come to the offices of Robert R. Mullen Company for the possibility of getting a job there, that he had been introduced to Mr. Hunt, that after he left Mr. Hunt had voiced his opposition to Mr. Oliver coming to work there because Mr. Oliver was a liberal Democrat and he did not think he would fit well into that company. Tr. 53-54.

He laid the foundation for proof of a non-political motive saying:

> What were the motives behind this conduct? What are the reasons for their activities? What was their motivation? I am not telling you anything secret, obviously, Mr. Glanzer, Mr. Campbell or myself. We can only look at the facts and you draw the inferences you choose to draw as you are the factfinders as Judge Sirica told you yesterday.
>
> Obviously it was a political motive, political campaign. The operation was directed against Senator George McGovern, because of his alleged left-wing views. You heard me tell you what defendant McCord was primarily interested in on those monitored conversations Mr. Baldwin was hearing whether of a sensitive or personal nature.
>
> The interests of the persons, the defendants in this case may vary, that is, the motivation of the defendant Hunt and the defendant Liddy may have been different from the motivations of the four defendants from Miami, and they in turn may have had a different motivation than defendant McCord. Certainly the facts will suggest to you a financial motive here, a financial motive ....Tr. 62-63.

He spoke of the financial plight of the Cuban-Americans. "Financial motive was obvious" he said "because [of] the money recovered from the defendants when arrested and searched in the hotel room ...." Tr. 63.

"Now defendant McCord also had financial problems", he said, "very serious." Tr. 66.

As he concluded, he said:

> Ladies and gentlemen of the jury, this is the evidence. This is a summary of the evidence that the United States will produce before you in support of its charges in this case.

Nineteen days later, Gilbert was to make his closing argument to the jury, closing argument on behalf of the United States of America.

During these 19 days the victims of the Watergate crime

were to fight not only for their own personal and political lives but also for the rights of those who had participated in or been mentioned in their wiretapped conversations.

They not only had been the victims of the crime, they were now to become the far more injured victims of the trial. They faced being whipsawed between the prosecution and the defense in an American courtroom -- in a trial which was not a trial.

The American system of justice had been designed by history for the adjudication of adversary disputes. The separation of powers had been designed to prevent the usurpation of power by any one man or group of men.

We knew precisely what was happening to us and through us to the nation. For wrapped into this struggle to protect privacy, indeed, to suppress evidence, there lay the essential truth about Watergate. Without evidence of the contents of the conversations Mr. Silbert would be unable to convince anyone that the motive for the crime was blackmail. And without a believable non-political motive, a motive acceptable to and believed by Judge Sirica and the public, the search for truth in the Watergate case would continue.

As E. Howard Hunt sought to enter his negotiated plea of guilt to the charges against him, the case moved to another level of the independent judiciary.

On January 12, 1973, an emergency panel of the Court of Appeals heard oral argument. Here Mr. Silbert denied that he had made his original statement regarding blackmail.

The Washington Star-News 1, cols. 3-8, Jan. 12, 1973, reported the appellate argument as follows:[1]

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1. A tr[illegible] appellate argument is unavailable.

Hunt Blackmail Issue Raised, Denied in Court

An attorney said in court today he was told by Asst. U.S. Atty. Earl J. Silbert, the prosecutor in the Watergate trial, that E. Howard Hunt, Jr., who pleaded guilty in the case yesterday, was attempting to blackmail a national Democratic official.

Charles Morgan, Jr., an American Civil Liberties Union attorney who has filed a motion relating to the Watergate case, told the U.S. Court of Appeals today that on Dec. 22 a prosecutor told him, "Hunt was trying to blackmail Spencer, and I'm going to prove it."

Asked by an appellate judge which prosecutor this was, Morgan replied, "It was Mr. Silbert."

Silbert, arguing after Morgan had finished, said that he "must disagree with Mr. Morgan as to the conclusion he draws about the two meetings" and the conversation that Friday before Christmas.

As on Friday, Morgan said today that he did not believe that blackmail was a motive behind the bugging plot for which seven men were finally charged.

"I find no attempt at blackmail," Morgan told the judges. "The only purpose I can find for it [attempting to show blackmail was a motive] was it looks nice on good, Mr. Hunt went out on his own adventure, and nobody else knew anything about it."[1]

Morgan was implying that Silbert might be taking this tack at trial in order to counter suspicions that Hunt and the six men indicted with him were in fact working for high-ranking Nixon administration or Nixon campaign officials.

