hole" but that they were just getting started with it. The President replied that "Bob" had said something to him about getting information on "the convention" at one time, but that must have been Segretti. Dean replied that that was Liddy also, that was part of the entire intelligence effort, and Watergate was the first operation mounted by the intelligence program. (Tr. 40)

The President then observed: "To think Mitchell and Bob would have allowed -- would have allowed -- this kind of operation to be in the Committee!" When Dean replied "I don't think he knew it was there," the President asked "You kidding? You don't think that Mitchell knew about this sort of thing?" Dean then explained that he was referring not to Mitchell's knowledge that Liddy was out gathering intelligence, but to Mitchell's knowledge that Liddy was

using people identifiable as White House and CRP employees, i.e., McCord, who worked at the Committee, and Hunt, a White House consultant. (Tr. 41)

Dean went on to explain how Liddy came to be hired at the Committee, how Liddy's loyalty was "beyond the pale" and how strange and strong Liddy was. The conversation then turned to the possibility of pursuing "the hang-out road" to which Dean had earlier referred in suggesting the possibility of a "here it all is" approach, a "let it all hang out" (Tr. 12):

PRESIDENT: Is it too late to, frankly, go the hang-out road?

DEAN: Yes, I think it is. The hang-out road . . .

PRESIDENT: The hang-out road seems to be rejected (Inaudible).

DEAN: It was kicked around. Bob and I and . . .

PRESIDENT: Ehrlichman always felt it should be hang-out.

DEAN: Well, I think I convinced him why he would not want to hang-out either. There is a certain domino situation here. If some things start going, and there can be a lot of problems if everything starts falling. So there are dangers, Mr. President. I would be less than candid if I didn't tell you there are, there is a reason for not everyone going up and testifying.

PRESIDENT: I see, Oh no, no, no! I didn't mean to have everyone go up and testify.

DEAN: Well I mean they're just starting to hang-out and say here's our story --

PRESIDENT: I mean put the story out PR, people, here is the story, the true story about Watergate.

DEAN: They would never believe it.

PRESIDENT: That's the point.

DEAN: The two things they are working on on Watergate . . .

PRESIDENT: Who is "they?" The press?

DEAN: The press (inaudible), the intellectuals, . . .

PRESIDENT: The Packwoods? [?]

DEAN: Right. They would never buy it as far as one White House involvement in Watergate which I think there is just none for that incident that occurred over in the Democratic National Committee Headquarters. People just here we did not know that was going to be done. I think there are some people who saw the fruits of it, but that is another story. I am talking about the criminal conspiracy to go in there. (Tr. 43)

(2) Analysis

The February 28 and March 13 tape recordings demonstrate beyond any doubt that the President knew at that time that a cover-up was in progress. Most significant in this respect is his statement regarding the "hang-out road" (particularly the comment that "Ehrlichman always felt

it should be hang-out.") Furthermore, the President clearly knew prior to February 28 that specific people at the CRP had liabilities in connection with Watergate, including Mitchell, and that some people were likely to be harmed by revelations coming out of the Senate Hearings. Indeed, the President was concerned that Mitchell might be "ruined" unless Kleindienst could convince Senator Baker to help guard against it. Moreover, the President learned on March 13 (if he did not already know it) that there was reason to believe that Strachan, Magruder, and possibly Haldeman had prior knowledge of the break-in; that Strachan had falsely denied such knowledge (a course of action which the President approved); and that others in the White House, possibly including Colson and Haldeman, had some prior knowledge of and may have seen the fruits of the initial DNC break-in.

In addition, conversation between the President and Dean on March 21 discussed in detail below shows that before March 21 the President knew that money was being funneled to the Watergate defendants under the cover of a "Cuban Committee", and that the President evidently knew that Colson had "talked indirectly to Hunt" about clemency.

C. Hunt's Threat

The events that precipitated John Dean's meeting with the President on March 21 began on or about March 16, when Howard Hunt's attorney William Bittman phoned Paul O'Brien, a lawyer for CRP, and urgently requested that O'Brien meet with Hunt.* Bittman told O'Brien that Hunt was about to go to jail and was very concerned that the "commitments" made to Hunt had not been and were not being honored. Shortly thereafter, O'Brien met with Hunt alone, at Bittman's offices. Hunt told O'Brien that Hunt needed to put his financial affairs in order before sentencing (which was scheduled for March 23), that the "commitments" made to Hunt were not being kept, and that Hunt needed \$50-60,000 for legal fees for his attorney and about \$72,000 for support money. Hunt told O'Brien that he had done some "seamy things" for the "White House", and for John Ehrlichman in particular. Hunt told O'Brien to pass on to Dean the message that if Hunt were not paid, Hunt would have to "review his options."

* Dean also met with the President on March 14, 16, and 17.

FOIA(b)3 - Rule 6(e), Grand Jury

O'Brien related this message to Dean on or about March 19. Dean then passed the message to Ehrlichman. Ehrlichman inquired of Dean whether Mitchell knew about Hunt's new demand, and Dean replied that Dean had not informed Mitchell. Ehrlichman asked Dean to do so. On or about March 20, Dean had a telephone conversation with Mitchell during which Dean informed Mitchell about Hunt's threat or ascertained that Mitchell was already aware of it. Dean also discussed with Mitchell possible sources of money to be paid to Hunt.

On March 19 and 20, Dean met with the President during which meetings there was discussion about a letter or statement that Dean could furnish to the Senate Watergate Committee concerning his possible appearance before the Committee in light of the White House position on Executive Privilege. Apparently, Dean did not discuss Hunt's threat with the President on these occasions.

On March 20, Dean discussed Hunt's threat and the Watergate situation separately with both Richard Moore and Egil Krogh. According to Dean, Moore, and Krogh, Dean told both of them that Hunt's demand for money and his threat had brought the cover-up to a point where it could not continue; that Hunt should not be paid; that the President did not seem

to know all the factual details of what had been going on and/or did not seem to realize their significance. According to Krogh, Dean said the President was being poorly served and Dean evinced a desire to take steps to end the whole business. Dean discussed with both Krogh and Moore the desirability of telling the President everything Dean knew about the cover-up, and both urged him to do so immediately.

On the evening of March 20, Dean told the President in a telephone conversation that Dean wanted to see the President at the earliest opportunity because Dean felt the President had not been getting all the facts on Watergate and needed to have them to appreciate how serious the problem had become. A meeting was scheduled for the next morning.

Prior to Dean's meeting with the President on March 21, Dean phoned Haldeman and told Haldeman that he was going to brief the President on all the facts regarding Watergate, since he felt that Haldeman, being involved himself, should have prior notice. Haldeman agreed that Dean should meet with the President for this purpose.

D. March 21 Morning Meeting

(1) Facts

Dean met with the President at about 10:15 a.m. on March 21, until about noon. Haldeman was present for approximately the second half of the meeting.

After some preliminaries, Dean explained that he wanted to talk to the President because he had the impression that "you don't know everything I know and it makes it very difficult for you to make judgments that only you can make on some of these things." (Tr. 3) Dean said that there was a "cancer within, close to the Presidency, that's growing", and that was now compounding itself because (1) they were being blackmailed, and (2) "people are going to start perjuring themselves very quickly, that have not had to perjure themselves, to protect other people and the like." (Tr. 4) Dean said that on account of this "there is no assurance . . ."; the President: "That it won't bust?"; Dean: "That it won't bust." (Tr. 4)

Dean then told the President about Haldeman's original desire to set up a legitimate intelligence operation at CRP; Caulfield's initial plan that was rejected by Mitchell and Ehrlichman; Dean's selection of Liddy; the early planning meetings in Mitchell's office in January and February 1972 when Liddy presented his million and half-million dollar

plans to Mitchell in the presence of Magruder and Dean; and Dean's meeting with Haldeman at which Dean informed Haldeman of these plans and recommended that Dean and the White House have nothing to do with it. (Tr. 4-7) Dean told the President about a call from Colson to Magruder urging that Liddy's and Hunt's plan go ahead. (Tr. 8) Dean said he believed, but did not know for a fact, that Colson knew what Liddy's plan involved. (Tr. 8-9) Dean said that Colson would probably deny he knew about Liddy's plan unless Hunt implicated him. The President said, "Hunt isn't enough; takes two, doesn't it?" Dean replied that it probably did, but Liddy was there too when the phone call was made. (Tr. 9) Dean presented his theory or reconstruction of what happened from then on. Dean surmised that Haldeman, believing CRP's intelligence

program to be legitimate, pushed Magruder for information, through Strachan; that Magruder took that as a signal that the White House was pushing for adoption of Liddy's proposals for unlawful activities; that Magruder told Mitchell the White House was pushing for the intelligence plan to get going; and that Mitchell then approved it. (Tr. 10)

Dean told the President that after an initial break-in at the DNC fruits of the bugging were sent to the White House, to Strachan, and some of it went to Haldeman. Dean said he didn't know whether Haldeman knew it was wiretap information, but Strachan certainly did; however, Dean hadn't really pressed them about it because "it hurts them to give up that next inch." (Tr. 10) Dean also said Haldeman, who was receiving information from Strachan, at one point instructed Magruder through Strachan to change the operation's intelligence capabilities from Muskie to McGovern, which caused Liddy to begin to make preparations for bugging McGovern.

Dean proceeded to tell the President about Dean's meeting with Liddy on June 19, 1972; about Magruder's involvement; about the Magruder and Porter perjury, after "they" had "set up this scenario" and "run it by" Dean; and about the fact that Mitchell may have perjured himself as well. (Tr. 12-14) Dean said that Dean did not know that an entry was going to be made into the DNC and that he did not think Haldeman knew it either, "specifically," though Haldeman knew "there was a capacity" to do it. (Tr. 14) Dean said he thought Strachan did know in advance. (Tr. 14)

Dean said that after June 17, Dean was "under pretty clear instructions not really to investigate this, because this was something that just could have been disastrous on the election if it, if all hell had broken loose, and I worked on a theory of containment [President: "Sure"] to try to hold it right where it was," to which the President

again replied, "Right." (Tr. 15) Dean said he kept abreast of what the FBI and Grand Jury were doing, primarily through Petersen. Dean told the President about the Burning Tree incident, and about the demands from the defendants for money for attorneys fees: "We don't have any money ourselves, and you're asking us to take this through the election. All right." (Tr. 17) Dean said that arrangements were made through Mitchell, who initiated it, with Dean's cooperation, "that these guys had to be taken care of, their attorneys' fees had to be done. Kalmbach was brought in. Kalmbach raised some cash." (Tr. 17) At that point, the President volunteered: "They put that under the cover of the Cuban Committee." (Tr. 17) When Dean agreed that that was one means, the President stated, "I would certainly keep that cover, for whatever it's worth, don't you agree?" (Tr. 17) Dean demurred somewhat saying:

DEAN: Well, that's, that's, that's the most troublesome post-thing, uh, because (1) Bob is involved in that, John is involved in that, I am involved in that, Mitchell is involved in that and that's an obstruction of justice.

PRESIDENT: In other words, the fact that, uh, that you were taking care of witnesses . . .

DEAN: That's right.

The President then asked, "How was Bob in it?" Dean explained that when the demands from the defendants increased, Dean had to go to Haldeman to obtain some of the \$350,000 White House fund to pay the defendants, and that Dean of course had to tell Haldeman what it was for. (Tr. 18) Dean said "John [Ehrlichman?] was involved in those discussions, and we decided that . . . there was no price too high to pay to let this thing blow up in front of the election." (Tr. 18) The President reacted by saying, "I think you should handle that one pretty well . . . That issue, I mean." (Tr. 18)

Dean then said that this was going to be a "continual blackmail operation by Hunt and Liddy and the Cubans", and mentioned McCord's interest in hearing from Caulfield about clemency, rather than money. Dean then said:

And, as you know, Colson had talked to, indirectly to Hunt about commutation.
(Tr. 19)

All these things, Dean said, were problems of the sort the Senate Committee was looking for, though they would be hard to find. The President responded: "Pretty hard . . . Well, it's pretty hard as far as witnesses are concerned." (Tr. 19)

Dean went on to tell the President about Hunt's demand for \$120,000 and his threat to tell the "seamy things" he had done for Ehrlichman and Krogh and to put Ehrlichman in jail. The President replied: "Is that on Ellsberg?" Dean answered that it was apparently that and some other things, to which the President said he didn't know of anything else. (Tr. 20-21) From there, Dean began to describe how many people knew about this, as an illustration of how many "soft spots" there were: Hunt, Liddy, the Cubans, Rothblatt, Alch, Bailey, Bittman, all the principals, some of their wives. Dean mentioned that Mrs. Hunt "had the whole picture together." (Tr. 22) The President commented on Mrs. Hunt's death saying:

PRESIDENT: It's a great sadness. The basis -- as a matter of fact, even if there was a discussion by me with somebody about Hunt's problem after his wife's death, I said, "Of course, commutation could be considered on the basis of his wife." That's the only discussion I ever had with anybody.

Having summarized the "extent of the knowledge," Dean began to describe the "soft spots." The first was the continued blackmail, which would go on when the defendants went to prison and "will compound the obstruction of justice situation." (Tr. 23) Dean said that would be

dangerous because White House people weren't pros, weren't used to doing things such as laundering money: "it's a tough thing to know how to do." The President said: "Maybe we can't do that." Dean agreed, saying "it's a real problem as to whether we can even do it. Plus there's a real problem in raising money." (Tr. 23) Dean went on to say that Mitchell had been working on that but he (Dean), Haldeman, and Ehrlichman were involved in some of the early money decisions. The President asked how much money would be needed. Dean replied probably a million dollars over "the next few years." (Tr. 24) The President responded:

We could get that On the money, you need the money. I mean, you can get the money, but its . . . My point is, you can get a million dollars and you can get it in cash. I know where it could be got. I mean, it's not easy, but it could be done. But, the question is, who the hell would handle it? Any ideas on that? (Tr. 24)

Dean replied that Mitchell ought to be charged with that; the President agreed, but noted that "Let me say, there shouldn't be a lot of people running around getting money." Dean mentioned that Mitchell had LaRue working on this, and had contacted Thomas Pappas, to which the President either said "I know" or "I know him." (Tr. 25) The President said that a million dollars was needed, but not all

of it right away, though it would have to be cash.

