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FOR IMMEDIATE RELEASE

SEPTEMBER 10, 1974

OFFICE OF THE WHITE HOUSE PRESS SECRETARY

PRESS CONFERENCE
OF
PHILIP BUCHEN
COUNSEL TO THE PRESIDENT

THE BRIEFING ROOM

AT 12:49 P.M.

MR. HUSHEN: As I announced earlier, Mr. Philip Buchen, the Counsel to the President has agreed to come back out here today to answer some of the questions you have.

Let me say we are going to give them 60 seconds to get some photographs and then they will go away.
(Laughter)

Let me say at the outset that the document that is about to be handed out is embargoed until the completion of the briefing.

MR. BUCHEN: This is a follow-up, of course, of the meeting we had on Sunday. And at that time someone asked the question about the disclosures made to me by Special Prosecutor Jaworski to the areas of investigation in which his special force was engaged.

And my answer was that the question asked him was: "What matters could arguably involve further steps?"

And I reported that it read like a list from one of your newspapers.

You have now before you the document that was furnished to me and, although the copy of the Special Prosecutor's memorandum from Henry Ruth to the Special Prosecutor dated September 3, 1974, on the subject of Mr. Nixon was sent to me in confidence, Mr. Jaworski has since advised me that, if I were willing to assume the responsibility for its release, he would raise no objection to my doing so.

However, he cautioned that in the event of its release, he would expect that it be made available in its entirety, including the first and last paragraphs of the memorandum, and I quote that the first paragraph reads:

"The following matters are still under investigation in this Office and may prove to have some direct connection to activities in which Mr. Nixon is personally involved:"

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(over)

At the conclusion of the memorandum Mr. Ruth, in reporting to Mr. Jaworski, wrote:

"None of these matters at the moment rises to the level of our ability to prove even a probable criminal violation by Mr. Nixon, but I thought you ought to know which of the pending investigations were even remotely connected to Mr. Nixon. Of course, the Watergate cover-up is the subject of a separate memorandum."

Now I will try to field any questions.

Q Tell us about considering pardons for everybody involved in Watergate?

MR. BUCHEN: I am not involved in that matter.

Q Well, who is?

MR. BUCHEN: I said at the time of the last press conference to my knowledge no thought was being given to that and I have not been called in to do any part of the study so far. I assume I will be.

Q Who is at this Point?

Q Who is considering this, the President?

MR. BUCHEN: The President made the statement.

Q Mr. Buchen, can you tell us if anyone tried to persuade Mr. Nixon to confess guilt prior to the granting of the pardon by President Ford?

MR. BUCHEN: No. Mr. Miller, at the time that I informed him that the President was considering a possible pardon for Mr. Nixon, was told by me that I thought it would be very beneficial in the interests of the country, in the interests of the present Administration and in the interest of the former President, that as full a statement as possible should be issued by Mr. Nixon but that I had been told that that was not a condition to the consideration of the pardon.

Mr. Miller at that time assured me that he agreed with me that such a statement should be forthcoming from his client.

Q Mr. Buchen, I was wondering, if, as the President's legal counsel, would you advise that the President in this study about the possibility of giving amnesty to all the Watergate people, ~~that excluded~~ from the people doing the study should be all Nixon hold-overs? Would you advise, or do you think it is reasonable for Nixon holdovers to participate in a study of possible amnesty to all Nixon defendants?

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MR. BUCHEN: I think that is a decision the President will have to instruct me on.

Q How would you advise him?

Q Did you finish your answer to the earlier question?

MR. BUCHEN: I was finished.

Q Could I follow-up then, sir? Did the former President balk at this, was there negotiation on what finally came out in his statement afterwards?

Did you see that statement, sir, or did anyone else in the White House see it prior to its issuance?

MR. BUCHEN: When Mr. Becker came back from San Clemente, he was able to report the substance of the statement that he thought would be forthcoming after the announcement was made.

But we did not have the statement in the form in which it was ultimately delivered.

Q Are you satisfied that this was as full a statement as possible coming from the former President?

MR. BUCHEN: That is something that I think would require going into the former President's mind. Obviously, if you do not condition an act of mercy on the recipient of the mercy doing anything, you are not in a position to do much bargaining.

Q Mr. Buchen, did Mr. Becker go to San Clemente with a much stronger statement, or a statement --

MR. BUCHEN: He had no statement in hand.

Q You say he came back with a statement -- he reported the substance of the statement he thought would be forthcoming. Was that substance substantially different from the statement that was then issued?

MR. BUCHEN: No, the essential feature was the statement that the President believed he had not acted decisively and forthrightly in respect to the Watergate once it became a judicial proceeding and the regret for having done wrong was in the report that Becker gave us.

Q Was it your hope or intention early in those negotiations to get Mr. Nixon to agree to a statement in which he admitted his own personal wrong-doing and involvement in the Watergate cover-up?

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MR. BUCHEN: Again I had to rely on what Mr. Miller believed would be in the best interests of his client and the country, because I had no authority to extract a statement of my own making.

Q Not what was in the former President's mind, but what was in your mind? Do you think that the final statement met the standards that you and Mr. Miller discussed at the meeting?

MR. BUCHEN: Well, I think they did, because, as some of your papers have already suggested, the very fact that a man accepts a pardon does imply that he believes it is necessary for him to have that pardon, or that it is useful for him to have that pardon.

And there aren't many instances in which it is useful to have a pardon unless there is a strong probability of guilt.

Q Mr. Buchen, do you think that you and President Ford misread the public's acceptance of the terms of this pardon and the acceptance in Congress?

MR. BUCHEN: Well, I was not doing much reading on the outside as to what might happen. That was really outside my bailiwick, so I cannot tell you.

Q Mr. Buchen, do you and the President hope that the former President will at some time, perhaps in the near future, release some kind of formal statement detailing further his connection with Watergate?

MR. BUCHEN: I have not given that any thought and I assume that would be entirely up to the former President.

Q Mr. Buchen, you were involved in the pre-accession negotiations and pre-transition operations of the Ford Administration. Was there at any time any discussion between any high-ranking member of the Ford group and any member of the Nixon group as to the possibility of a pardon for Nixon in advance of his leaving office?

MR. BUCHEN: I answered that question Sunday and, to my knowledge, there was absolutely none and it never came up as a matter to be discussed by the transition team. And I think I participated in virtually all meetings of the transition team.

Q How about between Ford and Nixon alone?

MR. BUCHEN: I don't believe so.

Q Can you find out definitely whether there was no deal before Nixon left office?

MR. BUCHEN: Well, I know the man in the President's office quite well and I can assure you he did not make a deal. I know him that well.

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Q Mr. Buchen, he assured us in a press conference it would be untimely to do such a thing, and he assured us when he was nominated for Vice-President that the American people would not stand for it. Can you give us an explanation of this?

MR. BUCHEN: Let's take the first; the matter of untimeliness seems to me to involve a debate that really makes little sense, because a man who had to consider whether or not to grant a pardon, it seems to me, has to consider the fact that if a pardon is desirable, the earlier it comes, the better.

It is like making a man walk a plank. You wait until he takes the first step. You wait until he gets to the middle of the plank. You wait until he jumps off the end, and then dive in to rescue him. I think it represents -- let me put it this way. I don't think an act of mercy can ever be untimely, and it certainly becomes less merciful if you postpone the agony.