Silbert said he told Morgan only that defendant McCord had expressed an interest in sensitive conversations of both a personal and political nature, and that Hunt had known one of the people whose conversations had been overheard.

Silbert appeared to be saying that Morgan had confused these statements and thought Silbert had said Hunt was after blackmail. Silbert later refused to elaborate on his statement in court.

However, in his rebuttal argument Morgan said he had checked his recollection with his associate, Hope Eastman, who was also present during the conversation with Silbert, and they both agreed that Morgan's version of Silbert's statement was correct.

Outside the courtroom, Morgan said he, Mrs. Eastman, Silbert and Assist. U.S. Atty. Seymour Glanzer, a member of the prosecution team, had had the conversation during lunch in a Pennsylvania Avenue restaurant.

There have been allegations that the Watergate incident was part of a larger espionage-sabotage campaign conducted with knowledge and funds from some Nixon campaign and White House officials. The administration has flatly denied these reports. [emphasis added]

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1. In his actual argument 17 days later Mr. Silbert was to explain that McCord and Liddy "went off on an enterprise of their own. They, and regarding CRP money, Hunt and Liddy had to tell it. He had to turn it." Tr. 2[illegible].

Later that afternoon the Court of Appeals entered its order:

> that no evidence of the contents of any of the allegedly illegally intercepted communications shall be admitted except under the following conditions:
>
> (1) The trial judge shall hold an in camera hearing, with counsel for the prosecution, for the defense, and for movants present, on the proffer of evidence of such contents.
>
> (2) If there is objection to the admission of the evidence and if the objection is overruled, then opportunity will be provided to the parties and to the movants to appeal to this court before the proffered evidence is admitted.
>
> It is FURTHER ORDERED by the court that, in the event of an appeal to this court, the transcript of the in camera hearing, plus any evidence submitted in connection therewith, shall be sealed and delivered to the clerk of this court.[1]

---

1. United States of America v. George Gordon Liddy, et al., Robert E. B. Allen et al. [illegible] Jan. 12, 1973.

On January [illegible] 1973, Mr. Glanzer was [illegible]ining Alfred C. Baldwin, III. He had agreed that prior to inquiry into contents he would approach the bench and request an in camera, out-of-jury presence hearing. Instead, the following occurred:

> Q. [BY MR. GLANZER] From your monitoring of the telephone were you able to identify some of the individuals who used the phone besides Mr. Oliver?
>
> A. [BY MR. BALDWIN] That is correct.
>
> Q. Can you tell us who those individuals were?
>
> (MR. MORGAN) (Mr. Charles Morgan, Jr., Esq. representing the ACLU) [who had been seated with the spectators in the rear of the courtroom] Your Honor, at this point I would like to interpose an objection. That is contents under the statute --
>
> THE COURT: -- You mean disclosing the individuals is disclosing the content of the conversation?
>
> MR. SILBERT: Your Honor, I was going to approach the bench after he identified who it was he overheard.
>
> MR. MORGAN: The 'identity' is specifically covered....Tr. 952.
>
> (AT THE BENCH) MR. GLANZER: Your Honor, I want to apologize, I thought I could go into the identity and was going to stop as I told Your Honor. Tr. 954.

After the in camera hearing the trial Court ruled contents ac[illegible]sible, and the transcript was prepared, sealed and transmitted to the Court of Appeals. We there filed a Post-Hearing Memorandum under seal.

On that afternoon - January 18, 1973 - oral argument was heard and Mr. Silbert returned to the truth regarding his intended presentation of the blackmail motive.

The New York Times [illegible] cols. 1-4, Jan. 19, 1973, reported that argument as follows:[1]

---

1. See also "Tapped Conversation Vital For Motive, Prosecutor Says", Washington Star-News [illegible] cols. 1-3, Jan. 13, 1973:
> At the Appeals Court, Silbert publicly suggested that blackmail was a motive behind the bugging.

and the St. Louis Post Dispatch [illegible] col. 1, Jan. 19, 1973:
> At the appellate court hearing, the prosecution made a strong suggestion that blackmail might have figured in the [illegible]-bugging. [illegible] Earl J. Silbert virtually confirmed that this would be part of the government's case.
> At one point [illegible] Levin [illegible] Colon, chief judge of the U.S. Court of [illegible], bluntly asked Silbert if he was trying to [illegible].