The President then suggested:

PRESIDENT: If you wanted to put that through, would you put that through, eh, I'm just thinking out loud here for the moment, would you put that through the Cuban Committee?

DEAN: Uh, no . . .

PRESIDENT: [inaudible] cash money [inaudible]. How, if that ever comes out are you gonna handle it. The Cuban Committee is an obstruction of justice, if they want to help.

DEAN: Well, they've got a, they've got priests in it.

PRESIDENT: Would you like to put the money in. Would that, would that give a little bit of a cover?

DEAN: That would give some to the Cubans and possibly Hunt.

PRESIDENT: Yeah.

Dean reiterated that the "cancer" on the Presidency was a "growing cancer" for reasons such as Krogh's perjury, the potential perjury of Mitchell and Magruder, and any of the others "blowing." The President mused about Krogh, "He might be able . . . I'm just trying to think. Perjury's an awful hard rap to prove." (Tr. 26) The President said that "your major guy to keep under control is Hunt, I think,

because he knows . . . he knows a lot of other things."

(Tr. 26) Dean explained that Hunt felt abandoned by Colson, as well. The President broke in, saying:

Don't you, just looking at the immediate problem, don't you have to, have to handle Hunt's financial situation damn soon.
. . . It seems to me we have to keep the cap on the bottle that much
Otherwise, we won't have any options.
. . . Either that or it all blows right now. (Tr. 27)

To that, Dean said, "Well, you know, that's, that's the question. Uh . . ." The President replied: "Alright, go on with the others." (Tr. 27)

Dean then mentioned some of the activities of Krogh, Kalmbach, and Ulasewicz. Dean said Kalmbach's distributions of money left over from 1968 were probably embarrassing rather than illegal, but that "he doesn't want to blow the whistle on a lot of people, and may find himself in a perjury situation." (Tr. 29) Dean mentioned that the Vesco Grand Jury was after Mitchell and Stans, and said that Ehrlichman might have to appear there. The President asked if immunity could be arranged there, but Dean said that would "be dynamite to defend," since a criminal charge was involved. (Tr. 30-31) Dean also mentioned the possibility of a criminal civil rights violation charge against Chapin in connection with the Segretti

operation, about which "Bob has indicated to me he's told you a lot of it. That he indeed did authorize it. He didn't authorize anything like ultimately involved." (Tr. 31) The President acknowledged this.

Dean then returned to the beginning, saying that what bothered him was the growing situation arising out of the continued need to pay "support" and the "need for some people to perjure themselves as they do down the road here, uh, if this thing ever blows, and we're in a cover-up situation, I think it'd be extremely damaging to you and the" The President said: "Sure, the whole concept of Administration justice. . . . which we cannot have."

(Tr. 32) Dean agreed that that was what was really troubling. Suppose, Dean said, "it starts breaking and they do find a criminal case against a Haldeman, a Dean, a Mitchell, an Ehrlichman?" The President replied:

If it really comes down to that, we cannot play [inaudible]. We have to shed it or contain it. (Tr. 32)

Dean suggested that he, Haldeman, Ehrlichman, and Mitchell should sit down and figure out how this could be carved away from the President, so it would not damage the Presidency, because it was something the President wasn't and shouldn't be involved in. (Tr. 33) The President replied that that was true. Dean said:

Well, I know sir, it is. I can just tell from our conversation that, you know, these are things that you have no knowledge of. (Tr. 33)

The President went on to remark on the "absurdity of the whole thing, bugging and so forth." The President told Dean he was "keenly aware" that Colson and all were doing their best to get information, but that they "knew very well that they were supposed to comply with the law. . . . No question." (Tr. 33) The President asked if Dean thought that Colson was really the "trigger man" on the original operation, and Dean said "he helped push the thing." The President mentioned he knew why that was, because of ITT. "He was trying to get something going there, because ITT, they were bugging us . . . giving us hell." (Tr. 33) The President said he knew something was going on there, but he didn't know it was Hunt. (Tr. 34)

Dean reiterated Dean's concern that the whole thing would inevitably "break some day" and that the person who would be hurt most would be the President, and the Presidency. The President said: "Because I am supposed to check these things." (Tr. 34) Dean: "That's right." The President then asked Dean what Dean thought should be done. Dean said he did not think they could ride it through, there were too many soft spots. The President said "You used to feel . . ." Dean broke in and said that everyone was now

beginning to watch out for himself, people were scared, and Dean's ability to do anything about it was hampered because of publicity concerning him arising out of the Gray hearings. The President commented: "Your cover's blown." (Tr. 35) The President then asked Dean what should be done if Dean, Haldeman, Ehrlichman, and Mitchell got together and decided that "we can't hold this." The President said: "What then are you going to say, to put out. Complete disclosure, isn't that the best way to do it? . . . That'd be my view on it." (Tr. 35)

Dean then suggested that what the President should do would be to go to the Attorney General and tell the Attorney General that the President had just begun to "get all of the pieces together," to ask for another Grand Jury, and by thinking it through ahead of time try to avoid criminal liability for some and minimize it for others. For example, Dean suggested, some people could be immunized in order to encourage them to come forward; but others were going to have to go to jail. The President said: "Who. Let's talk about that." Dean replied: "All right, I think I could, for one." (Tr. 36) The President replied to this: "You go to jail? . . . Oh, hell no. I can't see how you

can. . . . I can't see how a legal case can be made against you, John." Dean said it would be possible.

The President replied:

PRESIDENT: Oh, no! Let me say I did not get the impression here -- But just looking at it from a cold legal standpoint: you are a lawyer, you were the counsel, you were doing what you were doing as counsel. You were not [inaudible]. What would you go to jail on?

DEAN: The obstruction of justice.

PRESIDENT: The obstruction of justice?

DEAN: That is the only one that bothers me.

PRESIDENT: Well, I don't know. I think that one. I think that, I feel it could be cut off at the pass, maybe, the obstruction of justice.

DEAN: It could be, you know how, one of the -- that's why --

PRESIDENT: Sometimes it is well to give them something, and then they don't want the bigger push then?

Dean suggested that by coordination with the Justice Department, and especially Petersen, they could find out how to put things together so as to "maximum to carve it away with the minimum of damage to individuals involved." (Tr. 37)

The President asked if Petersen knew the "whole story," and Dean said he did not.

The President then returned to Dean's "obstruction of justice," saying he just couldn't see that. Dean replied that he'd been a conduit for information on taking care of people who were guilty of crimes. The President said, "Oh, you mean like, the, uh, the blackmail." (Tr. 37) Dean said yes. The President replied:

Well, I wonder if that part of it can't be. . . . I wonder if that doesn't let me put it frankly, I wonder if that doesn't have to be continued. [Dean clears throat.] Let me put it this way, let us suppose you could get, you get the million bucks, then you get the proper way to handle it, and you can hold that side. It would seem to me that would be worthwhile. [Dean clears throat.] (Tr. 38)

Dean said, "Well, that, you know, there's a problem" But the President went on, saying that "then you have the problem of Hunt and his clemency." (Tr. 38) Dean agreed that this was a problem, saying that "you're going to have the clemency problem for the others, too." (Tr. 38) Dean said that was just going to put the President in a position that was "untenable at some point:" with the Watergate hearings over, and Hunt demanding his clemency or else he would "blow," "politically it would be impossible for you to do it." (Tr. 38) Dean said he was not sure the President was ever going to be able "to deliver on the clemency, it

may be just too hot." (Tr. 38) The President said it would be politically impossible before the 1974 elections, that was for sure; but asked if Dean's point was that even then "you couldn't do it?" Dean replied, "That's right, it may further involve you in a way you shouldn't be involved in." The President replied: "No, it's wrong, that's for sure." (Tr. 38) Dean went on to say that some "bad judgments" had been made before the election, but "necessary judgments." (Tr. 38-39) But "to me . . . there was no way that the burden . . . the second administration . . . that something is not going to go away." (Tr. 39) The President replied, "Yeah, we're all in it." Dean reiterated that "it isn't going to go away, sir . . . anything will spark it back to life." The President agreed. But the President said:

PRESIDENT: Who else, though, let's leave you and I out of it. I don't, don't think . . . on the, uh, on the obstruction of justice thing, I think that we can handle, I don't know why, but I believe.

DEAN: Well, it's possible, I, I, I . . .

PRESIDENT: I think you may be overplaying that. Who else, who else, who else do you think has . . .

DEAN: Potential criminal liability?

PRESIDENT: Yeah.

Dean said Ehrlichman did, on account of the conspiracy to burglarize the "Ellsberg office." (Tr. 39) The President said: "You mean that, that is, provided Hunt breaks." (Tr. 39) Dean mentioned the "picture in the file", apparently referring to the photos of Dr. Fielding's parking lot (developed by the CIA). The President said, "Oh, I saw that, the picture." (Tr. 40) Dean explained that that was just one way the Senate Committee or others could run across the Ellsberg break-in.

Dean then turned the conversation again to Dean's point that he was

coming here today with is I don't have a plan on how to solve it right now, but I think at this juncture we should begin to think in terms of, of how to cut the losses, how to minimize the further growth of this thing, rather than further compound it by, you know, ultimately paying these guys forever.

As Dean was beginning to explain his view, the President cut him off, saying,

PRESIDENT: Well, at this moment, don't you agree that we better take the Hunt thing, I mean, that's worth it at the moment.

DEAN: That's worth buying time on, right.

PRESIDENT: Worth buying time on, I agree.

After a pause, Dean again reiterated the need for himself, Haldeman, Ehrlichman, and Mitchell to meet, have a "real down and out with everybody that has the most to lose and is the most danger for you to have them have criminal liability." (Tr. 41) Dean said, for example, that "Bob" had a potential criminal liability; he might never be convicted, but an indictment would be "devastating."

The President replied:

PRESIDENT: Suppose the worst -- if Bob were indicted, Ehrlichman were indicted. I mean, I must say maybe we just better then try to tough it through. Do you get the point?

DEAN: That's right.

PRESIDENT: If, if, if, for example, our, our, say well, let's cut our losses. That means we're going to go down the road to cut our losses, no more blackmail and all the rest, and the thing blows, and indict Bob [inaudible] you'd never recover from that, John.

DEAN: That's right.

PRESIDENT: It's, we'd better fight it out, instead. You see, that's the, the other thing. Better just to fight it out, not let people testify, so forth and so on. Now, on the other hand, we realize that we have this weakness that, uh, we've got this weakness in terms of . . . blackmail.

Dean then said there were "two routes": the first was to cut their losses and get the President up and away from it. The second was to

go down the road, just hunker down, fight it at every corner, every turn. Uh, don't let people testify, cover it up is what we're really talking about. Just keep it buried and just hope that we can do it. Hope that we can make good decisions at the right time. Keep our heads cool, uh, we make the right moves, And just take the heat. . . .

The President immediately said that on the second "line of attack", he wanted Dean to "still consider my scheme of having you brief the Cabinet, just in very general terms . . . some very general statements with regard to my investigation . . . basically on the question of what they told you, not what you thought you knew. . . .

Haldeman is not involved; Ehrlichman is not involved."

(Tr. 42) Dean said that if they went that route, "I can give a show, that, you know, we can sell, you know, like we were selling Wheaties on our position." (Tr. 42) But, the President said, the problems with that were the "mine-fields down the road," the guys who were going to jail and the fact that "we're not going to be able to give clemency."

(Tr. 43) The President then suggested that it was of paramount importance that they get Mitchell "down here" for a meeting on this, and called Haldeman into the office.

When Haldeman entered, the President told Haldeman he and Dean had been talking about "this whole situation" and that Dean was right in trying to get away from the "bits and pieces" of it, and in recommending a meeting with Mitchell as soon as possible, just the four of them. Mitchell had to be there, the President said, because "he is seriously involved, and we are trying to keep him with us." (Tr. 45) The President said that they had to see "how we handle it from here on . . . which way to go, and John has thought it through as well as he can." The President cautioned them not to let Moore in on this. He said Dean "knows about everything and also what all the potential criminal liabilities are . . . like that thing, obstruction of justice." The President told Haldeman:

Then we've got to see what the line is. Whether the line is one of, uh, of uh, continuing to run a kind of stone wall, and take the heat from that, having in mind the fact that, uh, there are vulnerable points there; -- the vulnerable points -- the obvious ones, of course, would be that, uh, uh, one of the defendants, particularly Hunt, because he is most vulnerable in my opinion, might, uh, blow the whistle and his price is pretty high, but at least we should, we should buy the time on that as I pointed out to John. Apparently, who, who is dealing with Hunt at the moment now? Colson's . . .

The President asked who was "familiar with him; at least he has to know before he is sentenced." Dean mentioned that Colson's lawyer probably knew everything, to which Haldeman said, "that's where your dangers lie, in all these stupid human errors developing." (Tr. 47)

The President replied:

The point is Bob, let's face it, the secretaries know, assistants know a lot of this. Many of the principals might be harder to rock but you never know when they may crack. So we'll see, we'll see. First, you've got the Hunt problem that ought to be handled now.

The President noted that Colson probably shouldn't sit in, and all three agreed that Colson shouldn't be given any more knowledge than he already had. They then discussed how much Colson may have known from Hunt, prior to the break-in. Haldeman said Colson's problem was that he "loves what he does and he likes to talk about it." There was discussion about whether Colson could have said to somebody that the President knew about it, but Haldeman said that Colson was careful to keep the President's name out of things except when he specifically intended to bring it in. (Tr. 49) Discussion then ensued about whether Colson was really the

"trigger man" who set off the break-in, and Dean again related to Haldeman the Colson-to-Magruder telephone call in February 1972.

The President cut off this line of conversation and said that the main point was that Mitchell had to be consulted on where to go from here. The President said that the Hunt thing was so serious because of the Ellsberg break-in. The President inquired how they were going to "keep that out," and whether they could do it if Hunt talked. (Tr. 50) Dean said they might put that on a national security ground, and the President and Haldeman agreed that that was "it absolutely was." (Tr. 51) Haldeman then probed how they would explain that as a national security operation, and the President mentioned "CIA funds." Dean said, "I think we can probably get by on that." The President said he thought that "on that one, we'll simply say this was a national security investigation that was conducted and the same thing with the drug field, with Krogh." Dean agreed that that would make Krogh "rest easy" since Krogh could say that and really believe it. (Tr. 51-52)

The President then reiterated the need to get Mitchell in on their deliberations quickly. The President

said that basically there were only two ways to go. One was to decide that the whole thing was so full of potential criminal liability that, despite the bad "PR" in letting it all hang out, they would have to do so, but in a way that avoided criminal liability:

But the point is, I don't want any criminal liability. That's the thing that I'm concerned about, for members of the White House staff and I would trust for members of the Committee, and that means Magruder. . . . Let's face it, he's the one that's, I think Magruder's the major guy over there.

