

Doar Document Bluntly Accuses Nixon of Abuses

St. Clair's Defense

By George Lardner Jr.
Washington Post Staff Writer

The White House yesterday issued a sweeping denial of any wrongdoing on President Nixon's part and asserted that there was no evidence that would justify his impeachment.

The President's lawyers maintained in a 151-page brief that the record before the House Judiciary Committee's impeachment inquiry shows "a complete absence of any conclusive evidence demonstrating presidential wrongdoing sufficient to justify the grave action of impeachment."

Only once did the brief acknowledge that the President's "failure to act would have been a dereliction of duty." That, it said, would have occurred if Mr. Nixon had not taken the extraordinary steps which resulted in the creation of the White House "plumbers" unit in 1971.

Mr. Nixon's defense attorneys, headed by White House special counsel James D. St. Clair, devoted most of their attention to the Watergate scandal. After that, the biggest portion of their brief centered on bribery allegations surrounding White House dealings with the milk producers and the President's controversial 1971 increase in milk price supports.

In the Watergate case, Mr. Nixon's lawyers declared that far from taking part in the cover-up, "the President carried out his constitutional responsibility to see that the laws were enforced."

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Detailed Charges

By William Chapman
Washington Post Staff Writer

President Nixon decided on a plan to cover up the Watergate break-in and assumed active management of the plan when it began to unravel, the House Judiciary Committee's impeachment staff has concluded.

In a 306-page document that bluntly accuses the President of abusing his powers, the staff also concluded that Mr. Nixon's refusal to comply with committee subpoenas is grounds for impeachment.

The document, labeled a "summary of information," was prepared by the committee staff under chief counsel John Doar's supervision and represents his detailed explanation of why Mr. Nixon should be impeached.

It was given to committee members Friday, and is expected to become the central document as final debate on impeaching the President begins this week.

The staff document does not charge that Mr. Nixon knew in advance of the break-in at the Democratic National Committee in June, 1972, but says that the burglary had developed out of a political intelligence-gathering plan the President authorized.

From that point through the presidential election, it contends, Mr. Nixon condoned — or at least was aware of — efforts to prevent high administration officials from being linked to the break-in.

And in March, 1973, when those efforts began to collapse, Mr. Nixon personally

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Reiterating Mr. Nixon's repeated declarations that he was first told of an alleged plot to obstruct justice in the Watergate case on March 21, 1973, the brief said the President "promptly undertook" a personal investigation and, by the end of the next month, "removed several key White House staff members from office."

Although the Watergate grand jury named Mr. Nixon as an unindicted co-conspirator because of the final payment of \$75,000 on March 21 for Watergate burglar E. Howard Hunt, Jr., the White House statement charged that the grand jury's indictment was "artfully contrived" to make the President seem involved when he was not.

John W. Dean III, who was then White House counsel, reported Hunt's "blackmail" demands to the President at a meeting in the Oval Office on the morning of March 21, 1973. At one point, Mr. Nixon suggested that this was "a buy time thing" and "you better damn well get that done." Told by Dean that Hunt "ought to be given some signal anyway," the President responded, "Well, for Christ's sakes, get it."

The White House lawyers, however, said that Mr. Nixon was often just "taking the role of devil's advocate" in the March 21 discussion and "sometimes merely thinking out loud."

Although \$75,000 was delivered to Hunt's lawyer last night, the White House brief contended that Dean had already set the payment in motion before his meeting with the President and that Mr. Nixon's remarks were inconsequential.

Dean testified before the House Judiciary Committee earlier this month that he mean "the signal" to be "something less than money"—such as notice to Hunt that money would be forthcoming. But he also said that he had the impression that the President already knew of Hunt's demands "before I told him." Dean suggested that the President may have been

told of them first by White House aide John D. Ehrlichman in a late afternoon meeting on March 20.

The House Judiciary Committee has subpoenaed the tape of that meeting, but 19 minutes of conversation are missing from it. St. Clair has said that the recording machine simply ran out of tape during the conversation and was not replaced until later.

In any event, the White House brief contended that what really prompted the payment to Hunt was a phone conversation Dean had with former Nixon cam-

paign deputy Frederick LaRue—before the March 21 meeting with Mr. Nixon. Dean told LaRue of Hunt's demands and suggested that LaRue call former campaign director John N. Mitchell for advice about what to do. LaRue has testified that he did so and subsequently arranged the payment of \$75,000 when Mitchell approved it.

The President's lawyers dwelt heavily on the fact that only \$75,000 was paid.

"... The entire discussion among the President, (former White House chief of staff H.R.) Haldeman, and Dean centered on the \$120,000 figure, not the \$75,000—and it was the \$75,000, the amount discussed earlier between LaRue and Mitchell, that was paid, not the \$120,000," the brief stated.

"Quite clearly, therefore," the President's lawyers submitted, "there is no basis whatever for implicating the President in the chain of events that led to the payment."

The brief also defended the President's dealings with Assistant Attorney General Henry E. Petersen in April of 1973 as entirely proper and dismissed as "ridiculous" any suggestion that Mr. Nixon was using Petersen as an information source to perpetuate the cover-up.