(footnote continued on following page)

The Government publicly suggested for the first time today that blackmail was a motive behind the alleged bugging of Democratic national headquarters last summer by Republican-financed agents.

The chief prosecutor, Earl J. Silbert, made the suggestion at a Federal appeals court hearing on whether conversations secretly monitored from the wiretapped telephones of high Democratic officials could be admitted as evidence in the Watergate trial.

Mr. Silbert argued that the jury could tell by the type of phone conversations monitored that the eavesdroppers were interested in "political intelligence."

Judge David L. Bazelon, chief judge of the United States Court of Appeals for the District of Columbia, asked: "Is the Government interested in whether this information would be used to compromise these people? That is a euphemism for blackmail."

"We think it is highly relevant to lay a factual foundation so that we can suggest that is what they were interested in -- when they were doing some political wiretapping -- be interested in information that was personal and of a confidential and private nature?"

"Why don't you indict them for it?" Judge Bazelon asked.

"We believe this information goes to the motive and intent. It is relative to the motive and intent of the parties involved," Mr. Silbert said.

....

Mr. Silbert argued before the three-judge appeals court panel that Mr. Baldwin's testimony was vital to the Government's case and that the jury would make a "moral judgment" about why the wiretaps had been installed.

"Do you want to show how dirty this thing was?" Judge Bazelon asked. "You're talking about morality."

"We feel we shouldn't be limited to a bare-bones case. This is necessary to escape acquittal," Mr. Silbert replied.

"You're saying that the jury won't think it's a crime just to intercept a message?" Judge Bazelon asked, "that there has to be something deeper than that -- that there has to be something dirtier than that? I don't know. Maybe you're right."

"We think that," Mr. Silbert said. "If there is technical wiretapping, you're right. The jury does that to make a moral judgment."

Mr. Silbert said the prosecution did not intend to bring out "specific details of an conversations," but did intend to ask Mr. Baldwin the "general nature of what he overheard."

(continuation of footnote from previous page)

"Why else," Silbert replied, "would a wiretapper be interested, when doing political wiretapping, in information that is personal and of a confidential and private nature?" [emphasis added].

On the morning of January 19, 1973, the Court of Appeals issued its order which said:

> This case came on for consideration of appellants' *in camera* post-hearing memorandum and of appellee's motion for summary affirmance, and the court heard argument of counsel.
>
> Proof of the contents of intercepted telephone conversations is not required to prove the charges for which the defendants are on trial. Disclosure of such contents would frustrate the purpose of Congress in making wiretapping a crime. See particularly 18 U.S.C. § 2515 (1970).
>
> It is therefore ORDERED by the court that the contents of wiretapped conversations shall not be offered or received in evidence, nor shall any reference be made by the witnesses, the parties, or their counsel which would indicate the contents of such conversations, except *in camera*. This paragraph and the preceding paragraph of this order shall be read to the jury when the trial reconvenes.
>
> Nothing in this order will preclude the admission of evidence as to the telephones in the Democratic Headquarters which may have been tapped, or evidence as to the persons in Democratic Headquarters using such telephones during intercepted conversations [as we had represented was unobjectionable].
>
> This order supersedes our interim order of January 12, 1973, which is hereby vacated.[1]

Had we not known of the importance to the prosecution of the blackmail motive we now would have been forced to learn of it. For, the prosecutors had been putting more effort into the contents side-issue than they had into their case-in-chief.[2] It then seemed to us that no experienced trial lawyer would continue a side-struggle with the victims of the crime, a struggle to obtain evidence which the Court of Appeals had ruled was

> not required to prove the charges for which the defendants are on trial.

and which related to but one of what he had termed "several motives."

But Mr. Silbert continued the side-struggle. He first

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1. United States of America v George Gordon Liddy, et al., et L. B. Allen et al., *supra*.
2. In addition to the two hearings in the trial court, the two hearings in the appellate court and the preparation of [illegible] and arguments on motion [illegible], Mr. Silbert had filed three motions for en banc or reargument consideration.

resisted the reading of the order to the trial jury saying:

> I know the order says that this paragraph and the preceding paragraph are to be read to the jury when the trial reconvenes.
> ....
> There are a lot of different factors that come into play with respect to it. For that reason, we would like an opportunity to study the matter over the weekend, consult with the Department of Justice to determine whether or not we wish to seek further relief. Tr. 1066.