Haldeman broke this chain of thought by saying that "Well, then we talked about yesterday we got a question where your cut off point is. There's a possibility of cutting it at Liddy, where you are now. But to accomplish that required continued perjury by Magruder." (Tr. 53) Dean said: "And requires total commitment." The President agreed: "Total commitment, total control over all the defendants" (Tr. 53) There was discussion about Hunt playing "hard ball" with \$120,000. The President said, "That's a lot, Bob, which is easy, I mean it's not easy to deliver, but it's easy to get." (Tr. 54) The President said that

if that was the case, then the thing to do would be to get it all thrashed out, and not to continue to "lets state frankly, to cut our losses." That is, if by continuing to cut their losses they were going to get "bled to death and it's all going to come out anyway." In that event, however, the President said, they would have to see what the losses were going to be, so they could "avoid criminal liability". The President said that in that case they would have to "keep it off of" Chuck, Herb, Bob, Chapin if possible, Strachan and Mitchell. (Tr. 55) And, Haldeman added, Magruder, "if you can; that's just the way." (Tr. 55)

The other way to go, the President said, was to "annex onto our position, continue to try to cut our losses." That would require a million dollars "for the jackasses that are in jail. And that can be arranged. That can be arranged. But you realize that after we're gone . . . they're going to crack, you know what I mean?" (Tr. 55) And, they weren't going to be able "to deliver on any kind of a clemency thing. You know Colson has gone around on this clemency thing with Hunt and the rest." (Tr. 56)

Dean then mentioned that Hunt expected to be out by Christmas, that that was his commitment from Colson. The President and Haldeman expressed surprise at this, but Haldeman said that if that's what Colson promised he, Haldeman, could believe it, because Colson was an "operator in expediency" and would say anything necessary in a given situation to accomplish his aims. The President suggested that "the only thing you could do with him would be to parole him [inaudible] because of his family situation. But you can't provide clemency." (Tr. 57) Dean said Kleindienst claimed to have control over the Parole Board, but the President said that in terms of "appearance" parole was something you could provide only for Hunt, "but you couldn't do the others, you understand?" (Tr. 57) The President said that these were the difficulties if they "just let it hang there."

The President then asked Dean if it wasn't Dean's view that they just couldn't continue to pay the blackmail. Dean agreed that was their greatest jeopardy. The President replied:

We could get the money. There is no problem in that. We can't provide the clemency. The money could be provided. Mitchell could provide the way to deliver it. That could be done. See what I mean?

Haldeman interjected that he thought Mitchell said he couldn't handle it. Dean said that was the problem, everybody expected somebody **else**, usually Dean, to do it. Haldeman replied that they couldn't very well have anybody in the White House "ginning out" this money. But Dean said that the White House was already "deeply enough in that; that's the problem, Bob." (Tr. 58) A discussion then ensued about Dean's and Haldeman's role in the transfer of the \$350,000 to LaRue to pay the defendants. Haldeman acknowledged that the money was all returned to LaRue, though in pieces rather than at one time, but that the White House didn't have any receipt for it, no way to prove it. Haldeman said this was supposed to be "loans . . . immediate cash needs; this was going to be replenished." However, eventually they just gave it all back to LaRue. The President said that he felt that "we could handle this. . . . I just have the feeling Let's come back to the million dollars. Let me say, I think you can get that. . . . But the point is, what would you do on that." (Tr. 60)

Dean then said that raising the money had been the hardest thing all along. The President inquired, "So your feeling is, to hell with the million dollars, say to these fellows, I'm sorry, it's all off, and let them talk. Right?" (Tr. 61) The President said: "That's the way to do it. If you want to do it clean." Haldeman said: "That's the way to do it, that's the way you can live with, because:

the problem with blackmail, that's the thing we kept raising with you when you said there's a money problem and we need twenty thousand, or a hundred thousand or something, was "yeah, that's what you need today, but what do you need tomorrow and next year and five years from now?"

Dean replied, well, "that was just enough to get us through November 7th, though." Haldeman replied:

I understand that, that's why we had to get by November 7th, there's no question.

The President then noted that "our cover there has been the Cuban Committee." Dean replied that they could "put that together. That isn't of course, quite the way it happened, but, uh . . ." The President said: "I know; it's the way it's going to have to happen." Dean agreed. The President said, "That's right." (Tr. 61-62) Finally, though, the President said, that'll mean they'll start blowing the whistle on everybody else:

So that would be the clean way, right? Is that really your, you, you really go so far as to recommend that? (Tr. 62)

Dean said well, that might not be the cleanest way, they should explore how to get everything in front of a Grand Jury so that the Grand Jury can "really have investigated the White House." Dean says he really has not thought this through since he's been so busy on the "other . . . containment situation." (Tr. 62)

The President then began to explore the possibility of having "another" Grand Jury. He said he thought that was what he wanted. And they would have everybody appear before that. "That's the point you see. That would make a difference. I want everybody at the White House called. Then that gives you a reason not to have to go over before the Ervin Select Committee. It puts it in an executive session in a sense, right?" (Tr. 63) Haldeman said that then there would be some rules of evidence. "You can refuse to talk." Dean said, well, you could take the Fifth Amendment. Haldeman said, "You can say you forgot too, can't you?" Dean and the President agreed. But, Dean said, that ran a "very high risk of a perjury situation." The President said, however:

If you're asked, you just say, "I don't remember, I can't recall, I can't give an answer to that, that I can recall."

The President reiterated that the Grand Jury "thing" had appeal, that that would put them in a better position vis-a-vis appearances in the Ervin Committee. They might even get Petersen as a special prosecutor. Dean said Petersen would have problems in the Senate hearings, but the President said he can go up there and say he's been told to go further in the Grand Jury, to call everybody in the White House, etc. Dean mentioned that this might happen anyway, because the U.S. Attorney was going to immunize the Watergate defendants after trial, and thought they were all planning to "Stone wall" it as of that time, Hunt might decide to talk instead. "That's the logic of his threat," Dean said. (Tr. 65) Haldeman replied, "This is Hunt's opportunity." The President saw the point and the following colloquy occurred:

PRESIDENT: That's right, that's why, that's why your immediate thing, you've got no choice with Hunt with a hundred and twenty or whatever it is. Right?

DEAN: That's right

PRESIDENT: Would you agree that that's the buy time thing and you better damn well get that done.

DEAN: I think that he ought to be given some signal anyway to, to . . .

PRESIDENT: . . . Well for Christ's sake get it, in a way that, ah -- who, who's gonna talk to him? Colson? He's the one who is supposed to know him.

DEAN: Well Colson doesn't have any money though, that's the thing, That's, you know, one of the real problems.

Dean said further that they hadn't been able to raise the money. The President inquired what precisely they needed, saying he wasn't familiar with the money situation, and asked "if you had it, where would you, how would you get it to somebody?" Dean described how LaRue left the money in mailboxes and so on. Haldeman then said, "That was the thing that we thought Mitchell ought to be able to know how to find somebody who could do all that sort of thing. Cause none of us know how to." (Tr. 66) Dean described the problem of "Laundering" money, and the President said, "The main point is now for the people to get the money together. Of course, you've got the surplus from the campaign. (inaudible) Is there any other money hanging around?" (Tr. 67) The President suggested Kalmbach, but Dean said Kalmbach didn't "have a cent."

The President and Haldeman then began to discuss the advantages of having a new Grand Jury. Dean warned that it wouldn't be so easy to control it once they got started on the criminal justice system route. Dean said that "we did an amazing job of keeping the thing on the track before, while the FBI was out there all that and that was only we found the way they were going." (Tr. 68) The President said "Sure . . . I know, I know. . . Right. But you may have stopped it (inaudible) lawyer." The President said, "lets take it to the Grand Jury, the new Grand Jury would call Magruder, wouldn't it?" Dean said yes, and that would

probably lead to exposure of Magruder's perjury. (Tr. 68) Haldeman countered that "that's the best leverage you've got on Jeb. He's got to keep his story straight or he's in real trouble. Unless they get smart and give him immunity. If they immunize Jeb than you have an interesting problem." (Tr. 68-69

The President continued to explore what would happen if they went to a Grand Jury, saying that had some attraction. "We would be cooperating through the Grand Jury. Everybody goes down, that's the proper way to do this. It should be done in a grand jury, not up there in the klieg lights of the Committee." Then, the President said, they would insist on Executive Privilege on the Hill and say that the whole matter was before the Grand Jury. Haldeman asked whether they would then release their Grand Jury transcripts. Dean said they didn't have control over that, but some might leak out. The President said, well that wouldn't be all that bad. Haldeman said he was thinking, to the contrary, that they would want to have their testimony leak out.

The President said that if they didn't do something like go to the Grand Jury, Hunt would probably talk, and he would certainly get Magruder, and possibly Colson, and possibly Mitchell. Dean said Krogh could go too. The

President said that Krogh could claim national security, but Dean said "yeah, but that won't sell ultimately in a criminal situation. It may be mitigating on sentences, but it won't, uh, in the main matter." (Tr. 71) The President said, well, they kept going "around the track" on what course to take but in the end they had no choice on Hunt, "but to try to keep . . ." (Tr. 71) The President asked whether they "ever had a choice" on Hunt, no matter what they did at this point. Eventually, he would blow the whistle . . . Dean said that Dean had been trying to think of how they could lay this all out, to a Grand Jury or elsewhere, so that they had told all. The President replied that he wouldn't want to disclose Ehrlichman's use of Hunt, they didn't need to go into "every goddamn thing Hunt has done." (Tr. 72)

The President then said that before they got into Dean's route of laying it all out, they should consider the President's idea of opening up a new Grand Jury, in terms of the possible advantages of that route versus the possibility that if they did that, "it wouldn't be believed." (Tr. 72) The Grand Jury, he said, appealed to him because there "the President makes the move." Then, the President appeared to be explore the "hang out" possibility, though a portion of the tape is inaudible, and said, "God, we can't risk that or she'll break loose there. Then, that leads me

to your third thing, the third thing is to just to continue to," and Dean says, "hunker down and fight it." (Tr. 72-73) The President asked whether Dean felt that that was now not a viable option, and Dean replied that it was a "very high risk." They agreed that if they did nothing, and Hunt broke, it would appear that the President was "covering up." (Tr. 73) So, the President said to Dean, you have now moved away from a hunker down? Dean said he believed that they must at least look at the "other alternative, which we haven't before." (Tr. 73)

The President then suggested that they in fact had "other choices," the "middle ground" of the Grand Jury, and possibly a middle ground of a public statement. (Tr. 73) The President mentioned that they did not have much time to play around with this, since sentencing would be Friday. There was discussion about Kleindienst contacting Judge Sirica to delay sentencing, to give more time for consideration, and of seeking Petersen's counsel. The meeting concluded on the President's insistence that a meeting with Mitchell be arranged as soon as possible, by the next day. (Tr. 77) The President suggested that perhaps he ought not meet with them because "I think I need to stay away from the Mitchell side of it at this point, do you agree?" The

President then instructed Dean and Haldeman to consider, apparently with Ehrlichman, the various approaches, and then after deciding on a plan to sell it to Mitchell the next day by saying to him:

John, you had the right plan, you say, no doubts about the right plan before the election. And you handled it just right, you contained it. Now after the election we've got to have another plan because we can't have for four years, we can't have this thing eating away. We can't do it.

(2) Analysis

The March 21 recording demonstrates that when the President learned the details of the cover-up that had been going on and the extent of potential criminal liability for his close associates, he repeatedly urged that Hunt's "financial problem" be "handled", by Mitchell if possible, in order to "buy time" until a new and more viable strategy could be put into effect to perpetuate the cover-up. On at least ten separate occasions the President brought up Hunt's demand and indicated or instructed that it should be met. (Tr. 24, 27, 37, 40, 46, 47, 65, 67, 71) None of the courses of action which he discussed with Dean and Haldeman at the meeting were intended to or would have resulted in getting the true facts to the public or prosecutorial agencies; instead, the President's clearly expressed desire was to figure

out how to "handle" the situation in light of new circumstances, and neutralization of Hunt's threat was seen as a prerequisite to the possibility of doing that.

To be more specific, the recording compels a number of clear and unmistakable conclusions:

First, the President learned on March 21, if he did not know before, most of the material facts establishing the involvement of high CRP and White House officials in a conspiracy to obstruct justice following June 17, 1972. This included perjury by Magruder and others, including probably Mitchell; the involvement of Dean, Ehrlichman, Haldeman, Mitchell, Strachan, and others in the payment of hush money to the Watergate defendants; and the role of Colson in extending assurances of clemency to Hunt that led Hunt to believe, at least, that Hunt would be out of jail by Christmas 1973. (The President already knew, as pointed out above, that a cover-up was going on to protect CRP and White House officials and he knew something about who was involved and what might be disclosed if the truth came out.)

Second, prompted by Dean's insistence and the realities of the situation, the President recognized that they could no longer continue to pay the defendants, "do nothing," and hope that the Watergate problem would go away. The

strategy of continued payments to the defendants over the years would eventually result in the collapse of the cover-up because: (a) that strategy had to be coupled with action to prevent long jail sentences for the defendants, but "delivering on clemency" was politically impossible; (b) many people had some knowledge and some of them were beginning to "look out for themselves"; and (c) eventually, the defendants themselves would get tired of it all or, even sooner, might "crack."

Third, these facts required a "new strategy" (as opposed to the old, preelection "containment" strategy). Several strategies were discussed, but none was chosen, and a conclusion was reached that Mitchell should be involved in working out a new course of action.