The White House acknowledged that the President did learn from Petersen, on the evening of April

16, 1973, that LaRue "was talking freely" with government prosecutors at that point. The next day, Mr. Nixon told Haldeman to inform Herbert W. Kalmbach of this fact.

Although Kalmbach, the President's personal lawyer, also had been involved in raising money for the original Watergate defendants, the White House said "the President's purpose was not to suggest that Kalmbach lie to the prosecutors but rather that Kalmbach be made aware that others are cooperating with the prosecutors and that Kalmbach should also tell the truth.

"It was similar action by the President," the brief asserted, "that resulted in Dean and (Nixon campaign deputy Jeb Stuart) Magruder cooperating with the prosecutors and subsequent breaking of the case."

In the milk case, the President's lawyers contended for the first time—despite earlier White House statements to the contrary—that Mr. Nixon had never been told in 1970 of a \$2 million campaign pledge from the milk producers.

The pledge had been made to White House special counsel Charles W. Colson by Harold Nelson and

David Parr, the top officials of Associated Milk Producers, Inc. In a memo prepared for a brief meeting Mr. Nixon had with Nelson and Parr on Sept. 9, 1970, Colson told the President that the milk producers had "pledged \$2 million to the 1972 campaign."

As a consequence, the White House acknowledged earlier this year in a two-page summary on the milk controversy that "the President had been informed of the dairy industry's intentions to raise funds for the 1972 campaign" before making his controversial 1971 decision to increase supports.

Despite that, the White House brief made public yesterday stated that the President "did not see" the memo. "Neither is there any

evidence," Mr. Nixon's lawyers asserted, "that the memorandum or any pledge by the dairy men was discussed or mentioned to the President by anyone."

Mr. Nixon ordered the increase in milk price supports on March 23, 1971, at a meeting in the Oval Office with senior advisers. According to a transcript of that meeting, the President made up his mind only moments after being reminded that the dairy lobby was raising huge amounts of political money and was on the verge of deciding where to spend it. He was also warned that he might lose several farm states in the 1972 election if congressional Democrats passed legislation calling for an increase before the President acted.

The White House brief declared that the increase was ordered only because of "economic factors and congressional pressure, not in return for a pledge of campaign contributions."

Tracing other controversies, Mr. Nixon's lawyers also said:

- That there has been no showing that any of the 17 wiretaps (placed on government officials and newsmen in 1969-71) were illegal."

- That the White House "plumbers" unit which carried out the Ellsberg break-in "was created by the President in response to a threat to national security and was never authorized to commit illegal acts."

- That the disputed Senate testimony of former Attorneys General Mitchell and Richard G. Kleindienst concerning contacts with the White House about the ITT antitrust cases did not constitute any basis for concluding that the President had "some legal duty" to speak up and clarify the record.

DOAR, From A1

managed parts of the continuing cover-up, it alleges.

And in March, 1973, when those efforts began to collapse, Mr. Nixon personally managed parts of the continuing cover-up, it alleges.

In the process, according to the summary, Mr. Nixon repeatedly made false and misleading statements and was involved in several specific abuses of presidential power.

In seven other non-Watergate areas, the staff summary contends, Mr. Nixon committed acts which comprise "possible" abuses of power. Those range from his 1971 decision to raise milk price supports to the break-in of the office of Daniel Ellsberg's psychiatrist.

The long Watergate narrative is Doar's first comprehensive public explanation of the case against Mr. Nixon, and rests on evidence already made public. It reviews taped conversations dealing with offers of clemency to the Watergate conspirators, hush money for one conspirator, E. Howard Hunt Jr., and attempts to involve the Central Intelligence Agency in blocking the FBI investigation.

At many points, it notes that key information was withheld by the White House, which refused to comply with Judiciary Committee subpoenas.

After reviewing Mr. Nixon's involvement in the early cover-up, the staff document states that "... all the prior circumstances strongly suggested that President Nixon decided, shortly after learning of the Watergate break-in, on a plan to cover up the identities of high officials of the White House and CRP (the Committee for the Re-election of the President) directly involved in the illegal operation..."

The "policy of containment" worked in that it "prevented disclosure that might have resulted in the indictment of high White House and CRP officials and might have jeopardized the outcome of the November election," it concludes.

That policy worked, it

adds, because presidential counsel John W. Dean III and Mr. Nixon's personal lawyer, Herbert W. Kalmbach, "did their job well—with the full support of the power and authority of the office of President of the United States."

It said their operations had two key elements:

1. Dean was charged with monitoring the FBI investigation in order to prepare White House aides with tips about where that investigation was heading. Dean sat in all FBI interviews, arranged to have depositions taken outside of the grand jury room, and "enlisted the CIBA" to help narrow the scope of the investigation.

2. Kalmbach raised funds for clandestine payments to the Watergate defendants, ultimately delivering more than \$187,000 to them or their lawyers.

This "plan of containment prior to the election had full approval of the President," the summary says.