After a protracted discussion, Tr. 1066 - 74, the order was stayed. On the following Monday the decision to not appeal having been made, Judge Sirica read its required portion to the jury. Tr. 1090-91.

It now fell to him to enforce the order. This was to prove difficult for Mr. Silbert was to continue his quest for the fruit denied him by the Court of Appeals.

Mr. Silbert had not yet presented the jury the testimony of Mr. Oliver and Miss Wells. Mr. Baldwin's testimony had been completed and Mr. Silbert's case was nearing conclusion. So, without notification to their counsel he telephoned the victims of the crime and told them to come to the trial.

Thereafter, Mrs. Eastman telephoned Mr. Silbert to arrange a time for him to interview our clients. But, Mr. Silbert stated to her that although he desired to interview his witnesses, he would not do so with their counsel present.

Mrs. Eastman suggested that only she be present. Mr. Silbert rejected this offer.

So Mr. Oliver and Miss Wells went to the witness room without knowledge of the questions which Mr. Silbert intended to ask.

It seemed to us that Mr. Silbert's conditioning of his interviews on the absence of counsel was not merely improper, it was dangerous to our clients. Mr. Oliver and Miss Wells knew that Mr. Silbert's interests and intentions were, at best, hostile.

Neither they nor we could conceive of the nature or amount of pressure he might place upon them to waive their rights.

After all, he did have the right to publicly question them and we did not know if our continued "third-party trial participation would be allowed. Additionally, without counsel present we felt he might undertake to obtain acquiescence in a facially proper line of questioning which opened a forbidden testimonial area.

On the other hand, there was the possibility that Mr. Silbert might follow exactly that same questioning course and thereafter contend that he hadn't known these "proper" questions would elicit improper answers since he had been unable to interview his witnesses prior to their appearances.

At the Court House Mr. Glanzer suggested that since we trusted him he would undertake to be present at Mr. Silbert's interview. Mrs. Eastman and I could remain nearby. We, of course, advised against this but left the final decision to Miss Wells and Mr. Oliver. They rejected his offer and the charade continued. Mr. Glanzer professing not to understand why Mr. Silbert and I were unwilling to be "reasonable" carried to Mr. Silbert the names of three other lawyers to accompany our clients. Mr. Silbert rejected each of these separately made offers[1] and called Miss Wells to the stand. It soon became apparent that he still was heading down the road to contents and thereafter, blackmail.

First, he warned his uninterviewed witness not to go into contents "in any way" and then the following transpired:

> MR. SILBERT: ...can you tell the ladies and gentlemen of the jury and His Honor for what purpose[2] you did use the telephone in Mr. Oliver's office?
>
> MR. ALCH: [Attorney for Mr. McCord] Your Honor, we better approach the bench.

---

1. We suggested to him Lois J. Schiffer of the District of Columbia Bar. Rejected. We thereafter offered him [illegible]. Rejected. We then suggested we'd attempt to obtain the services of David Isbell of Covington and Burling. Rejected.

2. 18 U.S.C. § 2510 (c) defines contents as "any information concerning the identity of the parties to such communication or the existence, substance, purport, or meaning of that communication [emphasis added]

THE COURT: We are not going into the contents?

MR. SILBERT: That is right. Tr. 1880

....

MR. SILBERT: The question was for what purpose, not the contents, Your Honor [emphasis added] Tr. 1881.

....

MR. SILBERT: I have no objection to you reading the order to them. I don't think just asking her why she on her own used the phone in that particular office, I am not asking what you said on the phone or what somebody said to her.

....

MR. MORGAN: What does he intend to bring out by that question? [emphasis added]

THE COURT: ...[O]bviously she couldn't be using the telephone as a private telephone for herself. [emphasis added]

MR. SILBERT: I am not so sure about that. As a matter of fact, I think that is why she did use it. [emphasis added]

THE COURT: Maybe she did, then you get into the contents, you see. Tr. 1882-83.

....

MR. SILBERT: Very well, Your Honor, in view of that, [an objection by Mr. Liddy's lawyer] if both parties feel that way, that is the party for the Movant and the Defendants, I will withdraw it. [emphasis added] Tr. 1883-84.