Fourth, the President believed that it was necessary to meet Hunt's threat by paying him, at least on this one occasion, in order to "buy time" which would allow the White House to work out and implement the new cover-up strategy. At least ten times during the meeting, the President urged that Hunt's "financial situation" be "handled" and "handled soon" in order to "buy time." (Tr. 24, 27, 37, 40, 46, 47, 65, 67, 71) On three other occasions (in addition to several of those cited above) the President

also mentioned more generally that a million dollars would be "easy to get", and even that he knew where to get it. (Tr. 54, 58, 60) The President several times suggested that past payments of money could be "handled" (Tr. 18) and that the "cover" of the Cuban Committee be retained for this purpose. (Tr. 25, 37) There was general agreement that Mitchell was the one who should be taking care of that. In substance, then, the President authorized a course of action involving an immediate payment to Hunt, if Mitchell could arrange it, in order to "purchase" Hunt's silence for a little while longer, until a new White House strategy could be put into motion.

Fifth, of the various courses of action considered by the President at the March 21 morning meeting, none involved full and complete disclosure of all the facts which would expose high White House officials to potential criminal liability. In considering Dean's "hang out" strategy, the President persistently coupled it with a caveat that if they decided on that route it would of course be necessary to "keep criminal liability off of "Haldeman, Ehrlichman, Dean, Strachan, Mitchell, and possibly Magruder if possible. The President also suggested several strategies he characterized as "middle ground" strategies, including a new Grand Jury, a briefing to the cabinet, and one or more

public statements. It is apparent from the conversation that the President, at least, did not contemplate that any of these strategies would involve any risk of potential criminal liability for "trusted" aides. For instance, the President at one point urged Dean to consider the President's previous "scheme" of a briefing to the Cabinet. However, this was to be in "general terms": not what Dean knew to be true, but simply a repeat of the denials of those who were involved. As the President put it: "Haldeman is not involved, Ehrlichman is not involved." The public statement route, it is quite clear, involved the same deception; as Dean said the next day (March 22) when the President characterized this as a "let it all hang out" approach, it was really 'a limited hang out."

The strategy pushed by the President most strongly, a "new Grand Jury", was transparently an attempt to manufacture an excuse not to have anyone testify before the Senate Watergate Committee. The President said that the "new Grand Jury" appealed to him because on that line of attack the President himself would appear to be making the move: the President could say he demanded that all White House personnel testify and afterwards they could claim the White House had been "fully investigated." However, from the

President's own characterization of this approach as a "middle ground" rather than a real "hang out," it is obvious that the President did not expect the new Grand Jury would discover the true facts; rather, the Grand Jury would hear the familiar denials of White House involvement. (In fact, this strategy was discarded later the same day when the President was told it risked leads being pursued, some indictments, etc.) Haldeman, in fact, observed that he was thinking that the White House itself might try to leak the Grand Jury testimony to the press. And Dean warned that going a justice system route could cause complete loss of "control" by the White House. The President responded that Petersen might be brought in to run the investigation. At the end of the conversation, however, when the President tried to imagine what would happen if Magruder did not hold up in the new Grand Jury, it became apparent that the potential liability of Mitchell, Krogh, and others would be exposed. The President then seemed to trail off into saying that that was the reason why they seemed to go "around the track," coming back again to the problem of Hunt ("do we ever have a choice on Hunt?") and to the need to get Mitchell to Washington quickly in order to work out the best way to proceed.

Sixth, as discussed more fully below in Part II (I) of this memorandum, the conversation proves the falsity of the President's later exculpatory statements that he was surprised and upset by what he heard on March 21 and that he immediately sought to find a course by which the true facts could be ascertained and brought out.*

* Dean testified in the Senate that, to the best of his recollection, he discussed payments to the defendants and clemency with the President on March 13, including the possibility that it would cost a million dollars to keep paying the defendants in the future. Much of this conversation described by Dean in fact occurred on March 21. However, taken together, neither the March 13 or March 21 tape contains the following matters which Dean said were discussed on one of those two days:

(1) The President said he discussed clemency for Hunt with Ehrlichman. (On March 21 the President admitted discussing this with "someone", probably Colson.)

(2) The President expressed annoyance that Colson had discussed clemency for Hunt with the President. (This is uncorroborated on either tape. The President and Haldeman did, however, express annoyance that Colson had apparently promised Hunt that Hunt would be out of jail by Christmas 1973; the President said he had only said that "of course clemency could be considered on the basis of his family situation.")

(3) Dean told the President that if Dean were called to testify under oath he would have to tell the truth. (Dean said this, in substance, on April 16.)

(4) Dean told the President Dean didn't think he could give the Cabinet even a watered-down briefing on Watergate. (Dean in fact said on March 21 that if that was what the President wanted, Dean could "sell Wheaties" on it. However, on both March 21 and 22 Dean pressed a number of times for fuller disclosure rather than a "limited hang out.")

E. March 21 Afternoon Meetings

(1) Facts

On the afternoon of March 21, Haldeman met with the President for 40 minutes at 3:05 p.m. and then Haldeman, Ehrlichman, and Dean met from 3:45 p.m. to 5:20 p.m. During this conversation, according to Dean, the three discussed the various possible courses of action, and the upshot of the discussion was that Mitchell should be encouraged to step out and bear most of the blame for Watergate.

At about 5:20 p.m., Haldeman, Ehrlichman, and Dean went in to see the President for 40 minutes. The recording of this meeting further supports Dean's testimony that there had previously been some further discussion about how to proceed since Dean's meeting that morning with the President. It also appears that Dean had pressed with Haldeman and Ehrlichman the possibility of getting the entire truth out on the public record by convening a special panel or Grand Jury before which all White House officials would testify to everything they knew under immunity, and that Haldeman and Ehrlichman did not believe that that was a wise course of action.

At the beginning of the meeting, Haldeman and the President rejected Dean's "Grand Jury package", saying that that would "not wash." (Tr. 1) The President inquired what Haldeman, Ehrlichman, and Dean had concluded about going to a Grand Jury without any immunity. While portions of the tape are not clear, there is discussion of "Drastic results," "indictments", "trouble", and "people in and out of the White House indicted for various offenses." (Tr. 2) The President says, "I wouldn't spend any too much time with that." (Tr. 2) The President then turned to the possibility of getting out a report or reports purporting to be a summary of the facts on Watergate, "I think you could get out a very credible document that would stand up, and that will have the effect of turning the scope," becoming the "battle ground on a reduced scope." The President said that the real danger was that the Ervin Committee would "run out leads" into areas it would be better not to have to get into, and that by issuing a statement the White House could in effect limit the issues that would be explored. (Tr. 2)

At this point, the President said that the real question was whether they could just do nothing, or had to do something, especially in light of the Hunt thing. The President asked (Ehrlichman?) what should now be done about

the "Hunt thing." (Tr. 3) Ehrlichman said that Hunt's interests really lay in getting a pardon. Discussion followed, some of it not entirely audible, about what Hunt's indirect contacts with "John" contemplated or did not contemplate, with someone saying "that's already understood." (Tr. 3) There was then discussion of Hunt "blowing" if he did not get clemency by Christmas, and of whether Hunt could satisfy his desire to get out of jail quickly by talking, rather than not talking, and thus get leniency from the Court. The President said that the bridge they really had to cross, then, and cross soon, was what to do about Hunt's demand. (Tr. 4) A voice that appears to be Ehrlichman's on the recording says that Mitchell and LaRue (Dean having chimed in "LaRue" to prompt Ehrlichman)

are now aware of it so they know (inaudible) feeling is. (Tr. 4)

The President said: "True. (Inaudible) do something?" Haldeman replied (in a passage that is largely inaudible) saying that he had or had not talked with "them", the passage ends with the words "do, do something about it." (Tr. 4) After a long pause, the President then began on another subject, saying "It's a long road, isn't it. When you look back, as John pointed out here, it really has been

a long road." (Tr. 4) The President said to Dean, that's why you are wrestling with moving in "another direction."

Dean then began again to sketch all the problems of knowledge, and of people protecting themselves. The President said that if they now faced a situation where they "couldn't do a damn about the participants," then why not just do it right then? Dean replied that he was hoping that by "staying on top of it" they could prevent it from harming the President. Dean again urged his special panel. Dean said that without some kind of immunity people would take the Fifth Amendment in the Grand Jury and it would never come out; therefore, if they wanted to get the whole story before the public, some people were going to have to be given immunity to get them to testify. Dean suggested that the President select a panel consisting of several Assistant Attorneys General; that the President instruct all White House officials with any knowledge to testify before the panel fully; that all witnesses be promised they would not be prosecuted; and that if anyone was found to have performed misdeeds he could then be forced to resign from the Government. Haldeman objected that that would appear to the public to be letting guilty people escape; Dean replied that that might well be, but was it any better to have everything "blow up and all of

a sudden collapse," which would mean the President would be accused of covering up? (Tr. 7-8)

Ehrlichman then suggested again that there was "another way", like the "Dean statements" (apparently referring to the August 1972 Presidential announcement of a 'Dean Report) in which the President makes a full disclosure of "everything he then has" and, if it "does then collapse at a later time," the President is in a position to say that he relied on the FBI and his own counsel, and "rested my confidence in young people of good faith, and its now obvious" (tr. 8) The President replied that that was a "middle ground": that he could ask Dean for a written report "very general . . . having in mind the problems with the specifics, of course. . . ." The report would be in general terms, saying "this man is not guilty, that man is not guilty, but this man did do that." (Tr. 8) Ehrlichman suggested that to "give weight to" that, Dean could attach a list of all the FBI reports he had had access to. Ehrlichman said, "So that the President at some later time is in a position to say, "I relied." (Tr. 9) The President and Ehrlichman both mention that this will "help" with the fact that Dean had seen FBI reports and sat in on interviews because Dean can explain that this was part of an investigation Dean was conducting for the President. They then discussed

the timing of such a report, how to explain its sudden emergence. Haldeman suggested that since they had originally called the "Dean Report" an oral report, they could now say that Dean had been reporting orally from time to time, and had been asked by the President to put it all in the form of a written report. (Tr. 11)

The President then inquired of Dean whether Dean still favored the panel. Dean said he saw in the conversation that was occurring "what I have talked about before." The things they were proposing "do not ultimately solve what I see as a grave problem of a cancer growing around the Presidency. (Inaudible) creates another problem. It does not clean the problem out." (Tr. 12) Ehrlichman argued that it did, however, permit the President to escape any future collapse:

But doesn't it give, doesn't it permit the President to clean it out at such time as it does come up? By saying, "Indeed, I relied on it. And now this, later this, later thing turns up, and I don't condone that. And if I'd known about that before, obviously I would have run it down."

Dean argued back that that still did not do it, that the President had to get credit for it and get "above it," that the President would of course be hurt but "I hope we can find the answer to that problem." (Tr. 13) Ehrlichman,

however, continued to push for the strategy of having a "Dean Report." The President replied to Ehrlichman, "well, I don't know where it stops. Ziegler? The Vice-President?" Haldeman suggested Magruder. A discussion ensued about who Hunt could bring down. They agreed Magruder and Strachan had problems on this line.

Dean came back again to his proposal, but Haldeman objected that "if you go your route, you can't draw the line someplace. . . if you take your move and it goes slightly (awry?), you have a certainty, almost, of Magruder going to jail, Chapin going to jail, and you going to jail, and probably me going to jail." (Tr.15)

At this point, the discussion seemed to lose focus. There was some discussion of getting Petersen to help, but the problem with that was that Petersen's knowledge would then be added. Dean said it bothered him to bring Petersen in, because that was just "one more step." Haldeman observed that the payment to Hunt was too. After some conversation, the President again returned to the "Dean Report" saying that at least that had a temporary appearance of Presidential cooperation with the Senate Committee. There was discussion of what Sirica would do in sentencing. Ehrlichman again pressed the issuance of a report, and

quoted from it as saying that nobody in the White House knew anything about the Watergate break-in beforehand, which, he said, "happens to be true, as for that transaction, as for that transaction." (Tr. 20) Ehrlichman suggested Mitchell could issue a "report" the same day; but the President said: "What the hell is he going to disclose that isn't going to blow something?"

The President then inquired when Mitchell would be meeting with the others the next day, and the meeting ended.

(2) Analysis

The tape recording of the afternoon meeting demonstrates that, in essence, as Dean has testified, it was clear that the cover-up would continue and that no imminent effort would be made to get the true facts before any prosecutorial agency or the public. Dean's plan for a "special panel" was rejected, as was the idea of going to any Grand Jury under any circumstances, the latter being seen as too risky. No decision was reached about the best course of action, but Ehrlichman pushed heavily in favor of a written "Dean Report" which had a number of advantages: (a) it would give the President the opportunity, should the cover-up later collapse, of saying that he had "relied" upon the report and had been kept in the

dark by his counsel; (b) it would give the appearance of cooperation with the Watergate Committee while de facto narrowing the areas of inquiry by the Committee; and (c) it would explain Dean's ubiquity in the early FBI investigation of Watergate. From all the discussion of this report, it is clear that it was envisioned as a broad denial of White House involvement in the break-in itself, prior to June 17, 1972, with perhaps some acknowledgement of the facts in the Segretti case: in other words, as Ehrlichman put it, nobody in the White House knew anything about the Watergate break-in before it occurred, which, he said, "happened" also to be true "as to that transaction."

At this point it is perhaps worth noting that Ehrlichman's view encapsulated the strategy that had been followed up to March 21 and was followed assiduously afterwards, as will become clear below. That strategy was to deny altogether any evidence of White House involvement in the break-in itself (which was apparently factually correct, but at best misleading) and to say nothing about the cover-up until pressed, at which point it would be said that the White House had nothing to cover-up (which was untrue), or at least that the President did not know there was anything to cover up until March 21 at which point he then tried to "get all the facts out," which was made more difficult because of Dean's own attempts to save himself.

At two places in the conversation on the afternoon of March 21, there was reference to the "Hunt thing." The first time the matter was discussed, there seemed to be some feeling that either the problem would be taken care of by Mitchell and LaRue, or that instructions had been given to take care of it, or that Mitchell and LaRue would do whatever they thought necessary. The second time the matter was discussed was simply a reference by Haldeman to the fact that while "annexing" Petersen to the White House group might be taking "another step" down the road of the cover-up, "so is Hunt's payment." An inference can be drawn, at least, that a tacit assumption existed at this time that time would be "bought" if necessary by paying Hunt.