Q Mr. Buchen, in that statement, you are suggesting that the former President was going to go off the end of the plank?

MR. BUCHEN: I think there was a strong possibility.

Q When Mr. Becker was out at San Clemente, did he discuss in the President's presence what the President might say in a statement, and did the President get angry at the suggestions that he admit guilt?

MR. BUCHEN: I think those negotiations were entirely with Mr. Ziegler, so I don't think we have any knowledge of what the President --

Q The New York Times states this morning as I quoted it.

Q You better clear up what you mean by "walking the plank;" do you mean suicide or going to jail?

MR. BUCHEN: No, as I understand "walking the plank," it is because the man has been convicted of some crime that offended the master of the ship, or not convicted, say indicted.

Q What about the question of health; Mr. Buchen, how did that figure into this decision?

MR. BUCHEN: I don't know because I wasn't party to any of the investigations or discussions, if there were any, about the former President's health.

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Q Did you say Mr. Becker at no time spoke to Mr. Nixon in San Clemente?

MR. BUCHEN: I didn't say that.

Q I thought you said the negotiations were entirely with Mr. Ziegler?

MR. BUCHEN: I don't know whether there were negotiations, but the matter of the content of the President's statement, which he contemplated giving when the pardon was issued, was dealt with entirely through Ron Ziegler. The only face-to-face matters taken up with the former President dealt with the manner of managing and disposing of his papers and tapes.

Q Mr. Buchen, did Mr. terHorst ask you on Friday whether Mr. Becker was involved in discussing a pardon with the former President during his trip to California, and if he did, what did you tell him?

MR. BUCHEN: Well, we better clear that one up.

Jerry terHorst reported to me that someone had observed Benton Becker and Jack Miller in the area of San Clemente. Jerry terHorst asked me what the purpose of my having sent Benton Becker out to San Clemente was, and I said that the purpose was to take a document that had been prepared in rough draft before he left Washington, had been prepared by Mr. Miller, which related to the management and disposing of the tapes and records.

However, we objected and wanted changes in those documents, partly because we were concerned as to the practicality of some of the proposals made insofar as they involve the Administrator of the General Services Administration.

The matter is very complex, as you see, so I suggested, when Mr. Miller said he would have to go and discuss the terms of that document with his client, that Mr. Becker go along, so that there would be a way that Mr. Becker could be on hand as changes, additions or whatnot were proposed and so that he would be available to report back to me on the progress of the negotiations. That was the purpose of the assignment.

Q We specifically asked you if Mr. Becker was out there engaging in pardon negotiations?

MR. BUCHEN: There were no pardon negotiations, that is the point.

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Q Anything at all?

Q You sent him out with instructions to say that the President had this under consideration?

Q Would you answer my question, please?

MR. BUCHEN: Mr. Miller knew that the pardon was under consideration, and he could report to his client. It was not necessary for Mr. Becker to do anything in connection with the pardon.

Q Didn't Mr. Becker take out a copy of the proposed pardon?

MR. BUCHEN: Yes, he did. It was a draft that he and I had worked on very hurriedly Thursday afternoon before he had to leave on the plane. I said, "Benton, you are going to be five hours on that plane, take a copy along, keep working on it, I don't think it is in the form we want to submit to the President for his consideration. Take it along and work on it."

Q You didn't tell Mr. terHorst that?

MR. BUCHEN: No, I will explain; as you may appreciate, being counsel to anyone, or lawyer to anyone, imposes certain restrictions, and I believe, on this matter, I was under complete restriction as a lawyer to the President not to disclose what I was doing for the President on a matter that he regarded as highly confidential.

Q Did the subject of pardon ever --

Q Would you say that you misled Mr. terHorst on Friday?

MR. BUCHEN: Let me put it this way; I can see how he could have been misled.

Q Can you see how he could not have been misled?

MR. BUCHEN: No, I can see how he could have been misled. I don't say he could not have been. After all, if you get a question, why is a man whom you have sent to San Clemente there, and I give him an answer, I can see when he in turn had to respond to the man, or the reporter making the inquiries, that he would inject a negative, was he there doing anything else. And I assume that Jerry said, "Well, as far as I know he wasn't," because I had not told him he was doing anything else.

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Q Did you tell him he wasn't out there discussing the pardon?

MR. BUCHEN: Oh, no.

Q Why was it something you couldn't talk about?

MR. BUCHEN: I could talk about the negotiations on the tapes.

Q When he asked you about the pardon?

MR. BUCHEN: He didn't ask me about the pardon.

Q What was the precision of language used in President Nixon's statement?

MR. BUCHEN: Let me get the question.

Q What was the need for the secrecy in the negotiations, whatever they were?

MR. BUCHEN: In the course of any client and attorney relationship, usually until something happens, you are under obligation not to disclose the conversations.

Q I mean, what was the need for secrecy about the fact that a pardon was being considered, generally, not just your conversations with the President?

MR. BUCHEN: Well, generally, that was the President's decision and not mine. I was just bound by my client-attorney relationship.

Q Mr. Buchen, if Mr. Becker knew all about the pardon, the President seemed to trust him with that information, yet he didn't trust Mr. terHorst with that information?

Q Or you didn't trust Mr. terHorst with it?

MR. BUCHEN: I had no power to subdelegate in passing information. The first question is why didn't the President trust Mr. terHorst to have the information at the same time I got it?

Q No, I mean Mr. Becker. You are talking about the attorney-client relationship, which involves you and the President; Mr. Becker is someone outside that relationship, yet he knew about the pardon because he was working on the pardon agreements.

MR. BUCHEN: No, he had the same relationship that I had in terms of his being a lawyer and working

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under my supervision as a lawyer for a client. As in a law office, if a client comes into an office and the lawyer assigns a law partner to work on it, the obligation extends to the other lawyer as well as the original one.

Q Can you be forthright with us on what is your advice to the President on pardoning other individuals associated with the --

MR. BUCHEN: I have not given him any advice.

Q What would be your advice; how do you see the issue?

MR. BUCHEN: I haven't even had time to study it.

Q When did the President's other advisers find out that the pardon was under consideration or was to be granted, and did they agree with it when they found out about it?

Q And did you?

MR. BUCHEN: I was in the room at the time when certain advisers were told about it on Friday before Labor Day, but I don't feel free to report their reactions.

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Q Can you tell us what role General Haig played in this granting of the pardon? He was in on all of this all the time, wasn't he? Was he recommending a pardon during this period?

Q What was the question?

MR. BUCHEN: I was asked that question last night and I can tell you that every occasion when I was present when the subject was raised and General Haig was there, he took an absolutely neutral stand.

Q Did you say you are not part of the study for the other Watergate defendants? Can you tell me when you became aware that that study was in the works?

MR. BUCHEN: I learned from Mr. Hartmann and Mr. Hushen that this matter was brought up at the early morning conference.

Q Who brought it up?

Q Today for the first time?

Q Did you say there was a connection between the pardon for the others and the reaction against the pardon for Nixon? And secondly, if you are the President's lawyer and you are not working on it, who is?

MR. BUCHEN: Well, I don't know, Ron. I really don't.

Q What about the first part of that question; is he trying to dampen down the reaction by giving out pardons to the others?

MR. BUCHEN: Well, I don't interpret studying a pardon as predicting what the results would be.