Judge Sirica then, without objection reread the Court of Appeals order to the jury, Tr. 1884, and the transcript discloses the following:

MR. SILBERT: Your Honor, I will withdraw my last question.

THE COURT: Let the reporter read the last question. (The reporter read the last question.)

THE COURT: All right. The jury will withdraw that question. Tr. 1885.

After he had placed Mr. Oliver on the stand he continued:

Q. During that period of time, May 25 to June 16 and 17, was there any time you were out of town.

THE WITNESS: Your Honor, I think he is going into contents. [emphasis added] Tr. 1916.

....

MR. MORGAN: ....In fact all of Mr. Silbert's information relating to Mr. Oliver's travel plans which is what I think he with this line of questioning he is getting to is derived from contents. Tr. 1916-17.

....

MR. SILBERT: Your Honor, if you recall both Mr. Baldwin and Maxie [Miss Wells] have testified about a tour that Mr. Baldwin received from Maxie during the period of June 12. The line of inquiry is only to show that Mr. Oliver was out of town at that time and I am just going to say were you out of town during what period of time, were you out and that is all.

MR. MORGAN: Where were you, Your Honor, is exactly relevant to the conversation and-- ... [emphasis added] Tr. 1917.
THE COURT: I understand. I think you can ask him if he was out of town.

MR. MORGAN: Where was he is a matter that comes from contents.

MR. SILBERT: I don't have to ask him that.

MR. MORGAN: There is no other matter that goes into contents?

MR. SILBERT: I resent that statement by Mr. Morgan. I know what I intended to go into, the contents, the witness' remarks was totally unnecessary and there is no basis for Mr. Morgan's statement. Tr. 1918.
....
BY MR. SILBERT:
Q. When did you leave, Mr. Oliver, and when did you return?

A. Well, I went out of town over the Memorial Day weekend with my family and I don't remember what the exact date of that was and I went to the Texas State Democratic Convention. I left a few days before and returned the day after, I believe.

Q. Was the Texas State Convention held on June 12, a Monday.

A. No. Tr. 1920

He asked Oliver if he knew "a person by the name of Howard Hunt?":

A. I believe I had met Mr. Hunt.
....
...I believe I was introduced to him some two and a half to three years ago and I wouldn't recognize him from that meeting. I would recognize the photograph [proffered by Mr. Silbert] as one I had seen in the newspaper. Tr. 1921.
....
THE COURT: I don't know what the purpose of this is, frankly.
....
(At the bench)
THE COURT: Suppose you make a proffer of proof, Mr. Silbert.

MR. SILBERT: Yes. He will simply say he met Mr. Hunt when he was brought over to the Robert R. Mullen Company and given a tour with the idea that he might be employed at that particular business and during the course of the tour he met Mr. Hunt and that is basically all it is.
Now the reason for bringing that in, of course it is his phone that is being tapped. Mr. Hunt is one of the chief wrench-pins of the conspiracy and as Mr. Baldwin has testified what Mr. McCord told him he was interested in all conversations of a personal nature, whether political or otherwise, and that is right in the transcript and if

the Court please, highly relevant, ev[illegible] ping the telephone of somebody you kno[illegible] opposed to somebody who may be a poli[illegible] figure and we think where Hunt was one of the ringleaders.

THE COURT: Any objection to that?

MR. MORGAN: Yes, sir. I want to sp[illegible] to that, Your Honor, if I may.

The matter we originally raised [illegible] Honor's Court several weeks ago was [illegible] prosecutor told me, I quote: "Hunt [illegible] in[illegible] to blackmail Spencer and I am go[illegible] prove it."

THE COURT: Wait a minute. What?

MR. MORGAN: "Hunt was trying to bl[illegible] Spencer, and I will prove it." This [illegible] case with respect to contents and th[illegible] ter in contents which I believe Mr. S[illegible] is going into by indirection is a [illegible] at issue and covered by the Court of Appeals order and what Mr. Silbert I think [illegible] to do is exactly what he has done, h[illegible] brought out the Texas convention, he[illegible] moves forward by indirect question [illegible] he moves to Mr. Hunt and very shortly [illegible] will move to other contents or somet[illegible] will and once it is opened up these d[illegible] dants go into it.

THE COURT: Have you finished? I'll hear you.