F. The President's Recollections of March 21

(1) Facts

In dictating his own recollections of March 21, the President observed that Dean had "in effect, let it all hang out when he said that there was a cancerous growth around the President that simply was going to continue to grow and that we had probably to cut it out now rather than let it grow and destroy us later. He. . . doesn't really see anything, other course of action open but to move to get the facts out."

The President noted that Dean believed that "even he (Dean)" had some criminal problems "due to the fact that

he participated in the actions which resulted in taking care of the defendants while they were under trial," but from that went on immediately to say that Dean's main concern was that the various participants in the cover-up were beginning to look after themselves, a point on which "Haldeman backed him (Dean) up" when Haldeman said that Magruder "would bring Haldeman down" if Magruder himself "was to go." The President noted that this proved that Magruder was a "weak man" who lacked character when the "chips were down."

The President observed that after Dean, Haldeman, and Ehrlichman had conferred they had all changed their minds about the President's idea of a new grand jury and felt it would be a mistake to take that course. The President said that the grand jury had "appealed to" him because it would be better to have White House people go before a forum where there were "rules of evidence." (?) The "other option" he said, would be for White House aides "not to appear at all" (presumably in the Senate), but this would run a risk that "somebody like Hunt is going to blow."

(Tr. 2)

The President said that Hunt "seems to be a real problem" and detailed Hunt's demand for money and his threat

to expose things he had done for "Colson and Ehrlichman, et al." The President said this was blackmail and that it would expose Hunt to another criminal charge if it came out, but that the President "supposed" Hunt might feel that if Hunt "turned State's evidence" he could free himself.

The President said he "felt for" all of the people involved here because "as I pointed out to them in the meeting in the EOB this afternoon," they got involved for the "very best of motives." The President said he didn't think Haldeman or Ehrlichman knew about the bugging, and he knew Dean didn't, but went on to detail Dean's theory that Colson may have been the one who pushed the operation, albeit possibly innocent of any criminal activity.

The President recognized that Krogh had committed perjury and said Strachan had been a "real courageous fellow" through all this, having had knowledge of the matter and having transferred the \$ 300,000. Referring to the money, the President said he didn't think that that was as big a problem as Dean did, but of course Dean had to warn the President "against every loose end that might come out."

The President then observed that if Mitchell put his mind to it, they might work out "some sort of a course of

action we can follow. It seems to me just to hunker down without making any kind of statement is really too dangerous as far . . . (59 seconds of silence)." (Emphasis added)

(2) Analysis

This March 21 dictabelt is crucial in proving that the President acted criminally because (a) it proves false his later statements that he was "astounded" and upset by what Dean told him, did not know whether to believe it, and sought to ascertain the truth of the matter and adopt a course that would get all the facts out (see part II (I) below) and (b) it conclusively belies any defense the President may try to raise by interpreting his actions on and after March 21 as an attempt to bring out the facts and "let the chips fall where they may" subject only to the need for corroboration, accuracy, and protection of the rights of individuals involved. Instead, the dictabelt shows that the President regarded Hunt's threat as credible and dangerous and that he was primarily interested in developing a new cover-up strategy that would not risk his closest aides being "given up" by those such as Magruder or Hunt who might "blow" and incriminate them.

Specifically, first, the President expressed no surprise or concern whatsoever at the facts or implications of

facts which Dean reported to him on March 21; indeed, the President seemed to feel that the only thing notable about what Dean told him was Dean's recommendation that a new, "let it all hang out" strategy was being seriously proposed. The President appeared to accept the truth of what Dean had said, and by his reference to "the actions which resulted in the defendants being taken care of" implied that he probably knew already that this was being done.

Second, the President's concern focused on the possibility that various facts were going to "come out," not on how he could get them out: Dean's worry that the united front would collapse; the fact that Magruder could bring down Haldeman, showing that Magruder was "weak"; Strachan's "courage" (in denying falsely any involvement); the risk that Hunt would "blow" and the credibility of this threat in light of the possibility that Hunt might go free by turning "State's evidence"; the fact that Ehrlichman was "3 or 4 times removed" from the Ellsberg operation; and the fact that the money was not too much of a problem but was a "loose end that might come out."

Third, the President's observations about opposition to his "Grand Jury" idea proves that the discussion at the beginning of the March 21 afternoon meeting did indeed concern the Grand Jury strategy, a fact that is somewhat

obscured by inaudibility of the tape of that meeting, and that the reason it was rejected was simply that there was too much danger that things would get out of control and there would be indictments, etc.

Fourth, the President does not mention or even hint at any course of action designed to "get the facts out" or convey the true facts to any prosecutorial agency or the public. He discusses his Grand Jury approach, which he confirms has been rejected, and he then discusses his hope that if Mitchell put his mind to it they could come up with some "course to follow" rather than just "hunkering down" -- which the President did not characterize as wrong or criminal but rather "too dangerous". The only thing the President affirmatively suggested was that at least they had to put out "some statement". This was, of course, the new strategy developed and decided upon the next day, March 22: a bogus "Dean report." (See below)

Fifth, there is an inexplicable one-minute gap at the end of the tape, at which point the President's discussion of options breaks off in the middle of a sentence.

G. The Payment to Hunt on the Evening of March 21;
Communication of the Message That Hunt Has Been
Taken Care Of

(1) Facts

Following the morning meeting between the President, Dean, and Haldeman on March 21, Haldeman placed a telephone call to Mitchell in New York City and asked Mitchell to come to Washington the next morning.* Although Haldeman denies asking or instructing Mitchell to take care of Hunt's problem in this telephone call and "cannot recall" any discussion of Hunt's threat during the conversation, an inference could be drawn that this topic was discussed from the transcript of Haldeman's just-completed meeting with the President and Dean.

Either on March 20 or on March 21, Dean had a conversation with LaRue, in Dean's office. LaRue had already learned of Hunt's threat and inquired of Dean what should be done about it. Dean told LaRue that Dean was fed up

* Dean recalls that Haldeman phoned Mitchell. Haldeman concedes he "probably" placed this call. However, the photocopies of Haldeman's telephone log for March 21 provided to Haldeman (and by him to the Grand Jury) do not include the log for the morning of March 21, which begins at 2:15 p.m., and shows a call to or from "Mitchell's office) at 4:06 p.m. on March 21, with a notation of an arrival time at National Airport and reminder to "have a car." This call probably was an incoming call received by Haldeman's secretary, according to Haldeman. The existence of this entry raises an inference that Haldeman's original request to Mitchell was made that morning.

with this business, that Dean was not going to have anything to do with Hunt's threat or money, and that LaRue should do whatever he wanted, but that Dean was not going to tell him what to do. LaRue replied that LaRue did not want to arrange for any payment to Hunt without some authorization. Dean suggested that if LaRue wanted authorization or instructions from somebody LaRue might talk to Mitchell.

Probably on March 21* LaRue had a telephone conversation with Mitchell; LaRue does not recall who placed the call, but LaRue brought up Hunt's threat and asked Mitchell what LaRue should do. Mitchell inquired, "What is the money for?" LaRue replied that LaRue understood it was for attorneys fees. Mitchell said, "Well, I think I'd pay it."

At about 6 p.m. in the afternoon of March 21, immediately after the President's meeting with Haldeman, Ehrlichman, and Dean, Ehrlichman met in his office with Egil Krogh.

* LaRue believes that he effected a delivery to Bittman the same day he spoke with Mitchell. Since we can place the delivery on March 21, it is a fair inference that LaRue and Mitchell spoke about delivering the money on March 21, rather than March 20.

Ehrlichman had previously told Krogh about Hunt's threat. Ehrlichman told Krogh that before deciding on any steps that Krogh should take, Krogh should wait until Mitchell had come down to Washington the next day and it was ascertained what had been done or would be done about Hunt's threat and the future course of action.

On the evening of March 21, Sherman Unger, Laura Fredericks, and Manyon Millican attended a dinner party at the apartment of Fred LaRue on Virginia Avenue. After dinner, LaRue asked Millican to deliver a package to the mailbox in front of William Bittman's house in suburban Maryland, and Millican agreed.* LaRue then got a package of \$75,000 in cash, which he had brought from his office safe, and gave it to Millican, who called Bittman and asked if Bittman would be home. Millican told Bittman there would be a package in his mailbox at about a certain time, and left the package in the box. Later that night, Bittman retrieved the package and, the next day, gave it to Hunt. Hunt later told Bittman the package contained \$75,000 in cash.

* Prior to March 21, Millican had made two other late-night deliveries of packages to Bittman's mailbox. Each contained cash.

On the morning of March 22, Mitchell met with Dean, Haldeman, and Ehrlichman in Haldeman's office. At the outset of the meeting, Ehrlichman asked what had been done about Hunt's problem. Dean replied that Ehrlichman should ask the person who would know, Mitchell. Mitchell then said that Mitchell did not believe that was a problem any longer.

Haldeman has admitted that he understood Mitchell's remark to mean that Hunt was at least "stabilized," and that Haldeman reported this fact to the President well before April 16 and "probably" shortly after the remark had been made.

Sometime in the afternoon on March 22, Ehrlichman phoned Krogh and told Krogh to "hang tough" because Hunt had been "stabilized" and would not blow.

(2) Analysis

The evidence shows the very close link between the payment to Hunt on March 21 and the perpetuation of the cover-up. The President clearly viewed the "stabilizing" of Hunt as the most immediate problem to be faced: it was a prerequisite to working out a new "strategy". From the

meetings on March 21 and the President's recollections of those meetings, it is apparent that all involved, including the President, had rejected the approach of "cutting their losses" -- by letting Hunt blow -- as too dangerous. That same day, after communication between Haldeman and Mitchell about bringing Mitchell in on the new strategy, Mitchell instructed that Hunt be paid and Hunt's attorney received \$75,000. All involved learned the next day that this has been accomplished and consequently, as discussed below, the discussion on March 22 focused on executive privilege, production of a bogus "Dean report", and other approaches that could be employed in the intermediate future.

Proof of the direct link between the President's approval of a course of action involving Hunt's being paid, and the payment itself, is fortified by the concern the President showed about this payment on April 16 in his meeting with Dean. The recording of the April 16 meeting (set out in part II, (I), below) shows that the President, in discussing Dean's testimony with Dean, pretended that what Dean had told him on March 21 about Hunt's demand was "fragmentary"; that Dean had not even told him

about the "threat" involved; and that the President had only a vague knowledge of whether anything was done, but wanted to be sure that what was done was done "at the Mitchell level". The President also made it clear to Dean that the President would not waive Executive Privilege on what Dean had told him about Hunt's threat.

H. March 22 Meeting

(1) Facts

In the early afternoon of March 22, the President met with Mitchell, Haldeman, Ehrlichman, and Dean for about an hour and three-quarters. While the tape recording of this meeting is of substantially poorer quality than those of others made available to the Grand Jury, it appears that the discussion centered primarily on the question of Executive Privilege and on other matters relating to the Gray hearings including Gray's "Dean probably lied" remark. As Dean has testified, there was not very much discussion of the facts which had been made known, discussed, and conceded by the President, Dean, and Haldeman the day before. There was no discussion about Mitchell possibly taking the public blame

for the Watergate operation in order to "take the heat off" the White House. After Mitchell had stated his view on Executive Privilege, discussion turned to the possibility of having a written report that would be released to the Senate Watergate Committee, followed by testimony of some White House officials. Ehrlichman said he could see some "danger points" in such a report and Haldeman rejoined that that was in itself recognition of the President's involvement. (WH Tr. 10) Dean said that he would really have to write such a report to see how it came out: he had done something on Segretti, but not on Watergate, and that perhaps it would be a good idea to try it out and see how it came out. Haldeman suggested Dean take the weekend to do this, and the President suggested he might go to Camp David and do it. (WH Tr. 11) Haldeman and the President cautioned Dean to limit himself to the White House, and not to comment on any CRP officials. (Tr. 11) There was further discussion of how this could be released, with Dean [WH Tr.] suggesting it might be given to the Senate Committee in camera with a public statement by the President that he had turned over a "Dean Report" to the Senate. (WH Tr. 12) Dean said, "You see, you could even write a novel with the facts." (WH Tr. 12) Ehrlichman approved this idea, saying that

looking to the future, assuming that some corner of this thing comes unstuck, you are then in a position to say, "Look, that document I published is the document I relied on, that is, the report I relied on. . . And now this new development is a surprise to me -- I am going to fire A, B, C, and D, now. (WH Tr. 13)

The discussion then turned to how issuance of a report would be related to the White House position on Executive Privilege, and how to approach the Senate Committee. There was some discussion of how to bring a "Dean Report" into this approach, if at all. In discussing whether Dean should also claim attorney-client privilege against testifying on his report, there was discussion of the fact that Dean's tracks would be found everywhere. (WH Tr. 23-24) The President said that wasn't so bad because Dean was there investigating for the President and, therefore, that would be perfectly explicable. The President said, the main thing was that Dean had "absolutely no operational activity." He always acted as counsel. Anyway, they had to be careful about the Dean problem, "just give them some of it, not all of it." (WH Tr. 24) There was discussion about what would happen if they were then called before the Grand Jury. The President said he would just say publicly that there were no problems in that.

Ehrlichman assented:

You have to bottom your defense, your position on the report. The report says nobody was involved and you have to stay consistent with that. (WH Tr. 25)

The President then inquired who was going to get together with Kleindienst (on Executive Privilege), and warned Dean not to talk about the idea of his report with anybody. (WH Tr. 26) There was some discussion of taking a formal position, which the White House had already taken informally, that White House officials would answer written interrogatories rather than testifying personally. (WH Tr. 28) Further discussion followed about negotiating a position on Executive Privilege with Ervin and Baker. There was also discussion about the advantages of the White House and Justice Department tying up the Senate Committee in a long law suit.

At the end of the meeting, the President inquired whether they had considered any other possibilities, and asked Dean if Dean agreed they should "go this route now, let it hang out so to speak." (WH Tr. 31) Dean replied that "well, it isn't really that. . . It is a limited hang out. It's not an absolute hang out." The President replied that "some of the questions look big hanging out publicly or privately." (WH Tr. 31) Dean said that what

they had to do was get the President up and above it, that was the most important thing. The President replied, "Oh, I know. I suggested that the other day and they all came down negative on it. Now what has changed their minds?" Dean replied: "Lack of a candidate or body." (WH Tr. 32) There was general laughter.* With that the meeting broke up.