Q Mr. Buchen, as a lawyer, can you see a distinction between a President granting a pardon to a former President and granting pardons or not granting pardons to former subordinates for involvement in the same illegal acts?

MR. BUCHEN: Well, there certainly is a distinction. I will later have available for distribution -- because I don't think there will be many questions on it -- a memorandum, a copy of a memorandum that Mr. Jack Miller prepared for the Special Prosecutor in which he rather carefully documents the reason why the situation of his client is distinguishable from the situation of anybody else's remotely involved in the acts, or Watergate-related events.

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You will remember I quoted a letter from Mr. Jaworski who did say he thought there was a distinction.

Q Phil, could I ask you this question: Does not the mere fact that the White House has made a statement saying that pardons for all Watergate defendants are under study, does that not intrude upon the judicial process to the point that the trial for the Watergate defendants, the trial for September 30, is somehow intruded upon and interfered with by this statement?

MR. BUCHEN: Well, I don't think so. You see, after all, the fact that there can be a pardon hangs over the trial of anybody. That is not a unique situation. The power to pardon exists in the Federal Constitution and I believe in every State Constitution.

Q This is a matter of great and intense national interest. It is not like the case of any defendants. This is a case of specific defendants that have been involved in a great national drama or what have you, so it is a different case, is it not?

MR. BUCHEN: Yes, but the Presidential pardon power, as well as that of a Governor of a State, hangs over the judicial process all the time.

Q What purpose was served by announcing this morning, or authorizing Jack Hushen to announce it this morning?

MR. BUCHEN: Well, I was not party to that determination so I can't tell you.

Q What purpose was served by announcing the Jaworski letter on the ten points?

MR. BUCHEN: Well, as I indicated, it was given to me on a confidential basis. The comments that have been made around town is that there was not a consideration given of what was, what someone else called "are there any possible time bombs", and we felt that it would be in the interest -- provided Mr. Jaworski consented -- that we do provide you with the information on which the President in part acted before he decided to grant the pardon.

Q In this study that is being undertaken, sir, what is your understanding of the philosophy behind it -- that families of all Watergate defendants have suffered enough, or what other considerations?

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MR. BUCHEN: I can't go beyond the statements Jack gave you. That is all I know.

Q Where did it first come up?

Q Where did this subject of possible clemency for all other Watergate defendants first come up? You didn't make that clear. You said "an early morning conference".

Q What morning?

MR. BUCHEN: This morning.

Q What were the circumstances?

MR. BUCHEN: I don't know except it was reported to me by Mr. Hartmann and Mr. Hushen that it was raised this morning.

Q Where?

MR. BUCHEN: I assume with the President. I don't know the circumstances.

Q Is this a reaction, Mr. Buchen? Is this consideration of the study, consideration of pardons, and the announcement of this study, is this a reaction to the popular outcry against the pardon of the former President?

MR. BUCHEN: I don't think so because the fact that two people are brought into his confidence this morning and that confidence has been shared with you today, doesn't mean that that is when the thought came.

I explained on Sunday when the question was asked me as to whether any thought was given to the way in which the pardon power might be exercised, if at all, respecting other people involved, I said that to my knowledge -- meaning that as far as I knew -- no thought had been given. But that didn't mean that the thought processes weren't going on unbeknownst to me or unbeknownst to the people who got the reports this morning.

Q Mr. Buchen, in going back to my other question, you said mercy is never untimely. Was the President not merciful ten days ago when he said it would be untimely, and was the President lacking in mercy when he told the committee that the American people wouldn't stand for it?

What caused him to be suddenly merciful? Could you tell us what happened?

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MR. BUCHEN: I wish you would come up here and explain the theory of mercy. You can probably do a much better job than I can.

But let me tell you, it is not whether to be merciful, but how he could be merciful, and I do not think he was aware that he could act before there was any formal indictment when he made his statement before the press.

Q Wasn't the President briefed on that very point before the news conference? Wasn't he briefed that there would be a question on pardon and this was a policy adopted?

MR. BUCHEN: That is right.

Q Why was that policy changed, that there would be no pardon until there was due process?

MR. BUCHEN: You have lost me, I am sorry.

Q He announced a policy at that news conference and you say he was briefed on that policy.

MR. BUCHEN: He said that he would make no commitments. His intention then was to make no commitments on the pardon until something had been brought to him.

Q Why was that changed?

MR. BUCHEN: Well, because after the conference, I assume he reflected on the matter, and then asked me to find out whether or not he could move quicker than he had indicated at the press conference.

Q Did you brief him prior to the news conference that the best policy was for him to wait until there was some --

MR. BUCHEN: No, I did not.

Q With whom was he in touch with at that point? Can you tell us who he consulted between Wednesday and Friday when he asked you to begin your research into precedents?

MR. BUCHEN: I have no notion; I really don't, Pete.

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Q What is your understanding of the investigation status referred to in the memo? Is Jaworski going on in his investigation of these points? Is he going to furnish material to the public?

MR. BUCHEN: I know nothing more than what is in the memorandum.

Q The Watergate cover-up, it says, is the subject of a separate memorandum. Has that memorandum reached you?

MR. BUCHEN: It has not.

Q Do you know what it concerns?

MR. BUCHEN: I can imagine what it concerns.

Q Does it indicate to you, as a lawyer reading this, that that number one is ongoing and unlike this listing of ten points which according to the memo may prove to have some connection, but then says there is no point we can prove regarding Mr. Nixon -- does that indicate to you that is a different story entirely when it comes to the cover-up?

MR. BUCHEN: As you know, this memorandum was issued before the pardon, so I don't know what the effect of the pardon has on the investigation referred to in the last paragraph.

Q You must have had some indication from the Special Prosecutor where he stands with regard to the cover-up investigation.

MR. BUCHEN: I do not.

Q In preparing your advice for the President, did you address at all the time element of granting this pardon, with specific reference to the possibility that the Watergate cover-up trial might be affected since the jury had not been sequestered?

MR. BUCHEN: I did not discuss that with the President, but I understand, of course, that, one, it is not certain the jury would be sequestered. I assume it is available to the attorneys for the defendant to waive any such request; and, second, I am not sure that a story like this could possibly have been kept from the jury however tightly sequestered.

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Q Mr. Buchen, did you get from Mr. Ziegler or from Mr. Nixon, either after Mr. Becker returned here or while he was there, some sort of commitment that the President would not in the future make statements protesting his innocence?

MR. BUCHEN: We did not.

Q Mr. Buchen, are you saying that the President did not know or understand at the time of the August 28 press conference that the pardoning power could be exercised before indictment or conviction?

MR. BUCHEN: I certainly had not so advised him, and he had not asked my advice.

Q You didn't say that? Do you have reason to believe that, that he didn't believe he could move before the indictment was voted?

MR. BUCHEN: That I don't know. I didn't ask him.

Q You so far have not given us any explanation for why Mr. Ford changed his mind after that press conference with the possible exception of his receiving this documentation of the investigation.

Does that mean that the investigation turned out to be so serious that he thought the former President wouldn't withstand it?

MR. BUCHEN: No; I think more significant than that was the advice that I reported Sunday, namely, that before there could be a trial, there would have to be a delay of a year or more, and I think that was the matter that concerned him most.

Q Don't many trials take a year or more to come to the court or to settle? And why is Mr. Nixon to be treated any differently in this respect than anyone else?

