Pushing Ahead the Impeachment Inquiry

Struggling to offset the damaging impact of the Watergate grand jury indictments, which charged that a criminal cover-up conspiracy had permeated the White House, President Nixon last week took the rare step of holding his second press conference within eight days. Though he was grim and nervous, he came across forcefully in defending his own role in that ill-fated scheme. But before the week was over, there were more indictments of his men, and a determined House Judiciary Committee pushed tenaciously ahead in its impeachment inquiry.

Much of Nixon's news conference focused on a crucial meeting in his office on March 21, 1973, and on precisely what he had said then about the possibility of continuing illegal hush money payments to silence the original Watergate burglars *(see box, next page)*. He also used the press conference to explain his current attitude toward the impeachment inquiry. He yielded ground to the Judiciary Committee—up to a point and only under intense pressure.

The President agreed to give the committee all the evidence that the White House had given to Special Prosecutor Leon Jaworski. As tallied by Nixon, that included 19 White House tape recordings and some 700 documents. Nixon would, moreover, be willing to answer written questions from the committee. If there were still issues to be resolved after that, he promised, he would answer questions under oath in a White House meeting with Chairman Peter Rodino of New Jersey and the committee's ranking Republican, Edward Hutchinson of Michigan. Nixon termed this "a very forthcoming offer."

Legal Sparring. But then he pulled some taut strings on it. The President said that he would not allow anyone "to cart everything that is in the White House down to a committee and to have them paw through it on a fishing expedition." Next day his lawyer, James St. Clair, sent a letter to the committee rejecting its request for evidence beyond what Jaworski had acquired. St. Clair complained that the committee seemed to be asking for "hundreds of thousands of documents and thousands of hours of recorded conversations covering the widest variety of subjects." He suggested that the committee "determine what is an impeachable offense" before demanding the evidence. Implicit was the likelihood that St. Clair would reject requests that did not fit his own limited interpretation of impeachable acts.

The St. Clair argument is that a President can be impeached only for crimes of "a very serious nature committed in one's governmental capacity." He refuses to detail what acts that definition would either embrace or exclude. Apparently, however, it would exclude the President's income tax problems, which are nongovernmental, and any campaign-funding violations, because running for office is not an official duty. Some top Washington lawyers consider St. Clair's contention to be merely legalistic sparring with the Rodino committee, which will in no way be limited by any White House definition.

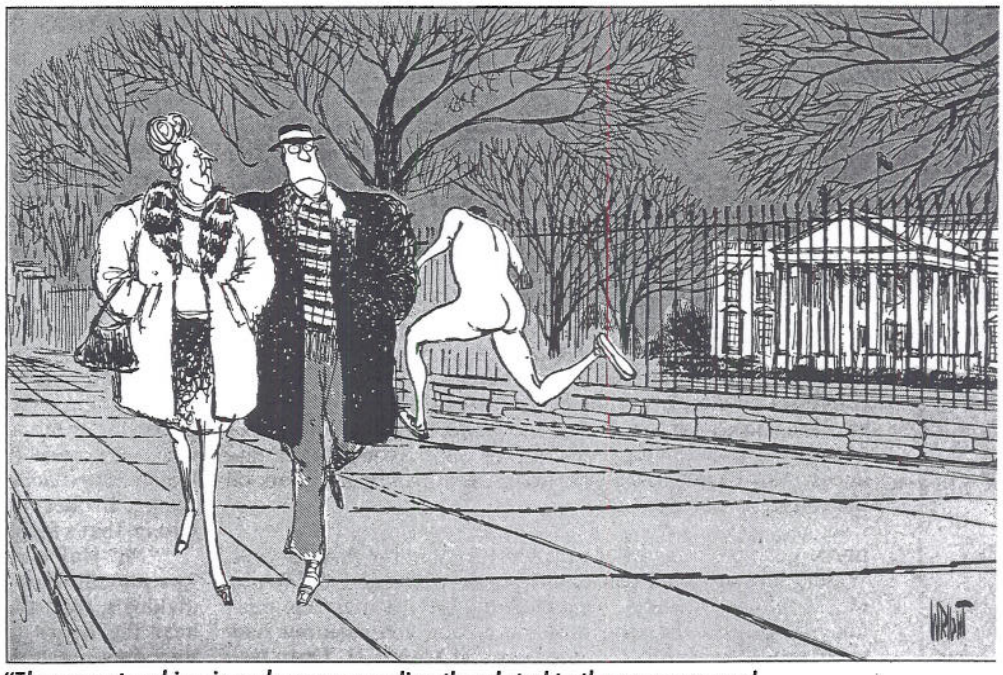
Tax Problem. St. Clair's letter irritated some members of the Judiciary Committee. "You don't limit information received to the information the defendant is willing to give you," protested Texas Democrat Jack Brooks. Declared Father Robert Drinan, the Massachusetts Democrat: "To hell with him; we should subpoena what we want. Ye gods, we've got to move on this thing." The committee's chief counsel, John Doar, said that, "No one outside this committee should set the limits of this inquiry." In fact, the committee has not asked for "thousands of documents"; it has so far requested only six tapes in addition to those that Jaworski acquired, but it is looking into at least 52 allegations of wrongdoing against the President, ranging from his impoundment of congressional appropriations to his income tax payments. The President's tax problem is potentially so serious that Representative Wilbur Mills, a ranking member of the joint congressional committee investigating Nixon's income tax returns, predicted last week that Nixon would resign, largely because of the critical report that the committee will issue "in 30 or 40 days."