(2) Analysis

The conversation at the March 22 meeting makes it clear that at this point there was a general assumption that enough time existed or had been "bought" to proceed along a strategy that would involve some kind of written report being issued, in connection with the future Water-gate hearings, on the basis of which limited testimony before the Senate might be agreed to. From references to the report as being something the President could "rely"

* There was also some joking, at the end of the meeting, in which Haldeman said that "John is sorry he sent those burglars in there and that helps a lot", and there was discussion, probably jocular, of infiltration into other campaigns. The import of this is unclear, and it is unclear whether the "John" referred to was Ehrlichman or Mitchell.

on later if "some corner came unstuck" and from Ehrlichman's caution that if they were called before the Grand Jury they would just have to bottom their defense on the report which would say that nobody in the White House was involved, it is clear that this "report" would not be a true disclosure of all the facts known to the President and his aides at that time but rather a truncated version of the facts focusing on the non-involvement of the White House in the break-in itself.

In effect, the decision reached on March 22 was a decision, concurred in by the President, to continue the cover-up.

I. Post-March 23: The Collapse of the Cover-up, March 22-April 15; and the President's Continued Participation In a Conspiracy To Obstruct Justice

(1) Facts

Between March 22 and April 15, the President made no attempt to bring to the attention of any prosecutorial agency any of the information Dean had told him on March 21. It was only after Dean (and Magruder) began to cooperate with the prosecutors, and the Attorney General and Assistant Attorney General urgently requested a meeting with the President on April 15 and demanded that he fire Haldeman and Ehrlichman, that Mr. Nixon even admitted that he had learned of the cover-up nearly a month before.

On March 23, the day set for sentencing the Watergate defendants, James McCord's letter to Judge Sirica was read in open court. The letter said the perjury had been committed during the trial, that others were involved in Watergate, and that pressure had been brought to bear on the defendants to plead guilty and remain silent. The same day, the President phoned Dean from Florida and encouraged him to go to Camp David and begin to write his "report." Haldeman later called Dean and reiterated this instruction. The President also told Dean Dean had been right in "his prediction" (that someone would "blow").

Dean, however, could not bring himself to write the report. On the same day, the President phoned L. Patrick Gray and rather gratuitously reminded Gray that Gray should "remember how I told you to conduct a vigorous investigation." On Monday, March 26, Haldeman phoned Dean to say that the President planned to announce that Dean would be permitted to testify before the Grand Jury (without immunity). Dean reminded Haldeman of all the problem areas that would arise, in effect tacitly informing Haldeman that Dean would not lie. According to Haldeman, the President decided later that day to "drop" the idea of this announcement. The purported reason was that Dean had not "sorted out the facts."

On March 27, the President instructed Ehrlichman to ask Kleindienst whether the Justice Department had any information about the involvement of certain White House and CRP officials in Watergate, and if so to tell Kleindienst to report directly to the President. This appears to have been an attempt to find out what the prosecutors had developed in the aftermath of the McCord incident, and to get any information that might threaten the cover-up straight into the hands of the President himself. Ehrlichman phoned Kleindienst the next day and taped the conversation. In it, Ehrlichman, rather than asking Kleindienst for information,

first assured him that the President had no information that Haldeman, Ehrlichman, Dean, or Colson had prior knowledge of Watergate, and that if Kleindienst turned up anything that Kleindienst should report directly to the President. Ehrlichman said that the President was, however, "worried" about Mitchell -- without giving Kleindienst any specific information. Kleindienst agreed that he was worried about Mitchell also. Ehrlichman also felt Kleindienst out about what McCord knew and asked procedural questions about the granting of immunity to Grand Jury witnesses, a topic about which the President obviously was concerned even though Hunt had been "stabilized."

On March 28, Haldeman called Dean at Camp David and insisted that Dean return to Washington immediately to meet with Mitchell and Magruder. The outcome of those meetings must have made it apparent to Haldeman and Ehrlichman that the conflicts between the true facts, the false accounts Mitchell and Magruder had already given under oath, and the testimony that Dean would give if he refused to lie would tend further to expose the cover-up. It was also undoubtedly apparent by this time that Dean was not going to write an exculpatory "report" that could be used to further the cover-up.

On March 30, the President told Ehrlichman that the President was convinced that Dean was deeply involved in Watergate (which the President, of course, well knew, as he knew also that Ehrlichman was involved) and that Ehrlichman should take over Dean's role in coordinating the White House strategy on Watergate. The President claims he asked Ehrlichman to conduct an "investigation" into Watergate and to report back to him in order to ascertain the true facts. However, Ehrlichman says he really did not undertake an investigation, and the facts bear him out. Ehrlichman conducted a number of "interviews," but with the exception of one with Paul O'Brien on April 5, none were really factual interviews. The meeting with O'Brien, in San Clemente, was apparently a diversion of the moment: O'Brien had insisted that he wanted to see Haldeman, and Mitchell had arranged it, but instead O'Brien was sent to see Ehrlichman. According to O'Brien, after O'Brien laid out the rather extensive knowledge O'Brien had at that time, Ehrlichman did not seem very happy about it. Ehrlichman claims that he "interviewed" Kalmbach in California on April 6, but in fact this was a meeting that took place (at Kalmbach's request) in the parking lot of a bank and in a mountaintop parking area. Ehrlichman

had two meetings with Colson on April 14, but these were to hear Colson's recommendations for Presidential action, not to ascertain what Colson knew. Ehrlichman talked to Strachan, but this was apparently in connection with a Grand Jury appearance by Strachan. And Ehrlichman talked to Magruder on April 14, after Magruder had already made a rather full statement to the prosecutors.

In conclusion, then, it appears that what the President really did on March 30 was to tell Ehrlichman to take over from Dean, who could no longer be trusted, the role of coordinating the cover-up.

Also on March 30, the President authorized Ron Ziegler to announce that White House aides called before the Grand Jury would appear and testify, but that if called in the Senate Hearings some "special arrangements" would have to be worked out: Ziegler strongly suggested written interrogatories.

Ehrlichman claims that on March 31, in California, he told Kleindienst that Dean had been removed as the "investigator" of Watergate for the President and that Ehrlichman had undertaken a new investigation. Kleindienst, however, denies this; he says the meeting concerned Kleindienst's

recommendation that a special prosecutor be appointed for Watergate and Judge Matt Byrne's possible nomination as FBI Director.

During the first two weeks in April, both Dean and Magruder obtained counsel and began negotiations aimed at cooperating with the United States Attorney's office. The extent of their negotiations and cooperation was not made known to the President, Haldeman, Ehrlichman, or Mitchell. On April 13 and 14, the prosecutors obtained information from the debriefing of Magruder and Dean that deeply implicated Mitchell, Haldeman, Ehrlichman, and others in the Watergate planning and cover-up. The President may have guessed at these pending developments by the late afternoon of Saturday, April 14. On April 13, Dean told Ehrlichman that, according to Dean's attorneys, the prosecutors had information implicating Mitchell, Magruder, LaRue, and Mardian. And on April 14, in the late afternoon, Magruder told Ehrlichman that he had told the prosecutors the full and truthful story of his own involvement, which Magruder repeated to Ehrlichman in Ehrlichman's office, in the presence of Magruder's attorneys.

Ehrlichman claims he reported to the President on the morning of April 14 the results of his interviews to date and that the President asked him to get further information from Magruder and Mitchell. In fact, because Ehrlichman's "investigation" appears to have been a spurious one, it is more likely that this was a strategy session. Ehrlichman reported again to the President late in the afternoon of April 14, after talking with Mitchell and Magruder. According to Ehrlichman, the President instructed him to make a "full report" on his investigation to Kleindienst, and Ehrlichman implied in his Senate testimony that he did so. In fact, Ehrlichman phoned Kleindienst and began by saying, "As you know, I've been conducting an investigation over here." Kleindienst replied that he didn't know, that he was surprised, and that if Ehrlichman discovered anything incriminating he had better communicate it to Petersen and the U.S. Attorney quickly or there would be a problem of obstruction of justice. Ehrlichman replied that he had discovered a lot of incriminating information, but that it didn't make any difference now because Magruder had "spilled his guts" to the U.S. Attorney's office and implicated people "high and low" in the White House and CRP. Ehrlichman then said, "Well, enjoy your dinner," and abruptly hung up.

After having debriefed Dean all day on Saturday, April 14, the Assistant U.S. Attorneys relayed their information to Henry Petersen that night and demanded that they all go immediately to see the President. Petersen arranged for the prosecutors to meet that night with Kleindienst, and at Kleindienst's home the prosecutors spent the night detailing the information available to them.

Sunday, April 15,
The next morning, Kleindienst sought an urgent meeting with the President, and the two met that afternoon. Kleindienst says that the President acted "dumbfounded" when Kleindienst told him what the prosecutors had uncovered. After the meeting, Kleindienst called Petersen to the White House and Kleindienst then recused himself from the case. Petersen proceeded to spell out for the President what the prosecutors knew. Petersen strongly urged the President to fire Haldeman and Ehrlichman as they would be at best a source of embarrassment to the President, but the President demurred, saying he owed them a "duty of fairness" and, in later meetings, that Haldeman and Ehrlichman had "denied involvement," or "claimed to be innocent." The President asked whether he should fire Dean, but Petersen asked him not to, since they should not appear to be taking reprisals against the first person to cooperate.

The President's April 15 meeting with Petersen began a series of daily conversations and meetings between the two men. According to Petersen they were very unproductive, and Petersen's testimony [especially his interview with Mr. Cox] must be read to get a flavor of this. The President would call Petersen over to the White House, where Petersen continued to urge in blunt and direct terms that the President fire Haldeman and Ehrlichman. The President, on and after April 15, repeatedly told Petersen that he "owed a duty of fairness" to Haldeman and Ehrlichman, that he had to think of many "other considerations," and that Haldeman and Ehrlichman "claimed they were innocent" or "not involved." There were many long silences in the conversations.

At Petersen's first meeting with the President, the President mentioned that Dean had told him on March 21 something of what "Dean and the Committee had been doing," and about a demand from Hunt for money, and that the President had had Ehrlichman "looking into" Watergate. However, the President did not relate to Petersen at this time or any other time any facts that Ehrlichman had uncovered in the course of this "investigation" (contradicting the President's later claims, discussed below, that he "got in" Petersen to "review the facts which had come to me in the course of my investigation.")

According to Petersen, the President did not seem surprised by Petersen's recitation of the facts on April 15, but the President did not give Petersen any inkling, then or later, that Dean had already laid most of those facts out for the President on March 21. Petersen, in fact, got the impression from the President that Dean had not implicated Haldeman or Ehrlichman on March 21 at all. At this point, Petersen had mentioned possible payments to the defendants only peripherally; the focus was on pre-June 17 events. The President did not enlighten Petersen with/^{the}President's own considerable knowledge about the money. Rather, the President asked whether the prosecutors had corroborated Dean and Magruder and expressed concern that they might be "throwing off" on others to save themselves. Petersen urged the President to hear it from Dean himself.

Dean met with the President in the evening of April 15 for about an hour, after refusing a request that Dean meet with Ehrlichman. There is allegedly no Presidential tape recording of the meeting, subpoenaed by the Watergate Grand Jury on July 23, 1973, because the tape on the machine ran out. Dean told the President that Dean was cooperating with the prosecutors but had no deal from them. The President

told Dean he would not interfere with Dean's negotiations with the prosecutors. The President was interested in Haldeman's knowledge of Liddy's plan and told Dean to be sure to testify about having gone to Haldeman after the second meeting in Mitchell's office, and telling Haldeman that they had to stay out of it; but this was only after the President inquired what Haldeman's knowledge was, and Dean reminded him Dean had told the President about this on March 21. The President inquired about Liddy, and Dean said Liddy might be waiting for a "signal" from the President. At this, the President phoned Petersen and, pretending that Dean was not present, instructed Petersen to tell Liddy on the President's behalf that he wanted Liddy to talk. The President instructed Dean not to talk about matters such as the Ellsberg break-in on account of national security and Executive Privilege.

Toward the end of the meeting, the President mentioned that he had been "joking" when he said it was easy to raise a million dollars, and also mentioned that he had been foolish to talk to Colson about clemency.

Unknown to Dean, the President met with Haldeman and Ehrlichman both immediately before and immediately after the President's meeting with Dean.

That same night, after Dean had left, Ehrlichman phoned Gray from the President's EOB office and told Gray that Dean had been cooperating with the prosecutors and had disclosed the transfer of some of Hunt's files to Gray. According to Ehrlichman, the purpose of this call was to ascertain "what the files were and where they were," though Ehrlichman knew perfectly well what in fact had been in the safe. Ehrlichman says Gray protested that Gray would deny receiving them, and Ehrlichman told Gray that Ehrlichman would not back Gray up on this. A few minutes later, Ehrlichman called Gray back. Ehrlichman has testified that this was because Ehrlichman felt he had not been sufficiently "firm" in telling Gray the first time that Ehrlichman could not back Gray up, but this is so implausible that it tends to corroborate Gray's version that Ehrlichman had been checking whether Dean had in fact told the prosecutors about the files. Presumably, Ehrlichman was consulting with the President and Haldeman about how to "handle" this issue. In any event, Ehrlichman told Gray he had better check his "hole card" and Gray then told Ehrlichman Gray had destroyed the files. Immediately thereafter, the President called Petersen and, according to Ehrlichman, informed Petersen of Gray's destruction of files; Petersen, however,

firmly denies this, saying the President told him only that the President had met with Dean and it had been "helpful." Petersen says he never learned about Gray's destruction of files from the President; he learned it from Gray.