MR. BUCHEN: Every defendant under the law is entitled to a prompt trial provided he can have a fair trial by an impartial jury.

Q When did you advise the President of the long delay of nine months or a year? Was that after the press conference?

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MR. BUCHEN: He asked me after the press conference, or that Friday, to find the answer. So apparently someone had told him that that probably would be the case.

But he wanted his own lawyer to ask the Special Prosecutor who would be the best judge, of how long it might take, and that is the reason I went to Mr. Jaworski, so we would have an expert opinion.

I don't claim to be an expert. On the other hand, I have read the cases that are cited by Mr. Nixon's own attorney who makes the same arguments very effectively in a memorandum that you can all take back to your legal counsels, because I don't think you want to read it all.

Q However you did know that indictments could be very quick, the question of laying out the charges on the public record would not have taken very long -- maybe a month; is that correct?

MR. BUCHEN: As you know, the word came out that the former President -- then the President -- was about to be named as an unindicted co-conspirator, so the indictment involves -- that involves the defendants, involves probably everything that involves Mr. Nixon alone.

Q But it is not the same, really.

MR. BUCHEN: I think it is pretty good evidence of what that jury intended to do and would have done if there had not been a pardon.

Q Was consideration given to the timing of when this jury would have done this, vis-a-vis the November elections?

MR. BUCHEN: It had nothing to do with the elections. However, it was evident it was the President's decision to grant a pardon before the indictment. He would have to act fairly soon because it was not possible, of course, to grade the Grand Jury in the time it would act.

Q May I clear up a question here?

MR. BUCHEN: Let me get Phil first.

Q In view of the last sentence in this memorandum, didn't you have any qualms about whether you could give the President full legal advice on what he could do? When it says here there are other matters and other memoranda which you have not seen, how could you give the President full advice on what he could do on the pardon in view of that?

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MR. BUCHEN: Well, we believed, of course, that the evidence before the House Judiciary Committee on this very point that resulted in the article that brought a unanimous vote ultimately, and based on particularly the June 23 tapes, gave every indication of what was involved in the alleged Watergate cover-up and we didn't think we needed to know any more than that.

Q I think my notes are correct, that is, you told us earlier, "I do not think (the President) was aware that he could grant a pardon before the indictment when he made his press conference statement." Is that right?

MR. BUCHEN: As far as I know. I don't believe that he was or that he understood what, if any, problems -- I am talking legal problems, now -- would arise if he acted before indictment.

Q The President seemed to say in his news conference that he wouldn't act on the pardon until after an indictment and your explanation, that there would be nine months or a year, perhaps longer, before a trial, doesn't really go to the question of why he changed his mind about waiting until after an indictment to act on a pardon.

MR. BUCHEN: Well, I guess all I can go back to is my own analogy. If you are going to -- if you do come to the conclusion you ought to consider mercy, it doesn't seem to be very relevant to consider what other steps you ought to require the man to whom you are granting mercy must take.

Q And at the news conference he had not made up his mind yet?

MR. BUCHEN: He had not made up his mind.

Q You are saying the main reason he changed his mind was because somebody told him there would be this long delay and he asked you to check it out and you did. And then he decided to grant the pardon? Did someone decide that the long delay would wreck Mr. Nixon's health?

MR. BUCHEN: Not that I know of.

Q Has there been any discussion about the former President not wishing to testify or be a witness?

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MR. BUCHEN: Well, he is under subpoena so he has no choice.

Q I know, but if you are considering pardons, if there is consideration for others, that would spare the former President from testifying, is that part of this study?

MR. BUCHEN: I have not seen the study, so I don't know.

Q In your discussion of the cover-up memorandum a moment ago, you said the June 23 tape told you everything you needed to know about that.

MR. BUCHEN: I didn't say everything. I also said the findings of the House Judiciary Committee.

Q Right, and earlier he spoke of the necessity, the acceptance of the pardon, the necessity for the pardon. Did this mean that you and the President in offering this pardon to the President, would make a presumption of guilt?

MR. BUCHEN: First, take the "you" pronoun out of that and perhaps I can answer it. I did advise the President that a pardon could be characterized as implying guilt on the part of the person who was pardoned because there is no other reason for granting a pardon. But that did not deter or affect his determination to act when he finally made up his mind to do so.

Q From the perspective of the person who accepts the pardon, does the acceptance of the pardon amount to a tacit admission of guilt?

MR. BUCHEN: You can so accept it. The question never came up. I couldn't find in any cases where that question was litigated, so I can't give you any authority. But it just takes common sense and logic to reach that conclusion.

Let's have one of the women.

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Q Thank you.

Throughout this, we have heard solely about the consideration of an indictment and the lengthy period of time between indictment and trial. Did you try to determine from Mr. Jaworski the possibility of a plea from the former President? Now faced with the prospect of a multicount indictment, as he was and as I am sure Mr. Miller advised him, it seems extremely likely there might have been a plea far sooner than there would ever have been an indictment and trial. Did you ask for any timing on this, and if not, why not?

MR. BUCHEN: I did consult, of course, with Mr. Nixon's Attorney, and I was pretty sure from what he told me that in his mind there would never be a plea.

Q There would have been a trial then; you are saying he would have gone the whole route had he not been pardoned?

MR. BUCHEN: I believe so.

MR. HUSHEN: Let's take two more questions. We been out here for forty-five minutes. Two more questions.

Q Maybe you have answered this; why did President Ford want mercy for Richard Nixon?

MR. BUCHEN: Because I think he truly believed it would be in the best interests of the country.

Q Mr. Buchen, if you are done with that answer, I would like to ask you, as a lawyer, do you think it not fair and proper that, if the President considers amnesty or granting a pardon for persons convicted for or indictments for burglary, perjury, conspiracy in Watergate related crimes, that he should give equal consideration to pardoning other persons indicted or convicted of burglary, perjury or conspiracy in non-Watergate related crimes?

MR. BUCHEN: I wish I were a better student of the ethics or morality of mercy, but I believe a representative of the clergy would substantiate my remarks that, throughout our religious history -- and I don't mean just the Christian Religion -- there has always been a separate category of mercy that we know has never been equally dispensed and we know that it is an act of grace that is many times inexplicable.

I am sure all of us in the room have sought mercy on matters that we wanted to blame ourselves for, or some adverse consequences, and we didn't always get mercy.

MORE



Mercy seems to work in very unequal fashion. That is a point on which Jerry terHorst and I have disagreed. He has a notion, as he said, that mercy should be dispensed with in the same even-handed fashion as we would like to see justice dispensed.

But, I believe history tells us mercy doesn't work the same way.

Q Mr. Buchen --

MR. HUSHEN: Thank you, ladies and gentlemen.

Q Mr. Buchen, is there any limitation on the power of pardons?

MR. BUCHEN: I refer you to --

Q Is there any limitation on this at all?

MR. BUCHEN: I refer you to the Constitution.

Q Is there anything he could do that was more than this?

MR. BUCHEN: No, not that I could find in the Constitution; no.

THE PRESS: Thank you.

END

(1:37 P.M. EDT)

OFFICE OF THE WHITE HOUSE PRESS SECRETARY

PRESS CONFERENCE
OF
PHILIP BUCHEN
COUNSEL TO THE PRESIDENT

THE BRIEFING ROOM

AT 12:49 P.M.