Heeding the advice of Doar and the

DIRCK HALSTEAD

PRESIDENT NIXON AT PRESS CONFERENCE

DON WRIGHT—MIAMI NEWS



"They say streaking is a phenomenon directly related to the pressures and frustrations of our society. Was that who I thought it was?"

Republican counsel, Albert Jenner, the committee agreed to delay subpoenas for a week or two; but there is no doubt that it will insist on getting whatever evidence the members think it needs. The committee staff first wants to examine precisely what Jaworski secured from the White House. It especially wants the evidence that was placed in a locked briefcase and given to Federal Judge John J. Sirica when the original Watergate grand jury indicted seven former Nixon associates for conspiracy. The jurors submitted a report summarizing the evidence of Nixon's alleged role in the conspiracy. They also recommended that both the evidence and the report be given to the Judiciary Committee.

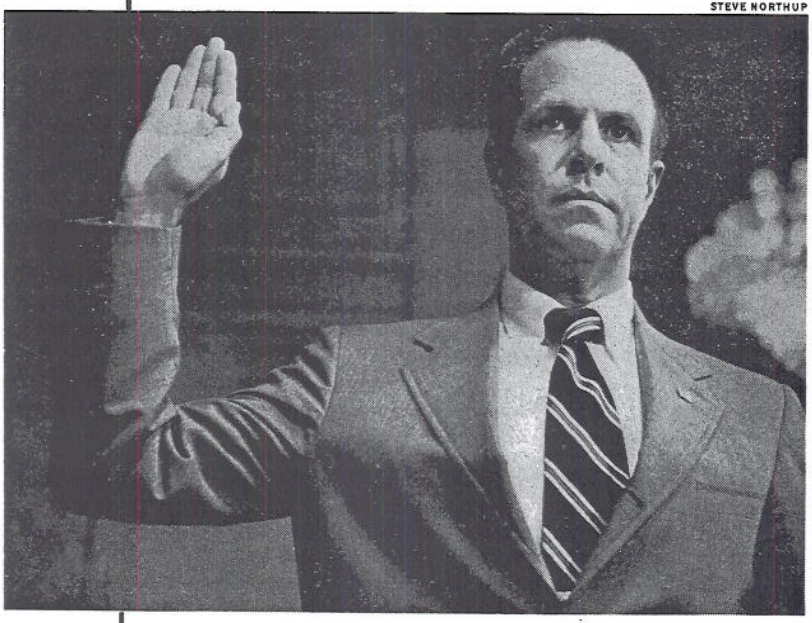
Whether Sirica will comply with the request was the subject of an extraordinary hearing in his Washington courtroom last week. Assembled were 22 attorneys representing the seven indicted defendants and all three branches of Government. St. Clair surprised spectators by telling Sirica that the White House had no recommendation one way or the other on whether the grand jury's evidence should go to the Judiciary Committee. But John J. Wilson, the crusty attorney for former Nixon Aides H.R. Haldeman and John Ehrlichman, promptly picked up the ball, vigorously opposing any such handover of the evidence. If his clients were named in the sealed report, he argued, that information would leak from the Rodino committee, and the resulting publicity would prejudice their case. Wilson insisted that

Examining the Record of That Meeting in March

Other Watergate events may yet prove more pivotal to President Nixon's possible impeachment, but last week a critical controversy centered on a meeting that took place in the President's Oval Office on March 21, 1973. At issue was whether Nixon then had approved or tacitly accepted or pointedly rejected the payment of hush money to the original Watergate burglars as part of the criminal cover-up conspiracy.