On the morning of April 16, the President met with Dean and presented Dean with two letters for Dean to sign, one requesting a leave of absence and the other tendering Dean's resignation. Both were quite damaging to Dean in their implication. The President assured Dean that he had already received "oral" promises to the same effect from Haldeman and Ehrlichman. Dean asked to be allowed to draft his own letters. The President explained that he needed to have letters from all three "in the drawer" in case events overtook him. Dean again met with the President that afternoon and showed him the letter Dean had drafted asking for an indefinite leave of absence and referring to the fact that the President had also received similar requests from Haldeman and Ehrlichman.* The President

* The recording of the afternoon meeting corroborates Dean's testimony that the President told Dean he would not interfere with Dean's negotiations with the prosecutors. The President claims he told Dean on April 15 that Dean would have to go before the Grand Jury with no immunity.

clearly was not pleased with Dean's suggestion, and Dean said that if he alone was fired there would be a "scape-goat" problem. (Tr. 3)

The President also told Dean that with Magruder and so forth the whole thing might break (publicly) that day, so the President had to get Dean's feelings on how to handle the situation, what to say publicly. The President said he had to stay ahead of it publicly, and that "here's what I've done," apparently referring to what the President was going to claim publicly that he had done: "As soon as I got the Magruder thing, I got in Kleindienst, and then at four o'clock we got in Henry Petersen. . . . [I told Petersen that] you follow through and you're going to get to the bottom of this and I am going to let the chips fall where they may." (Tr. 6-7) The President said that "we've covered that all the way down the line," presumably referring to the President's false version that the President had been the one to break the information to the Justice Department. "Now I had to follow him to a certain extent on the prosecution side; on the other hand on the PR side I sure as hell am not going to let the Justice Department step out and say look, we dragged the White House in here. I've got to step out and do it, John." (Tr. 7)

When Dean mentioned that he hoped the ultimate resolution of all this would be that no one had any legal

FOIA # 58707 & 58708 (URTS 16380) DocId: 70105884 Page 103

problems, the President said he "didn't want anything about the White House staff - - not you, not Colson, not Ehrlichman, not Haldeman."

The President then lead Dean through the President's version of their earlier conversations about Watergate, saying that of course they had already said the "Dean Report" was oral, and that Dean should recall when Dean came in and told the President nobody in the White House was involved in Watergate. Then, the President said, "you did tell me there were serious problems in the aftermath," to which the President replied, "let's see what they are." Dean said, "And now you're beginning to see what they are: potential, technical, obstruction of justice problems." The President replied that Petersen thought that would be hard to prove in court, and noted that Dean was simply "helping the defendants get their fees." (Tr. 11) Dean replied that he was a conduit to other people, that was the problem. The President began to say that the only time he ever heard anything about supporting the defendants - - though he should have assumed it, he was busy and people didn't tell him anything - - was when Dean mentioned something to the President about "Hunt having a problem." But, the President said, "that was handled by Mitchell,

was that true or what the hell?" (Tr. 11) Dean then reminded the President of Hunt's threat and Dean's communication of it to the President. The President replied that he wasn't quite sure what Dean reported to him, "it was rather fragmentary, as I recall it." (Tr. 12) The President pressed on, saying that he had asked how much it would cost, Dean said a million dollars, and the President then sent Dean to Camp David, saying "for God's sake, let's see where this thing comes out." (Tr. 12) Anyway, the President said, that's the only conversation; now how were they going to handle that? Dean responded by telling the President about the meeting on March 22 in Haldeman's office where Mitchell acknowledged that he had arranged to solve "Hunt's problem." (Tr. 13) The following conversation then ensued:

PRESIDENT: That is all?

DEAN: That's all he said.

PRESIDENT: Right. That's good. In other words, that was done at the Mitchell level?

DEAN: That's right.

PRESIDENT: But you had knowledge; and Haldeman had a lot of knowledge; Ehrlichman had knowledge . . .

DEAN: Right.

PRESIDENT: and I suppose I did that night. That assumes culpability on that, thought.

The President went on to say that he really hadn't given it any thought at the time, and that Dean hadn't told him "this about Ehrlichman, for example, when you came in that day. . . . You simply said, 'Hunt needs this money,' and you were using it as an example of the problems ahead." (Tr. 14) Dean reiterated that he tried not to pass on to the President anything that would cause problems for the President. [In fact, of course, Dean had told the President on March 21 of Hunt's threat to "bring Ehrlichman to his knees."]

The President then inquired what Dean would testify if asked about things Dean reported to the President, and Dean said he would assert Executive Privilege, unless the President waived it. The President said he would not waive it, but that he specifically authorized Dean to say that Dean had conducted an investigation and reported to the President that nobody in the White House was involved. Dean insisted several times that he would have to say he did that through Haldeman and Ehrlichman, and finally the President acquiesced in that. The President then appeared to lead Dean through an explanation of how Dean had come to

report all the facts to the President all of a sudden, saying things like "I called you in here for a report" [to which Dean replied that they had really just started talking about it], that "we met three times, as I recall" [to which Dean said, well, he thought it was a few more than that], and "it was after the McCord thing" [to which Dean said it was before that]. (Tr. 15-16) The President said that the question would arise why Dean didn't tell him before, and the President didn't want to be in a position where it would appear that his trusted aides were holding out on him. Dean said he himself didn't know before that; the President said, all right, you can handle that. The President then said that after Dean told him the facts on March 21, "that's when I became interested in the case and I said, 'Now goddamn it, I want to find out the score,' and set in motion Ehrlichman, Mitchell, a few . . . not Mitchell, but others OK?" Dean said, "Sure." (Tr. 18) The President also told Dean he was telling him to testify that "nothing is privileged that involved wrongdoing . . . I'm telling you that now and I want you to . . . say that the President has told you that." The President went on to tell Dean that the Ellsberg and wiretap matters were privileged as national security matters.

The President also told Dean that "I would like to take the credit" for breaking the cover-up but realized he could not. The President later insisted, however, that "as a result of the President's actions this thing has been broken" in the context of what the President would like Dean to say, and asking Dean to help on the "PR side."
(Tr. 28)

When Dean mentioned that clemency was one of the problems, the President claimed that "that was solely Mitchell, apparently," to which Dean responded firmly that in Hunt's case it was Ehrlichman. (Tr. 30) The President inquired how the "Christmas thing" got into it all, and Dean explained. The President replied, regarding Colson, "I don't think that is going to hurt him. Clemency is one thing. He is a friend of Hunt's. I'm just trying to put the best face on it, but if it is the wrong thing to do I've got to know." (Tr. 31)

On April 17, the President issued a written statement saying:

"On March 21st, as a result of serious new 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 Peterson and I met at length in the EOB 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 major developments in the case concerning which it would be improper to be more specific now."

In the two weeks following April 17, the President met or talked with Henry Petersen at least daily, and usually more often. Petersen had already told the President that the President should not have access to Grand Jury information, so Petersen had to be "conclusory" in urging Haldeman's and Ehrlichman's problems. The President persisted in his reluctance to fire them and told Petersen they maintained their innocence. On one occasion the President asked for a complete written summary of the case against Haldeman and Ehrlichman, but Petersen eventually refused it. At no time did the President pass any facts on to Petersen, although the President knew at that time that the investigation was only just beginning to uncover the entire "hush money" scheme.

The President also warned Petersen repeatedly of the danger that Dean might be implicating others falsely in order to get a better deal for himself. The President brought up other warnings about granting anyone immunity, including Dean. Petersen, however, told the President that whatever the President thought, Petersen was going to reserve the decision whether to immunize Dean to Petersen himself. The President's concern about this is shown by the President's anger when he telephoned Petersen on April 18 and said that Dean claimed to have immunity. Petersen got back to the President the next day to say that was not the case, and the President then said, "I have it on tape if you want to hear it" (presumably referring to an April 15 tape which, allegedly, does not exist.)

On April 18, Petersen told the President that the prosecutors had learned about a possible break-in at Dr. Fielding's offices in Los Angeles in 1971 (about which they had been told by Dean). The President responded, "Damn it, I know about that, and you stay the hell out of it; that's a national security matter and none of your business. You stick to Watergate." On April 25, however, after Petersen had convinced Kleindienst that it would be necessary to disclose to the judge in the Ellsberg trial in Los Angeles the information concerning the Fielding break-in, Kleindienst met with the President and told the President this would have to be done. The President agreed.

During the President's meetings with Petersen, the President often told Petersen that Petersen now had to be "my advisor" on Watergate, that he had to be "Special Counsel to the President" on this thing; Petersen interpreted this as sheer flattery and of no significance in Petersen's own responsibilities. During the same period, of course, the President also conferred daily with Haldeman and Ehrlichman, met with their attorneys, and had an opportunity to pass along to them what information the President was getting from Petersen about the investigation, such as the witnesses who were being called, etc. (Petersen told the President early on that the prosecutors were attempting to develop Strachan as a witness and that if Strachan came through, Haldeman "was dead.") During this same time, on April 25 and 26, Haldeman listened to the tape recording of the March 21 meeting, on the President's instructions, and reported on it to the President based on Haldeman's extensive notes.

On April 27, the President asked Petersen if he had any information implicating the President himself. Petersen said he did not. However, that evening, Petersen met with the President and told him that if the President did not fire Haldeman and Ehrlichman, even the President's own constituents

were going to wonder if the President weren't covering up. On April 28, Ehrlichman, Haldeman, and Kleindienst all met with the President at Camp David and it was decided that they would resign.

On Monday, April 30, the President accepted the resignations of Haldeman, Ehrlichman, Kleindienst, and Dean. In a television address, the President said that he had not known of any cover-up until March 21, and had indeed been assured prior to that that nobody in the White House had any involvement in Watergate. As a result of "new information" that came to him on March 21, he said, he "personally assumed the responsibility for coordinating intensive new inquiries," and "personally ordered those conducting the investigations to get all the facts and report them to me." The President claimed he ordered everyone in the White House and CRP to cooperate fully with the FBI, Grand Jury, and prosecutors, and sought to get the truth out. He called Haldeman and Ehrlichman "two of the finest public servants it has been my privilege to know," and at the end said that "John Dean has also resigned."

(2) Analysis

The evidence clearly demonstrates that beginning on March 22, the President, together with Haldeman, and Ehrlichman, attempted to pursue one (or more) of the "new strategies" worked out on March 21 and 22, until the cooperation of Dean and Magruder with the prosecutors caused the cover-up to begin to collapse on April 15. During this period of nearly a month, the President made no attempt whatever to bring the facts in his possession to the attention of the Justice Department or United States Attorney's office. Nor did the President in truth order any "investigation" to determine the accuracy of what Dean told him on March 21, undoubtedly because the President already knew some of what Dean was saying and believed that the details Dean was filling in were basically correct. The President's instruction to Dean to write a "report," which the President now claims was an attempt to get Dean to lay out the facts, was simply the pursuit of the new cover-up strategy decided upon on March 22. A report of the type the President now claims was necessary would have served no other purpose, since Dean had already laid out his knowledge in extenso. The President's claim that he ordered Ehrlichman to conduct

an investigation is similarly suspect. Ehrlichman never told Kleindienst or the prosecutors he was conducting an investigation, nor did Ehrlichman or the President ever report to any prosecutorial agency anything that Ehrlichman was supposed to have "learned." Instead, the President put Ehrlichman in charge of the cover-up when Dean faltered, and had Ehrlichman find out from the Justice Department whether they had any new information that might threaten it. Nor is there any evidence that the President urged "cooperation" on the part of his staff; in fact, he did nothing to bring to the attention of anyone the potential involvement of his highest aides in criminal obstruction of justice.

Thus the facts disprove all of the President's claims, first made on April 17 and repeated thereafter, that on March 21 the President

- - "personally assumed the responsibility for coordinating new inquiries into the matter;"
- - "personally ordered those conducting the investigation to get all the facts and to report them to me directly;"
- - "ordered that all persons in the Government and the Re-Election Committee cooperate fully with the FBI, the prosecutors, and the Grand Jury;" and was
- - "determined to get to the bottom of the matter, and that the truth should be fully brought out."

In truth, this interpretation of the President's action between March 22 and April 15 was a strategy adopted by the President after Dean's and Magruder's cooperation with the prosecutors had broken the case open and Petersen had come in demanding that the President get rid of Haldeman and Ehrlichman. It was a strategy by which the President sought to protect himself by (a) allying himself with Haldeman and Ehrlichman in denying knowledge of any cover-up prior to March 21 and (b) trying to confuse or deny his own complicity after March 21 by false claims and false exculpatory interpretations of his own lack of action during that time, intended to make it look as though the President himself had broken the case - - as he told Dean on April 16 he desired to make it appear. In effect, the President, together with Haldeman and Ehrlichman, shifted to another version of the consistent "limited hang out" approach to cover-up. Knowing the prosecutors had learned from Dean of the March 21 meeting and of the involvement of CRP officials such as Mitchell and LaRue, the President did not deny this but tried to work around it. That the facts about what really occurred, and the tape recordings of conversations and recollections to which we now have access

conclusively disprove the President's version shows not only the President's complicity in criminal obstruction of justice between March 21 and April 17, but also his continued participation in a conspiracy up to the present date.

In addition to his false exculpatory statements, there is other direct evidence of the President's attempts on and after April 15 to continue the cover-up. The President immediately established close contact with Petersen and sought to draw Petersen into a more intimate relationship. The President continually opposed immunity for Dean while telling Petersen that Haldeman and Ehrlichman protested their innocence. The President did not tell Petersen that Dean had implicated Haldeman and Ehrlichman as early as March 13 and March 21; nor did he tell Petersen about the details known to the President of the defendants being "taken care of." The President did not tell Petersen of his knowledge that Hunt's fianl demand had been paid. Contrary to the President's repeated public statements, he did not share the "fruits of his investigation" with Petersen at any time; rather, he tried to find out what Pertesen had on Haldeman and Ehrlichman. In the meantime, the President allied himself with Haldeman and Ehrlichman,

met with their attorneys, and tried to discredit Dean first by warning Petersen that Dean might be lying to save himself and then later by White House statements attacking Dean. At the same time, as the recording of the April 16 meeting shows, the President tried to draw Dean into the President's own false version of what had occurred, tried to prevent Dean on Executive Privilege grounds from testifying about what Dean had told the President, and tried especially to "distance" himself from the March 21 payment to Hunt. The President also tried to finagle Dean into resigning by getting a letter of resignation from him under false pretences and by telling Dean falsely that Petersen did not want the President to fire Haldeman and Ehrlichman until there was "corroboration."