MR. HUSHEN: As I announced earlier, Mr. Philip Buchen, the Counsel to the President has agreed to come back out here today to answer some of the questions you have.

Let me say we are going to give them 60 seconds to get some photographs and then they will go away.
(Laughter)

Let me say at the outset that the document that is about to be handed out is embargoed until the completion of the briefing.

MR. BUCHEN: This is a follow-up, of course, of the meeting we had on Sunday. And at that time someone asked the question about the disclosures made to me by Special Prosecutor Jaworski to the areas of investigation in which his special force was engaged.

And my answer was that the question asked him was: "What matters could arguably involve further steps?"

And I reported that it read like a list from one of your newspapers.

You have now before you the document that was furnished to me and, although the copy of the Special Prosecutor's memorandum from Henry Ruth to the Special Prosecutor dated September 3, 1974, on the subject of Mr. Nixon was sent to me in confidence, Mr. Jaworski has since advised me that, if I were willing to assume the responsibility for its release, he would raise no objection to my doing so.

However, he cautioned that in the event of its release, he would expect that it be made available in its entirety, including the first and last paragraphs of the memorandum, and I quote that the first paragraph reads:

"The following matters are still under investigation in this Office and may prove to have some direct connection to activities in which Mr. Nixon is personally involved:"

MORE



At the conclusion of the memorandum Mr. Ruth, in reporting to Mr. Jaworski, wrote:

"None of these matters at the moment rises to the level of our ability to prove even a probable criminal violation by Mr. Nixon, but I thought you ought to know which of the pending investigations were even remotely connected to Mr. Nixon. Of course, the Watergate cover-up is the subject of a separate memorandum."

Now I will try to field any questions.

Q Tell us about considering pardons for everybody involved in Watergate?

MR. BUCHEN: I am not involved in that matter.

Q Well, who is?

MR. BUCHEN: I said at the time of the last press conference to my knowledge no thought was being given to that and I have not been called in to do any part of the study so far. I assume I will be.

Q Who is at this Point?

Q Who is considering this, the President?

MR. BUCHEN: The President made the statement.

Q Mr. Buchen, can you tell us if anyone tried to persuade Mr. Nixon to confess guilt prior to the granting of the pardon by President Ford?

MR. BUCHEN: No. Mr. Miller, at the time that I informed him that the President was considering a possible pardon for Mr. Nixon, was told by me that I thought it would be very beneficial in the interests of the country, in the interests of the present Administration and in the interest of the former President, that as full a statement as possible should be issued by Mr. Nixon but that I had been told that that was not a condition to the consideration of the pardon.

Mr. Miller at that time assured me that he agreed with me that such a statement should be forthcoming from his client.

Q Mr. Buchen, I was wondering, if, as the President's legal counsel, would you advise that the President in this study about the possibility of giving amnesty to all the Watergate people, ~~that excluded~~ from the people doing the study should be all Nixon holdovers? Would you advise, or do you think it is reasonable for Nixon holdovers to participate in a study of possible amnesty to all Nixon defendants?

MORE



MR. BUCHEN: I think that is a decision the President will have to instruct me on.

Q How would you advise him?

Q Did you finish your answer to the earlier question?

MR. BUCHEN: I was finished.

Q Could I follow-up then, sir? Did the former President balk at this, was there negotiation on what finally came out in his statement afterwards?

Did you see that statement, sir, or did anyone else in the White House see it prior to its issuance?

MR. BUCHEN: When Mr. Becker came back from San Clemente, he was able to report the substance of the statement that he thought would be forthcoming after the announcement was made.

But we did not have the statement in the form in which it was ultimately delivered.

Q Are you satisfied that this was as full a statement as possible coming from the former President?

MR. BUCHEN: That is something that I think would require going into the former President's mind. Obviously, if you do not condition an act of mercy on the recipient of the mercy doing anything, you are not in a position to do much bargaining.

Q Mr. Buchen, did Mr. Becker go to San Clemente with a much stronger statement, or a statement --

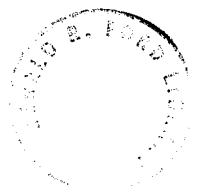
MR. BUCHEN: He had no statement in hand.

Q You say he came back with a statement -- he reported the substance of the statement he thought would be forthcoming. Was that substance substantially different from the statement that was then issued?

MR. BUCHEN: No, the essential feature was the statement that the President believed he had not acted decisively and forthrightly in respect to the Watergate once it became a judicial proceeding and the regret for having done wrong was in the report that Becker gave us.

Q Was it your hope or intention early in those negotiations to get Mr. Nixon to agree to a statement in which he admitted his own personal wrong-doing and involvement in the Watergate cover-up?

MORE



MR. BUCHEN: Again I had to rely on what Mr. Miller believed would be in the best interests of his client and the country, because I had no authority to extract a statement of my own making.

Q Not what was in the former President's mind, but what was in your mind? Do you think that the final statement met the standards that you and Mr. Miller discussed at the meeting?

MR. BUCHEN: Well, I think they did, because, as some of your papers have already suggested, the very fact that a man accepts a pardon does imply that he believes it is necessary for him to have that pardon, or that it is useful for him to have that pardon.

And there aren't ^{any} ~~many~~ instances in which it is useful to have a pardon unless there is a strong probability of guilt.

Q Mr. Buchen, do you think that you and President Ford misread the public's acceptance of the terms of this pardon and the acceptance in Congress?

MR. BUCHEN: Well, I was not doing much reading on the outside as to what might happen. That was really outside my bailiwick, so I cannot tell you.

Q Mr. Buchen, do you and the President hope that the former President will at some time, perhaps in the near future, release some kind of formal statement detailing further his connection with Watergate?

MR. BUCHEN: I have not given that any thought and I assume that would be entirely up to the former President.

Q Mr. Buchen, you were involved in the pre-accession negotiations and pre-transition operations of the Ford Administration. Was there at any time any discussion between any high-ranking member of the Ford group and any member of the Nixon group as to the possibility of a pardon for Nixon in advance of his leaving office?

MR. BUCHEN: I answered that question Sunday and, to my knowledge, there was absolutely none and it never came up as a matter to be discussed by the transition team. And I think I participated in virtually all meetings of the transition team.

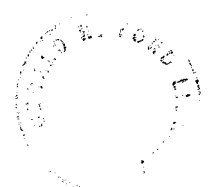
Q How about between Ford and Nixon alone?

MR. BUCHEN: I don't believe so.

Q Can you find out definitely whether there was no deal before Nixon left office?

MR. BUCHEN: Well, I know the man in the President's office quite well and I can assure you he did not make a deal. I know him that well.

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Q Mr. Buchen, he assured us in a press conference it would be untimely to do such a thing, and he assured us when he was nominated for Vice-President that the American people would not stand for it. Can you give us an explanation of this?

MR. BUCHEN: Let's take the first; the matter of untimeliness seems to me to involve a debate that really makes little sense, because a man who had to consider whether or not to grant a pardon, it seems to me, has to consider the fact that if a pardon is desirable, the earlier it comes, the better.

It is like making a man walk a plank. You wait until he takes the first step. You wait until he gets to the middle of the plank. You wait until he jumps off the end, and then dive in to rescue him. I think it represents -- let me put it this way. I don't think an act of mercy can ever be untimely, and it certainly becomes less merciful if you postpone the agony.