The 110-minute meeting was attended by Nixon and his former counsel, John Dean. Also present for about 40 minutes was H.R. Haldeman, Nixon's former chief of staff. The conversation was secretly recorded by Nixon and, despite strenuous White House resistance, the tape was acquired by Special Prosecutor Leon Jaworski. After listening to it, a federal grand jury two weeks ago indicted Haldeman for perjury growing out of his Senate Watergate testimony about the conversation. By implication, Nixon also stood accused of having lied to the American people because his version of the conversation closely paralleled Haldeman's in significant areas. Last week Nixon strongly defended his previously expressed version of the meeting, but added some fresh nuances. As a result there now are three differing accounts of the conversation. The three:

STEVE NORTHUP



SENATE WATERGATE WITNESS H.R. HALDEMAN IN JULY

DEAN gave his version in testimony to Senator Sam Ervin's Watergate committee last June 25. Denied access to his White House files and working from memory, Dean at the time mistakenly thought that much of the crucial conversation had taken place on March 13 rather than on March 21. Dean testified: "I told the President about the fact that there were money demands being made by the seven convicted defendants . . . I told the President that there was no money to pay these individuals to meet their demands. He asked me how much it would cost. I told him that I could only make an estimate that it might be as high as a million dollars or more. He told me that that was no problem, and he also looked over at Haldeman and repeated the same statement.

"He then asked me who was demanding this money, and I told him it was principally coming from [E. Howard] Hunt through his attorney. The President then referred to the fact that Hunt had been promised executive clemency. He said that he had discussed this matter with [John] Ehrlichman and, contrary to instructions that Ehrlichman had given [Charles] Colson not to talk to the President about it, that Colson had also discussed it with him later."

HALDEMAN gave his account in testimony to the Ervin committee last July 30. Said Haldeman: "He [Dean] indicated concern about two problems, money and clemency. He said that Colson had said something to Hunt about clemency . . . The President confirmed that he could not offer clemency, and Dean agreed . . . He also reported on a current Hunt blackmail threat. He said Hunt was demanding $120,000 or else he would tell about the seamy things he had done for Ehrlichman. The President pursued this in considerable detail, obviously trying to smoke out what was really going on . . . He asked how much money would be involved over the years, and Dean said probably a million dollars—but the problem is that it is hard to raise. The President said there is no problem in raising a million dollars, we can do that, but it would be wrong."

NIXON gave his account at last week's press conference. "For the first time on March 21, he [Dean] told me that payments had been made to the defendants for the purpose of keeping them quiet, not simply for their defense. If it had been simply for their defense, that would have been proper. But if it was for the purpose of keeping them quiet—you describe it as hush money—that, of course, would have been an obstruction of justice . . .

"We examined all of the options at great length during our discussion . . . I pointed out that raising the money, paying the money, was something that could be done, but I pointed out that that was linked to clemency, that no individual is simply going to stay in jail because people are taking care of his family or his counsel . . . and that unless a promise of clemency was made that the objective of so-called hush money would not be achieved. I then said that to pay clemency was wrong. In fact, I think I can quote it directly. I said, 'It is wrong, that's for sure.'

"Mr. Haldeman was present when I said that. Mr. Dean was present. Both agreed with my conclusion. Now when individuals read the entire transcript of the 21st meeting or hear the entire tape where we discussed all these options, they may reach different interpretations. But I know what I meant and I know also what I did. I meant that the whole

a regular grand jury has no legal right to issue special reports: "It has no power other than to indict or ignore."

In the grand jury's behalf, one of Jaworski's top assistants, Philip Lacovara, contended that the situation was unique. "This is the first time in over a hundred years that the country has been faced with the prospect of an impeachment investigation. It would be unthinkable under our system of government for this court or any court to hold that this grand jury must remain mute when it feels it has heard evidence which is material to that question."

The Judiciary Committee lawyers took a careful stance. They made clear that their appearance in court did not mean that Sirica or any other judge had any jurisdiction over what evidence the committee can or cannot acquire—or for that matter, over any part of the constitutionally sanctioned impeachment process of the House. Doar said that impeachment was "an overriding constitutional responsibility" and that the House was entitled to relevant information from any source. Jenner said that in this situation Sirica was no different from any other U.S. citizen. The judge had evidence relative to impeachment and must surrender it. The source of the material did not matter.