MR. ALCH: Your Honor, I object on the grounds it is immaterial. Here is a conversation happened over two years ago. How can [illegible] any way this impute the intent on the part of these people to listen to personal phone calls and certainly doesn't pertain to McCord, he is not anywhere near the picture two and a half years ago.

THE COURT: I have kept out some evidence going back a few months prior to the alleged conspiracy, now we are going back two years. What difference does it make? He said he saw Mr. Hunt's picture in the paper and that establishes he knows who he is. I think we are getting into something that is not only remote but insignificant. I mean there is so much in here to show the telephones were tapped or what they were doing in there. All right. I will sustain the objection.

MR. GLANZER: Your Honor, before we leave I don't think Mr. Silbert needs any defense, but I think the remarks made by Mr. Morgan were inappropriate. Mr. Silbert did not seek to go into contents of the conversation indirectly or directly and to impute to these actions strikes me as unseemly. The fact that the man went to the Texas convention could be obtained without ever discussing the contents. As a matter of fact, if we would, or have to ask Mr. Spencer [illegible] he will tell you.

THE COURT: I can't [illegible] I agree with Mr. Morgan's remarks. I didn't see any evidence [illegible] was trying to [illegible] indirectly [illegible]

directly. It didn't appear that way to me.

MR. GLANZER: He was not going into anything about blackmail or anything else. I think it is an unusual fact that the person whose phone is tapped is known by the principal conspirator and puts different light on things and that is what Mr. Silbert was trying to do and Your Honor was proper in deciding your discretion and has nothing to do with circumventing an order or bad faith, or contents.

THE COURT: I already ruled. Let's proceed. Tr. 1922-25

On cross-examination the following transpired:

Q. [BY MR. MAROULIS, MR. LIDDY'S ATTORNEY] Mr. Oliver, have you ever been the object of blackmail?

A. No, sir. Tr. 1929.

The Government of the United States then rested. Tr. 1933.

The people's lawyer - Principal Assistant United States Attorney, Earl J. Silbert, now was to be put to a closing argument without evidence of the contents of the conversations and, consequently, without a believable non-political motive.

He did the best he could.

He argued:

> He [McCord] and Liddy were off on an enterprise of their own. Diverting that money for their own uses. Tr. 2066.

Mr. Silbert's closing argument -- fiction unworthy of an E. Howard Hunt novel -- seemed somehow appropriate for the case. He bore down on a money motive but the questions raised by the trial had opened rather than closed the books. Mr. Silbert pictured Mr. Liddy as the top man, the "boss" and money as the motive. He told the jury and by then a still listening but unbelieving world:

> He [Mr. Liddy] had been authorized to engage in certain intelligence gathering activities, and you heard from Mr. Magruder and Mr. Porter what the purpose was.
>
> But he wasn't content to follow out what he was supposed to do. He had to divert it. He had to turn it. And he and Mr. Hunt while they had that two hundred and thirty thousand.

that was a lot of money, they lived high, wide and handsome, didn't they. Tr. 2062-63.

The following sequenced extracts from Mr. Silbert's closing argument are necessary to fully understand its monstrous wrong:

> The leader of the conspirators, as I will discuss with you later on, finding out the information from the person for whose work he is paying, the money man, the boss. Tr. 2036.
>
> ....
>
> And who was the boss? Who was the boss that night? Tr. 2038.
>
> ....
>
> The boss, the defendant Liddy, the man in charge, the money man, the supervisor, the organizer, the administrator.
>
> That was Mr. Liddy, organizing and directing this enterprise right from the start....Tr. 2039.
>
> ....
>
> So that we know, don't we, ladies and gentlemen of the jury, that George Leonard is the defendant Liddy. Again, since when does a lawyer, general counsel for a major campaign committee, political committee, have to run around the country, California, Miami, in his own city of Washington using an alias, if he is engaged in legitimate, honest valid activity? Tr. 2041.
>
> ....
>
> Money talks and the defendant Liddy had lots of money to make that money talk didn't he? And Mr. McCord was handing it out. Hundred dollar bills. One after the other. Tr. 2042.
>
> ....
>
> The only kind of payment. Fresh new hundred dollar bills from the money man, Mr. Liddy, the boss, the supervisor. Tr. 2043.
>
> ....
>
> That is pretty good eating isn't it. Eight persons for $2[illegible].00. That is pretty good eating isn't it? All on the money the cash money that was flowing into Mr. Liddy's hands and just floating out.[1] Tr. 2045.
>
> ....
>
> When Baldwin got his money from McCord he had to account for it, didn't he? He gave a receipt every time but when McCord got his money from Liddy, the Boss knows what was paid, doesn't he. You don't have to explain things to the boss because the boss is right there. When the boss isn't there, then you got to account for it, and that boss is Liddy. Tr. 2049.
>
> ....
>
> And what does Mr. Sloan say Mr. Liddy says to him? Mr. Sloan was going in. Liddy [illegible] in his hair. .... He said to the best of my recollection, 'My boys got caught last night. I made a mistake. I used somebody from here which I said I would never do. I am afraid I