Q Mr. Buchen, in that statement, you are suggesting that the former President was going to go off the end of the plank?

MR. BUCHEN: I think there was a strong possibility.

Q When Mr. Becker was out at San Clemente, did he discuss in the President's presence what the President might say in a statement, and did the President get angry at the suggestions that he admit guilt?

MR. BUCHEN: I think those negotiations were entirely with Mr. Ziegler, so I don't think we have any knowledge of what the President --

Q The New York Times states this morning as I quoted it.

Q You better clear up what you mean by "walking the plank;" do you mean suicide or going to jail?

MR. BUCHEN: No, as I understand "walking the plank," it is because the man has been convicted of some crime that offended the master of the ship, or not convicted, say indicted.

Q What about the question of health; Mr. Buchen, how did that figure into this decision?

MR. BUCHEN: I don't know because I wasn't party to any of the investigations or discussions, if there were any, about the former President's health.

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Q Did you say Mr. Becker at no time spoke to Mr. Nixon in San Clemente?

MR. BUCHEN: I didn't say that.

Q I thought you said the negotiations were entirely with Mr. Ziegler?

MR. BUCHEN: I don't know whether there were negotiations, but the matter of the content of the President's statement, which he contemplated giving when the pardon was issued, was dealt with entirely through Ron Ziegler. The only face-to-face matters taken up with the former President dealt with the manner of managing and disposing of his papers and tapes.

Q Mr. Buchen, did Mr. terHorst ask you on Friday whether Mr. Becker was involved in discussing a pardon with the former President during his trip to California, and if he did, what did you tell him?

MR. BUCHEN: Well, we better clear that one up.

Jerry terHorst reported to me that someone had observed Benton Becker and Jack Miller in the area of San Clemente. Jerry terHorst asked me what the purpose of my having sent Benton Becker out to San Clemente was, and I said that the purpose was to take a document that had been prepared in rough draft before he left Washington, had been prepared by Mr. Miller, which related to the management and disposing of the tapes and records.

However, we objected and wanted changes in those documents, partly because we were concerned as to the practicality of some of the proposals made insofar as they involve the Administrator of the General Services Administration.

The matter is very complex, as you see, so I suggested, when Mr. Miller said he would have to go and discuss the terms of that document with his client, that Mr. Becker go along, so that there would be a way that Mr. Becker could be on hand as changes, additions or whatnot were proposed and so that he would be available to report back to me on the progress of the negotiations. That was the purpose of the assignment.

Q We specifically asked you if Mr. Becker was out there engaging in pardon negotiations?

MR. BUCHEN: There were no pardon negotiations, that is the point.

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Q Anything at all?

Q You sent him out with instructions to say that the President had this under consideration?

Q Would you answer my question, please?

MR. BUCHEN: Mr. Miller knew that the pardon was under consideration, and he could report to his client. It was not necessary for Mr. Becker to do anything in connection with the pardon.

Q Didn't Mr. Becker take out a copy of the proposed pardon?

MR. BUCHEN: Yes, he did. It was a draft that he and I had worked on very hurriedly Thursday afternoon before he had to leave on the plane. I said, "Benton, you are going to be five hours on that plane, take a copy along, keep working on it, I don't think it is in the form we want to submit to the President for his consideration. Take it along and work on it."

Q You didn't tell Mr. terHorst that?

MR. BUCHEN: No, I will explain; as you may appreciate, being counsel to anyone, or lawyer to anyone, imposes certain restrictions, and I believe, on this matter, I was under complete restriction as a lawyer to the President not to disclose what I was doing for the President on a matter that he regarded as highly confidential.

Q Did the subject of pardon ever --

Q Would you say that you misled Mr. terHorst on Friday?

MR. BUCHEN: Let me put it this way; I can see how he could have been misled.

Q Can you see how he could not have been misled?

MR. BUCHEN: No, I can see how he could have been misled. I don't say he could not have been. After all, if you get a question, why is a man whom you have sent to San Clemente there, and I give him an answer, I can see when he in turn had to respond to the man, or the reporter making the inquiries, that he would inject a negative, was he there doing anything else. And I assume that Jerry said, "Well, as far as I know he wasn't," because I had not told him he was doing anything else.

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Q Did you tell him he wasn't out there discussing the pardon?

MR. BUCHEN: Oh, no.

Q Why was it something you couldn't talk about?

MR. BUCHEN: I could talk about the negotiations on the tapes.

Q When he asked you about the pardon?

MR. BUCHEN: He didn't ask me about the pardon.

Q What was the precision of language used in President Nixon's statement?

MR. BUCHEN: Let me get the question.

Q What was the need for the secrecy in the negotiations, whatever they were?

MR. BUCHEN: In the course of any client and attorney relationship, usually until something happens, you are under obligation not to disclose the conversations.

Q I mean, what was the need for secrecy about the fact that a pardon was being considered, generally, not just your conversations with the President?

MR. BUCHEN: Well, generally, that was the President's decision and not mine. I was just bound by my client-attorney relationship.

Q Mr. Buchen, if Mr. Becker knew all about the pardon, the President seemed to trust him with that information, yet he didn't trust Mr. terHorst with that information?

Q Or you didn't trust Mr. terHorst with it?

MR. BUCHEN: I had no power to subdelegate in passing information. The first question is why didn't the President trust Mr. terHorst to have the information at the same time I got it?

Q No, I mean Mr. Becker. You are talking about the attorney-client relationship, which involves you and the President; Mr. Becker is someone outside that relationship, yet he knew about the pardon because he was working on the pardon agreements.

MR. BUCHEN: No, he had the same relationship that I had in terms of his being a lawyer and working

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under my supervision as a lawyer for a client. As in a law office, if a client comes into an office and the lawyer assigns a law partner to work on it, the obligation extends to the other lawyer as well as the original one.

Q Can you be forthright with us on what is your advice to the President on pardoning other individuals associated with the --

MR. BUCHEN: I have not given him any advice.

Q What would be your advice; how do you see the issue?

MR. BUCHEN: I haven't even had time to study it.

Q When did the President's other advisers find out that the pardon was under consideration or was to be granted, and did they agree with it when they found out about it?

Q And did you?

MR. BUCHEN: I was in the room at the time when certain advisers were told about it on Friday before Labor Day, but I don't feel free to report their reactions.

MORE



Q Can you tell us what role General Haig played in this granting of the pardon? He was in on all of this all the time, wasn't he? Was he recommending a pardon during this period?

Q What was the question?

MR. BUCHEN: I was asked that question last night and I can tell you that every occasion when I was present when the subject was raised and General Haig was there, he took an absolutely neutral stand.

Q Did you say you are not part of the study for the other Watergate defendants? Can you tell me when you became aware that that study was in the works?

MR. BUCHEN: I learned from Mr. Hartmann and Mr. Hushen that this matter was brought up at the early morning conference.

Q Who brought it up?

Q Today for the first time?

Q Did you say there was a connection between the pardon for the others and the reaction against the pardon for Nixon? And secondly, if you are the President's lawyer and you are not working on it, who is?

MR. BUCHEN: Well, I don't know, Ron. I really don't.

Q What about the first part of that question; is he trying to dampen down the reaction by giving out pardons to the others?

MR. BUCHEN: Well, I don't interpret studying a pardon as predicting what the results would be.