When the President announced the resignations of his aides on April 30, he did so with public expressions of regret and praise for Haldeman and Ehrlichman, but made it clear Dean was leaving under a cloud, thus signallying the strategy the President has followed to date.

As noted in the introduction to this memorandum, a strong inference can be drawn that the President's continued refusal to cooperate with the investigation of the Special Prosecutor and the intentional destruction of evidence by the President's close associates or the President himself are acts in furtherance of the continuing conspiracy.

J. Evidence That the President Knew of and Participated
In the Cover-up Shortly After the Watergate Break-In
As Showing the Falseness of Post-April 17 Presidential
Statements

An essential part of the President's post-April 17, 1973, strategy has been to deny that he knew of or participated in the cover-up prior to March 21, and that he even knew "there was anything to be covered up." As the above sections show, there is no question that this claim is false: tape recordings show, at the very least, that between February 28 and March 21 President Nixon learned that White House and CRP officials had some involvement in the break-in itself and that an effort had been made to keep this from being discovered in the course of the investigation.

Moreover, there is a considerable amount of evidence to show that the President knew that a cover-up was going on shortly after June 17, ^{1972,} and that he approved of it; this evidence is strengthened by remarks of the President at his September 15 meeting with Dean and Haldeman. Because the evidence of the President's later participation in a criminal conspiracy is so clear and unmistakable, it becomes less important to assess the more difficult question whether the earlier evidence, standing alone, would be sufficient for indictment.

However, the earlier evidence has significance in showing the falsity of exculpatory statements the President has made since April 17, 1973, about events in the summer of 1972 and about why the President never suspected a cover-up might be going on. For example, the President has maintained that right after the break-in he ordered an investigation by "appropriate government authorities", that he repeatedly asked investigators whether anyone in the White House was involved, and that he repeatedly was reassured no one was. [April 30, 1973, Statement] In fact, "every report I received" was that nobody other than the seven indicted was involved. [August 15, 1973, speech] The President claimed he did not "know about" any fund-raising for the defendants or any offer of clemency until March 21. [May 22, 1973, Statement] The President has said he ordered Clark MacGregor, at CRP, and Ehrlichman at the White House to undertake their own investigations, and that Ehrlichman in turn "delegated this responsibility" to Dean. [August 22, 1973, news conference] The President has said that Dean sat in on FBI interviews in pursuit of this "investigation" (an explanation that the President can be heard cooking up on March 21 and 22).

The facts show a different picture.

Prior to the break-in, on April 4, 1972, the President met with Haldeman and Mitchell to review campaign decisions that had been made by Mitchell on March 30-31, 1972, at Key Biscayne, Florida. One of the decisions made at Key Biscayne and communicated to Haldeman by Strachan before April 4 was to approve Gordon Liddy's intelligence plan at a level \$250,000 or \$300,000. Liddy's plan, according to the testimony of Magruder and LaRue, included unlawful electronic surveillance of a number of possible "targets" including the DNC offices at Watergate.

Within days after the break-in, one of the President's two closest aides, Ehrlichman, learned that the Watergate burglars were acting at Liddy's direction, under the orders of Magruder. An inference could be drawn that Ehrlichman shortly thereafter informed Haldeman of these facts; in any event, Haldeman was aware at this time of the two meetings in John Mitchell's office in early 1972 when Liddy presented a plan for unlawful electronic surveillance, and of the eventual approval of Liddy's intelligence plan in some form.

Despite the President's statements that at or about this time he directed Ehrlichman to conduct an investigation into the Watergate matter to determine if any White House staff were involved, and that the President instructed

Dean to sit in on FBI interviews for this purpose, Ehrlichman and Dean have denied under oath receiving any such instructions.

From June 17 until an indictment was returned on September 15, Dean, with the knowledge of Haldeman, Ehrlichman, and Mitchell, sought and obtained information about the FBI and Grand Jury investigations from Gray and from Petersen. The purpose of getting this information was to find out in what direction the investigation was going in order to be able better to "handle" any problems that might arise. Since Dean reported on the progress of the investigation to Ehrlichman regularly, and Ehrlichman reported to the President (which the President concedes), the President knew that Dean was obtaining this information. Of course, the President knew Dean was not really conducting an investigation. Therefore, a strong inference can be drawn that the President knew his aides were keeping on top of the investigation to be sure the involvement of higher-ups at CRP did not come out.

On June 20, 1972, after a meeting attended by Haldeman, Ehrlichman, Dean, Mitchell and Kleindienst, which concerned the status of the FBI's Watergate investigation, Ehrlichman and then Haldeman met with Nixon. According to Haldeman's notes, Nixon and Haldeman discussed Watergate. On July 23,

1973, the Watergate Grand Jury subpoenaed the tape recording of the Nixon-Haldeman meeting on June 20. Between July 23, 1973, and November 1973 the tape recording of that conversation was in the personal custody and control of Nixon. Probably between October 1, 1973 and November 1973 the portion of that recording containing the discussion relating to Watergate was intentionally obliterated.

On June 20, 1972, John Mitchell, who had participated in a meeting the night before in which it was decided that CRP files relating to electronic surveillance at the DNC should be destroyed by Jeb Magruder, had a telephone conversation with Nixon, in which Mitchell told Nixon that he was sorry that "some of the boys" at the committee had gotten out of control. On July 23, 1973, the tape recording of that conversation was subpoenaed by the Watergate Grand Jury. It was not until several months later that the Special Prosecutor's Office was informed that the tape recording allegedly did not exist.

The President has admitted that on June 23, 1972, he instructed Haldeman to ensure that the FBI's Watergate investigation was not carried into areas that might bring to light either the existence of the "Plumbers" operation or any covert CIA operations unrelated to Watergate. He has also admitted he instructed Haldeman to make sure this was done by coordination between the Acting Director of the FBI and

the Deputy Director of Central Intelligence, a recent White House appointee. (5/22/73) While the President claims that he had received "reports" that unrelated CIA activities might be exposed, he has not stated what these reports were or from whom he received them, or whether there was any basis for his instruction to Haldeman. As a result of this order being conveyed by Haldeman to Walters, Walters instructed Gray to defer or prevent FBI interviews with witnesses in Mexico through whom possible illegal campaign contributions to CRP might have been discovered. Haldeman and Ehrlichman were aware, prior to June 23, of Mitchell's and Stans' ^{concern} that these possibly illegal contributions not being discovered.

On or about July 1, John Mitchell resigned as Chairman of the Committee to Re-Elect the President. Although the announced reason for this resignation was personal and family problems, Mitchell had a conversation with the President and Haldeman on June 30 that indicates Watergate was one of the reasons for Mitchell's resignation:*

* According to Dean, Dean had already briefed Haldeman prior to this meeting on the involvement of Magruder and Mitchell in the planning and execution of Watergate and on their role in the beginning of the cover-up.

PRESIDENT: You couldn't possibly do it sometime --

MITCHELL: [inaudible]

HALDEMAN: If we run into some other problem then you are stuck --

PRESIDENT: That is the other thing, if there is something that does come out, we hope nothing will, it may not, but there is always the risk.

HALDEMAN: As of now there is no problem there but as of any moment in the future there is every single potential of a problem.

PRESIDENT: I would cut the loss fast. I would cut it fast. If we are going to do it I would cut it fast. That is my view, generally speaking. And as a matter of fact, I don't think the story if you put it in the human terms -- I think the story is a positive rather than a negative, because as I said as I was preparing to answer for the press conference I just wrote it out as I usually do, the ones that I think are terribly sensitive. A hell of a lot of people will like that answer. They would, and it would make anybody else that would ask any question on it look like a selfish son-of-a-bitch which I thoroughly intended to make them look like.

MITCHELL: It was all addressed to the Westchester Country Club with all the sympathy in the world.

PRESIDENT: That is great, that is great.

HALDEMAN: Well, with you taking this route which people won't expect you to do will be a surprise.

PRESIDENT: No, if it is a surprise. Otherwise, you are right -- it will be tied right to the Watergate if you wait too long. It won't tighten if you wait too long, if it simmers down.

HALDEMAN: You can't let the other subjects develop on Watergate. The problem -- the problem is always the potential of some things.

On July 6, the President was warned by the Acting Director of the FBI that Nixon's closest aides were attempting to "mortally wound" the President by confusing the role of the CIA in the Watergate investigation, (Gray) and/or that these aides were not cooperating with the investigation. [May 22, 1973, Statement] The President did not explore this matter or ask any questions of Gray; nor, according to the testimony of Haldeman and Ehrlichman, did the President take the matter up with them.

By early July, Nixon's two closest aides, Haldeman and Ehrlichman, were aware that (1) the Watergate operation had been mounted by Gordon Liddy, the General Counsel of CRP, at the instructions of Magruder, Deputy Director of CRP, on a budget apparently approved by John Mitchell, former CRP Director; (2) that Magruder and others had developed a "cover story" to tell the FBI and Grand Jury to mask the true purposes for which about \$200,000 had been given to Liddy; (3) that relevant evidence had been concealed and destroyed; and (4) that Nixon's attorney Kalmbach was being used to raise and distribute covert cash funds in response to "demands" from the seven directly involved in Watergate, which CRP officials believed had to be met.

Although Nixon has maintained that he did not know any of these things before his meeting on March 21, 1973, with John Dean, it is apparent from the recording of that meeting that prior to March 21 Nixon knew that money had been funneled to the defendants, and believed that it had been done through a public vehicle established in Florida, which had been used as a "cover". It is unknown whether Nixon knew or thought this before September 15, 1972. Moreover, Ehrlichman has testified that in July 1972 the President said that they couldn't consider clemency for any of those involved in Watergate. Why the President would even discuss the possibility of clemency for five (or seven) burglars whom the CRP and White House had nothing to do with, prior to any indictment, remains unclear.

In late August 1972, Nixon announced in a public statement that he had received a report from his counsel, Dean, on the results of Dean's investigation that stated that no one then on the White House staff was involved in Watergate. In fact, Nixon had ordered no such investigation, no such report existed, and no such assurances had been given to Nixon by Dean.

On the afternoon of September 15, 1972, the day on which the original Watergate indictment was returned, Dean met with Nixon and Haldeman. Nixon opened the conversation by saying to Dean: "Well, you had quite a day today, didn't you? You got Watergate, uh, on the way, huh?" (Tr. 1) During the course of the ensuing conversation, Nixon complimented Dean on Dean's handling of the Watergate matter, saying:

"Well, the whole thing is a can of worms -- as you know a lot of this stuff went on. And, uh, the people who worked (inaudible) are awfully embarrassed. And uh, the uh, but the way you, you've handled it seems to me very skillful -- just putting your fingers in the dike and the leaks that have sprung here and sprung there. (inaudible) have the people straighten the (inaudible)" (Tr. 8)

The discussion then turned to some of the problems which might be anticipated in the future, and the following exchanges took place:

DEAN: Well, as I see it, the only problems is that, that we have the human problems and I will keep a close eye on that.

* * *

People get annoyed and some finger pointing and false accusations, any internal dissension of any nature.

PRESIDENT: You mean on this case?

DEAN: On this case. There is some bitterness between the Finance Committee and the Political Committee. They feel that they are taking all the heat and, and all the people upstairs are bad people and they're not being recognized.

HALDEMAN: It is.

PRESIDENT: They're all in it together. (Tr. 10)

* * *

DEAN: That's all it is, particularly if Patman, of course, turns off, uh . . .

That is the last forum that, uh, it looks like it could be a problem where we have the least control the way it stands right now. Kennedy has also suggested he may call hearings of the Administrative Practices Procedures sub-committee. As this case has been all along, we spin out oracles that (inaudible) so we just don't do that, stopped doing that about 2 months ago. We just take one at a time and deal with it (inaudible).

PRESIDENT: You really can't sit and worry yourself about it all the time. The worst may happen, but it may not. So you just try to button it up as well as you can and hope for the best, and remember that basically the damn business is one of those (inaudible) unfortunately, try to cut our losses.

DEAN: Certainly that is right and certainly it has had no effect on you. That's the good thing.

HALDEMAN: No, it has been kept away from the White House almost completely, from the President totally. The only tie to the White House is that Colson effort they keep trying to haul in.

DEAN: And, now of course (inaudible), the two former White House people of lower level indicted, one consultant and one member of the Domestic Council staff. That's not very much of a tie.

HALDEMAN: No. (Tr: 15-16)

The foregoing conversation raises a very strong inference that by September 15 the President was aware, at the least, that higher officials at CRP had some involvement in Watergate and that Dean had been attempting, successfully, to keep the White House and the President from becoming involved in the scandal. Moreover, the President's "fingers in the dike" remark permits the inference that he knew of specific problems which had arisen from the point of view of the White House and of the manner in which Dean had handled them. These inferences are, of course, strengthened considerably by the circumstantial evidence outlined above.

These inferences would be strengthened even more if the September 15 tape recording contained some of the specific language that Dean used in his Senate testimony,

i.e., that the President was "pleased that the case had stopped with Liddy," that others had done much more difficult things than Dean, and that Dean could make no assurances that further revelations would not occur. While it is possible that such remarks were made by the President and are not audible on the tape -- or are on a portion of the tape not made available to the Grand Jury -- it is more likely that Dean recalled the words which are audible on the recording and which bear the same clear import, e.g., the "fingers in the dike" and "you've handled it skillfully" remark.

Following the September 15 meeting, in early December 1972, on the request of Mitchell and Dean, Haldeman approved transfer by Strachan of some of a secret \$350,000 cash fund, held under Haldeman's personal control, to Fred LaRue for the purpose of paying the Watergate defendants, in response to the continuing belief on the part of Mitchell and others that money should be paid. In early January 1973, Haldeman approved transfer of the balance of the fund to LaRue. The cash fund had originally been transferred to the White House in April 1972 from a larger cash fund of over \$1 million held by Kalmbach as custodian for Nixon in safe deposit boxes. At the time of the original transfer of the cash fund to the White House, Haldeman informed Nixon of creation of this fund. Documentary

evidence suggests that the fund was envisioned as a general, contingency fund originally intended for possible use to finance secret polling, secret intelligence operations, or other "miscellaneous" projects. An inference could be drawn, although Haldeman denies it, that the President -- the presumed beneficiary of this fund -- was made aware contemporaneously of the transfer of the fund out of White House control and the purpose of the transfer.