When results of the cover-up were reported to him, Mr. Nixon showed no sur-

prise, the staff document states at several points. One of them was on March 21, 1973, when Dean told about payments to Watergate defendants.

"In response to this report," the summary points out, "the President did not condemn the payments or the involvement of his close aides. He did not direct that the activity be stopped. The President did not express any surprise or shock. He did not report it to the proper investigatory agencies. He indicated familiarity with the payment scheme, and an awareness of some details—such as the use of a Cuban committee" through which money was to be funneled.

The staff's narrative states bluntly that Mr. Nixon both knew about and approved of the payment of money to Hunt, who was threatening to tell all he knew. "The President said (in one taped conversation) that Hunt's demands should be met," the staff document says. "At the very least, he reasoned, the payment would buy

time." It adds, "The President also instructed Dean and (H. R.) Haldeman to lie about the arrangements for payments to the defendants."

The staff document bluntly accuses the President of having made untrue statements when he said he never considered granting clemency to any of the Watergate defendants.

It states: "The President concerned himself with clemency not only for the Watergate defendants who were in jail for the break-in itself, but also for three of his associates involved in the cover-up—Attorney General John N. Mitchell, Jeb Stuart Magruder, and Dean. "The President's purpose was to induce them to hold the line and not implicate others."

The report prints three public statements in which Mr. Nixon denied considering clemency. "These statements are contradicted by the President's own words," the document says.

It also accuses Mr. Nixon of lying when he publicly claimed that both Dean and White House aide John D. Ehrlichman had made reports of their investigations which showed no White House involvement in Watergate.

"The report that the President had in fact requested Dean to make in March, 1973, was one that was designed to mislead investigators and insulate the President from charges of concealment in the event the cover-up began to come apart," the staff document says. It recalls a telephone conversation in which Mr. Nixon told Dean to make his report "very incomplete."

The President's account of Ehrlichman's report also was misleading, the document states. That report "was one designed to mislead the investigators, insulate the President from the appearance of complicity and explain the President's failure to take action on Dean's disclosure of March 21, 1973."

Several members of his staff had lied under oath as part of the cover-up, the summary of evidence recalls, and Mr. Nixon had in-

structed Dean to testify that he could not recall incidents when asked by investigators.

"There is no evidence that when the President learned of such conduct he condemned it, instructed that it be stopped, dismissed the person who made the false statement or reported his discovering to the appropriate authority," the document notes.

"On the contrary, the evidence before the committee is that the President condoned this conduct, approved it, directed it, rewarded it and in some instances advised witnesses on how to impede the investigators."

By late March, 1973, Mr. Nixon had learned that the cover-up was unravelling. The staff summary contends:

"There is clear and convincing evidence that the President took over in late March the active management of the cover-up. He not only knew of the untruthful testimony of his aides — knowledge that he did not disclose to the investigators — but he issued direct instructions for his agents to give false and misleading testimony. The President understood that his agents had been and continued to coach witnesses on how to testify so as to protect the cover-up, and the President himself began to coach witnesses."

Part of Mr. Nixon's "active management" of the cover-up, the document says, was a series of meetings with Assistant Attorney General Henry E. Petersen to get information on who was saying what before the Watergate grand jury. Although he promised to keep that information to himself, Mr. Nixon actually relayed much of it to aides, it states.

For example, Petersen told him that payments to Watergate defendants was a prime issue and that Halde-

man was becoming a chief suspect in the investigation. Shortly after, the document notes, Mr. Nixon told Haldeman to listen to tapes of the conversation in which Dean had discussed the payments to the Watergate defendants.

"Haldeman, in listening to the tapes, would be able to prepare a strategy for meeting whatever disclosures Dean might make," the Judiciary staff commented.

The staff document lists six specific instances in which committee evidence shows an abuse of presidential power:

- A directive to the Central Intelligence Agency to "interfere" in the FBI investigation of the Watergate break-in.

- The use of Dean to interfere with the investigation.

- Offers of executive clemency to some of the Watergate defendants for "improper purposes."

- Obtaining information about the investigation from Petersen and passing it on to persons in his administration who were targets of the investigation.

- Discouraging prosecutors from granting immunity to Dean, who in 1973 sought immunity in exchange for giving information to investigators.

- The firing in October, 1973, of Watergate Special Prosecutor Archibald Cox.

The staff's most explicit claim that impeachment is justified came on the issue of Mr. Nixon's refusal to turn over tapes, documents and other materials the committee had subpoenaed. In all, the committee had subpoenaed tapes of 147 conversations and related documents. Those subpoenas produced 19 recordings and edited transcripts of 32 conversations.

The staff contended that the refusals to comply

"undermined the ability of the House to act as the 'grand inquest of the nation,' as intended by authors of the Constitution.

"His (Mr. Nixon's) actions threaten the integrity of the impeachment process itself; they would render nugatory the power and duty of the legislature, as the representative of the people, to act as the ultimate check on presidential conduct. For this most fundamental reason the President's refusal to comply with the committee's subpoenas is itself grounds for impeachment."