Q Mr. Buchen, as a lawyer, can you see a distinction between a President granting a pardon to a former President and granting pardons or not granting pardons to former subordinates for involvement in the same illegal acts?

MR. BUCHEN: Well, there certainly is a distinction. I will later have available for distribution -- because I don't think there will be many questions on it -- a memorandum, a copy of a memorandum that Mr. Jack Miller prepared for the Special Prosecutor in which he rather carefully documents the reason why the situation of his client is distinguishable from the situation of anybody else's remotely involved in the acts, or Watergate-related events.

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You will remember I quoted a letter from Mr. Jaworski who did say he thought there was a distinction.

Q Phil, could I ask you this question: Does not the mere fact that the White House has made a statement saying that pardons for all Watergate defendants are under study, does that not intrude upon the judicial process to the point that the trial for the Watergate defendants, the trial for September 30, is somehow intruded upon and interfered with by this statement?

MR. BUCHEN: Well, I don't think so. You see, after all, the fact that there can be a pardon hangs over the trial of anybody. That is not a unique situation. The power to pardon exists in the Federal Constitution and I believe in every State Constitution.

Q This is a matter of great and intense national interest. It is not like the case of any defendants. This is a case of specific defendants that have been involved in a great national drama or what have you, so it is a different case, is it not?

MR. BUCHEN: Yes, but the Presidential pardon power, as well as that of a Governor of a State, hangs over the judicial process all the time.

Q What purpose was served by announcing this morning, or authorizing Jack Hushen to announce it this morning?

MR. BUCHEN: Well, I was not party to that determination so I can't tell you.

Q What purpose was served by announcing the Jaworski letter on the ten points?

MR. BUCHEN: Well, as I indicated, it was given to me on a confidential basis. The comments that have been made around town is that there was not a consideration given of what was, what someone else called "are there any possible time bombs", and we felt that it would be in the interest -- provided Mr. Jaworski consented -- that we do provide you with the information on which the President in part acted before he decided to grant the pardon.

Q In this study that is being undertaken, sir, what is your understanding of the philosophy behind it -- that families of all Watergate defendants have suffered enough, or what other considerations?

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MR. BUCHEN: I can't go beyond the statements Jack gave you. That is all I know.

Q Where did it first come up?

Q Where did this subject of possible clemency for all other Watergate defendants first come up? You didn't make that clear. You said "an early morning conference".

Q What morning?

MR. BUCHEN: This morning.

Q What were the circumstances?

MR. BUCHEN: I don't know except it was reported to me by Mr. Hartmann and Mr. Hushen that it was raised this morning.

Q Where?

MR. BUCHEN: I assume with the President. I don't know the circumstances.

Q Is this a reaction, Mr. Buchen? Is this consideration of the study, consideration of pardons, and the announcement of this study, is this a reaction to the popular outcry against the pardon of the former President?

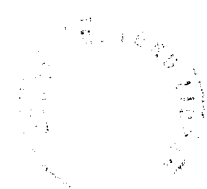
MR. BUCHEN: I don't think so because the fact that two people are brought into his confidence this morning and that confidence has been shared with you today, doesn't mean that that is when the thought came.

I explained on Sunday when the question was asked me as to whether any thought was given to the way in which the pardon power might be exercised, if at all, respecting other people involved, I said that to my knowledge -- meaning that as far as I knew -- no thought had been given. But that didn't mean that the thought processes weren't going on unbeknownst to me or unbeknownst to the people who got the reports this morning.

Q Mr. Buchen, in going back to my other question, you said mercy is never untimely. Was the President not merciful ten days ago when he said it would be untimely, and was the President lacking in mercy when he told the committee that the American people wouldn't stand for it?

What caused him to be suddenly merciful? Could you tell us what happened?

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MR. BUCHEN: I wish you would come up here and explain the theory of mercy. You can probably do a much better job than I can.

But let me tell you, it is not whether to be merciful, but how he could be merciful, and I do not think he was aware that he could act before there was any formal indictment when he made his statement before the press.

Q Wasn't the President briefed on that very point before the news conference? Wasn't he briefed that there would be a question on pardon and this was a policy adopted?

MR. BUCHEN: That is right.

Q Why was that policy changed, that there would be no pardon until there was due process?

MR. BUCHEN: You have lost me, I am sorry.

Q He announced a policy at that news conference and you say he was briefed on that policy.

MR. BUCHEN: He said that he would make no commitments. His intention then was to make no commitments on the pardon until something had been brought to him.

Q Why was that changed?

MR. BUCHEN: Well, because after the conference, I assume he reflected on the matter, and then asked me to find out whether or not he could move quicker than he had indicated at the press conference.

Q Did you brief him prior to the news conference that the best policy was for him to wait until there was some --

MR. BUCHEN: No, I did not.

Q With whom was he in touch with at that point? Can you tell us who he consulted between Wednesday and Friday when he asked you to begin your research into precedents?

MR. BUCHEN: I have no notion; I really don't, Pete.

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Q What is your understanding of the investigation status referred to in the memo? Is Jaworski going on in his investigation of these points? Is he going to furnish material to the public?

MR. BUCHEN: I know nothing more than what is in the memorandum.

Q The Watergate cover-up, it says, is the subject of a separate memorandum. Has that memorandum reached you?

MR. BUCHEN: It has not.

Q Do you know what it concerns?

MR. BUCHEN: I can imagine what it concerns.

Q Does it indicate to you, as a lawyer reading this, that that number one is ongoing and unlike this listing of ten points which according to the memo may prove to have some connection, but then says there is no point we can prove regarding Mr. Nixon -- does that indicate to you that is a different story entirely when it comes to the cover-up?

MR. BUCHEN: As you know, this memorandum was issued before the pardon, so I don't know what the effect of the pardon has on the investigation referred to in the last paragraph.

Q You must have had some indication from the Special Prosecutor where he stands with regard to the cover-up investigation?

MR. BUCHEN: I do not.

Q In preparing your advice for the President, did you address at all the time element of granting this pardon, with specific reference to the possibility that the Watergate cover-up trial might be affected since the jury had not been sequestered?

MR. BUCHEN: I did not discuss that with the President, but I understand, of course, that, one, it is not certain the jury would be sequestered. I assume it is available to the attorneys for the defendant to waive any such request; and, second, I am not sure that a story like this could possibly have been kept from the jury however tightly sequestered.

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Q Mr. Buchen, did you get from Mr. Ziegler or from Mr. Nixon, either after Mr. Becker returned here or while he was there, some sort of commitment that the President would not in the future make statements protesting his innocence?

MR. BUCHEN: We did not.

Q Mr. Buchen, are you saying that the President did not know or understand at the time of the August 28 press conference that the pardoning power could be exercised before indictment or conviction?

MR. BUCHEN: I certainly had not so advised him, and he had not asked my advice.

Q You didn't say that? Do you have reason to believe that, that he didn't believe he could move before the indictment was voted?

MR. BUCHEN: That I don't know. I didn't ask him.

Q You so far have not given us any explanation for why Mr. Ford changed his mind after that press conference with the possible exception of his receiving this documentation of the investigation.

Does that mean that the investigation turned out to be so serious that he thought the former President wouldn't withstand it?