---

1. (Footnote [illegible] following page)

am going to lose my job."" Tr. 2058.

....

[T]he logs had been given to the boss of the operation, Mr. Liddy....Tr. 2059.

....

And whose money was it, and who ordered the payment? The defendant Liddy, the money man, the boss. Tr. 2060.

....

And, as Mr. Bennett told you, well, you got a new boss. He said to Mr. Liddy. Remember? Because John Mitchell had resigned. And Clark Magregor had taken over as campaign director of the Republican Committee. He said "I don't have a new boss. There is a new boss there but it is not mine." And why not? Tr. 2062.

....

And, again, just to complete now. We heard, as you did, a number of people from the committee that Liddy did have a lot of money, a lot of money had been put into his hands. Where did it come from? He had been authorized to engage in certain intelligence gathering activities, and you heard from Mr. Magruder and Mr. Porter what the purpose was.

But he wasn't content to follow out what he was supposed to do. He had to divert it. He had to turn it. And he and Mr. Hunt while they had that two hundred and thirty thousand, that was a lot of money, they lived high, wide and handsome, didn't they? Id. 2062-63.

....

That is not bad pay is it? Id. 2065.

....

What about that money? All the money from the defendant Liddy? All of it given as Mr. Sloan indicated to you earlier, virtually all of it in one-hundred dollar bill packages of ten. A thousand dollars at a clip. And who does the evidence show had a lot of that money? The defendant McCord. Id. 2065-66.

He and Liddy were off on an enterprise of their own. Diverting that money for their own uses. Tr. 2066.

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1. (footnote from preceding page)
Compare the testimony of prosecution witness Thomas Gregory. Tr. 262.

Q. [BY MR. SILBERT] And did you go somewhere else then?
A. Yes. [Accompanied by Messrs. Hunt and Liddy] I went to McDonald's Hamburger Shop.

Q. And what did you do at McDonald's Hamburger Stand?

A. We got some hamburgers and something to drink.

Conclusion

This report began with a brief look at Presidential efforts to limit the investigation. Thereafter set forth were some of the methods employed by the prosecution to shape the investigation and the trial. In drawing conclusions from the record, the following also must be considered.

The first and basic decision, indeed the most important political decision to be made after the Watergate break-in, was the selection of the person to be placed in actual, ground-level charge of the prosecution.

Even assuming that Mr. Nixon had no pre- and immediate post-crime knowledge of the Watergate break-in and related criminal activity, he had placed greatest faith not merely in the person who supervised the prosecution but, most importantly, the person to be actually in charge of the Grand Jury.

Of the Grand Jury, Chicago's veteran Chief Federal District Judge William Campbell has said:

> This great institution of the past has long ceased to be the guardian of the people for which purpose it was created at Runnymede. Today, it is but a convenient tool for the prosecutor -- too often used solely for publicity. Any experienced prosecutor will admit that he can indict anybody at any time for almost anything.[1]

Mr. Nixon, the lawyer, knew this. Mr. Nixon, the politician, knew this.

And he knew of the potential for danger represented by a bright, young, and ambitious prosecuting attorney.[2] Nowhere better might that ambitious young man make a name for himself and further a political or legal career than as the "gang-busting"

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1. Quoted from United States v. Dionisio, 93 S.Ct. 764, 777 (1973) (Douglas J. dissenting).

2. From time-to-time the prosecutors' private and public explanations of their early "mistakes" rely upon their "naivete" or "tunnel-vision" or the widespread conspiracy and high-level perjury which was thrust upon them. These explanations do not involve considerations which one would ordinarily rely upon when deciding whom to employ as a personal attorney.