MR. BUCHEN: No; I think more significant than that was the advice that I reported Sunday, namely, that before there could be a trial, there would have to be a delay of a year or more, and I think that was the matter that concerned him most.

Q Don't many trials take a year or more to come to the court or to settle? And why is Mr. Nixon to be treated any differently in this respect than anyone else?

MR. BUCHEN: Every defendant under the law is entitled to a prompt trial provided he can have a fair trial by an impartial jury.

Q When did you advise the President of the long delay of nine months or a year? Was that after the press conference?

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MR. BUCHEN: He asked me after the press conference, or that Friday, to find the answer. So apparently someone had told him that that probably would be the case.

But he wanted his own lawyer to ask the Special Prosecutor who would be the best judge, of how long it might take, and that is the reason I went to Mr. Jaworski, so we would have an expert opinion.

I don't claim to be an expert. On the other hand, I have read the cases that are cited by Mr. Nixon's own attorney who makes the same arguments very effectively in a memorandum that you can all take back to your legal counsels, because I don't think you want to read it all.

Q However you did know that indictments could be very quick, the question of laying out the charges on the public record would not have taken very long -- maybe a month; is that correct?

MR. BUCHEN: As you know, the word came out that the former President -- then the President -- was about to be named as an unindicted co-conspirator, so the indictment involves -- that involves the defendants, involves probably everything that involves Mr. Nixon alone.

Q But it is not the same, really.

MR. BUCHEN: I think it is pretty good evidence of what that jury intended to do and would have done if there had not been a pardon.

Q Was consideration given to the timing of when this jury would have done this, vis-a-vis the November elections?

MR. BUCHEN: It had nothing to do with the elections. However, it was evident it was the President's decision to grant a pardon before the indictment. He would have to act fairly soon because it was not possible, of course, to grade the Grand Jury in the time it would act.

Q May I clear up a question here?

MR. BUCHEN: Let me get Phil first.

Q In view of the last sentence in this memorandum, didn't you have any qualms about whether you could give the President full legal advice on what he could do? When it says here there are other matters and other memoranda which you have not seen, how could you give the President full advice on what he could do on the pardon in view of that?

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MR. BUCHEN: Well, we believed, of course, that the evidence before the House Judiciary Committee on this very point that resulted in the article that brought a unanimous vote ultimately, and based on particularly the June 23 tapes, gave every indication of what was involved in the alleged Watergate cover-up and we didn't think we needed to know any more than that.

Q I think my notes are correct, that is, you told us earlier, "I do not think (the President) was aware that he could grant a pardon before the indictment when he made his press conference statement." Is that right?

MR. BUCHEN: As far as I know. I don't believe that he was or that he understood what, if any, problems -- I am talking legal problems, now -- would arise if he acted before indictment.

Q The President seemed to say in his news conference that he wouldn't act on the pardon until after an indictment and your explanation, that there would be nine months or a year, perhaps longer, before a trial, doesn't really go to the question of why he changed his mind about waiting until after an indictment to act on a pardon.

MR. BUCHEN: Well, I guess all I can go back to is my own analogy. If you are going to -- if you do come to the conclusion you ought to consider mercy, it doesn't seem to be very relevant to consider what other steps you ought to require the man to whom you are granting mercy must take.

Q And at the news conference he had not made up his mind yet?

MR. BUCHEN: He had not made up his mind.

Q You are saying the main reason he changed his mind was because somebody told him there would be this long delay and he asked you to check it out and you did. And then he decided to grant the pardon? Did someone decide that the long delay would wreck Mr. Nixon's health?

MR. BUCHEN: Not that I know of.

Q Has there been any discussion about the former President not wishing to testify or be a witness?

MORE

MR. BUCHEN: Well, he is under subpoena so he has no choice.

Q I know, but if you are considering pardons, if there is consideration for others, that would spare the former President from testifying, is that part of this study?

MR. BUCHEN: I have not seen the study, so I don't know.

Q In your discussion of the cover-up memorandum a moment ago, you said the June 23 tape told you everything you needed to know about that.

MR. BUCHEN: I didn't say everything. I also said the findings of the House Judiciary Committee.

Q Right, and earlier he spoke of the necessity, the acceptance of the pardon, the necessity for the pardon. Did this mean that you and the President in offering this pardon to the President, would make a presumption of guilt?

MR. BUCHEN: First, take the "you" pronoun out of that and perhaps I can answer it. I did advise the President that a pardon could be characterized as implying guilt on the part of the person who was pardoned because there is no other reason for granting a pardon. But that did not deter or affect his determination to act when he finally made up his mind to do so.

Q From the perspective of the person who accepts the pardon, does the acceptance of the pardon amount to a tacit admission of guilt?

MR. BUCHEN: You can so accept it. The question never came up. I couldn't find in any cases where that question was litigated, so I can't give you any authority. But it just takes common sense and logic to reach that conclusion.

Let's have one of the women.

MORE



Q Thank you.

Throughout this, we have heard solely about the consideration of an indictment and the lengthy period of time between indictment and trial. Did you try to determine from Mr. Jaworski the possibility of a plea from the former President? Now faced with the prospect of a multicount indictment, as he was and as I am sure Mr. Miller advised him, it seems extremely likely there might have been a plea far sooner than there would ever have been an indictment and trial. Did you ask for any timing on this, and if not, why not?

MR. BUCHEN: I did consult, of course, with Mr. Nixon's Attorney, and I was pretty sure from what he told me that in his mind there would never be a plea.

Q ~~There would have been a trial then; you are saying he would have gone the whole route had he not been pardoned?~~

MR. BUCHEN: I believe so.

MR. HUSHEN: Let's take two more questions. We been out here for forty-five minutes. Two more questions.

Q Maybe you have answered this; why did President Ford want mercy for Richard Nixon?

MR. BUCHEN: Because I think he truly believed it would be in the best interests of the country.

Q Mr. Buchen, if you are done with that answer, I would like to ask you, as a lawyer, do you think it not fair and proper that, if the President considers amnesty or granting a pardon for persons convicted for or indictments for burglary, perjury, conspiracy in Watergate related crimes, that he should give equal consideration to pardoning other persons indicted or convicted of burglary, perjury or conspiracy in non-Watergate related crimes?

MR. BUCHEN: I wish I were a better student of the ethics or morality of mercy, but I believe a representative of the clergy would substantiate my remarks that, throughout our religious history -- and I don't mean just the Christian Religion -- there has always been a separate category of mercy that we know has never been equally dispensed and we know that it is an act of grace that is many times inexplicable.

I am sure all of us in the room have sought mercy on matters that we wanted to blame ourselves for, or some adverse consequences, and we didn't always get mercy.

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Mercy seems to work in very unequal fashion. That is a point on which Jerry terHorst and I have disagreed. He has a notion, as he said, that mercy should be dispensed with in the same even-handed fashion as we would like to see justice dispensed.

But, I believe history tells us mercy doesn't work the same way.

Q Mr. Buchen --

MR. HUSHEN: Thank you, ladies and gentlemen.

Q Mr. Buchen, is there any limitation on the power of pardons?

MR. BUCHEN: I refer you to --

Q Is there any limitation on this at all?

MR. BUCHEN: I refer you to the Constitution.

Q Is there anything he could do that was more than this?

MR. BUCHEN: No, not that I could find in the Constitution; no.

THE PRESS: Thank you.

END

(1:37 P.M. EDT)