Sirica asked a disturbing question: Had the committee considered delaying its impeachment investigation until after the trials of the President's aides? Since those trials have now been set to start on Sept. 9, delay until then would

transaction was wrong, the transaction for the purpose of keeping this whole matter covered up. That was why I directed that Mr. Haldeman, Mr. Ehrlichman, Mr. Dean and Mr. Mitchell meet . . . so that we could find what could be the best way to get the whole story out."

The conflicts are clear—although they could be quickly resolved if Nixon would merely allow the tape to be played in public. By Dean's account, Nixon raised no objection at all to the hush money for Hunt and, further, admitted that he was aware that Hunt had been promised clemency. Haldeman claimed that both Nixon and Dean had concluded that clemency could not be promised. Haldeman also contended that, specifically, the President had said it would be wrong to pay hush money. Nixon confirmed Haldeman's version that he and Dean had ruled out clemency, but claimed that his judgment that "it is wrong" was meant to apply not just to clemency but to payoff money as well.

Nixon's version also contains one significant difference from an earlier written account of the payments that he gave on Aug. 15. "I was only told that the money had been used for attorneys' fees and family support, not that it had been paid to procure silence from the recipients," he said then. Last week he admitted that Dean had told him the true and illegal use of the cash. The fact that Nixon also conceded last week that he and Dean had "examined all of the options at great length" indicated that the illegal payments were not rejected out of hand by the President —as they should have been.

There are serious problems with the Haldeman and Nixon versions. The grand jury cited Haldeman for perjury in claiming that the President had said "but it would be wrong." If the jurors had any doubt at all about how to interpret the tape, they would hardly have considered Haldeman's statement to be indictable. Certainly, if Nixon had clearly declared that the payment of hush money was wrong, even though he may have linked it with clemency as well, the jury similarly would not have accused Haldeman of lying.

Nixon said in his press conference that he did not think his disapproval of clemency or hush money could be misinterpreted at all. "My actions and directions were clear and very precise," he contended. But the indictment details a chain of actions by high Nixon officials, allegedly starting with Haldeman, right after the March 21 meeting that led to a delivery of $75,000 to Hunt's attorney that same evening. Asked about this, Nixon made no effort to explain how his "precise" orders could have been disobeyed. "I have no information as to when a payment was made," he said. "All I have information on is as to my own actions and my own directions."

UPI

SENATE WATERGATE WITNESS JOHN DEAN IN JUNE

There is also a problem with Nixon's claim that, having learned of these illegal cover-up activities from Dean on March 21, he then convened a meeting the next day at which he urged his top aides "to get the story out." That meeting was attended by Nixon, Mitchell, Ehrlichman, Haldeman and Dean. According to the Senate testimonies of the last four, the President made no attempt at all at that meeting even to quiz them on whether Dean's allegations of their individual involvement in the cover-up were true. No one testified that Nixon had urged that Dean's allegations be reported immediately to the Attorney General or the FBI for investigation.

There is no dispute over the fact that Nixon asked Dean to go to Camp David and write a report on what he knew about the conspiracy. What Nixon planned to do with Dean's report is unclear. When Dean decided not to write such a paper but began dealing secretly with the Justice Department prosecutors instead, Nixon assigned Ehrlichman on March 30 to investigate Dean's charges. Since Dean had told Nixon that Ehrlichman was one of the participants in the cover-up, he was a curious choice for investigator.

Nixon apparently never reported the Dean allegations to the proper federal investigators. Instead, on April 15, they finally brought such information to him. It was after Dean and Jeb Stuart Magruder, the deputy chief of the Nixon re-election committee, had begun talking to the prosecutors that Attorney General Richard Kleindienst and his deputy, Henry Petersen, went to the White House and told Nixon of the extensive involvement of his aides, including Haldeman, Ehrlichman, Mitchell and Dean.

The Dean testimony, which apparently has stood up well under grand jury scrutiny and in comparison with the Nixon tapes, further challenged the President's claim that he had rejected both clemency and hush money for the Watergate burglars. At a meeting last April 15, Dean testified, Nixon "went behind his chair to the corner of the office and in a barely audible tone said to me he was probably foolish to have discussed Hunt's clemency with Colson." According to Dean, Nixon also said that "he had, of course, only been joking" about his remark on March 21 that it would be no problem to raise the $1 million in hush money.

This poses a vexing question: Why would any such disclaimer by Nixon be necessary if he had, in fact, clearly stated that such hush payments were wrong? Indeed, if a tape of this April 15 meeting were to corroborate Dean's charge, it would undermine the President's defense. After a tape of the meeting was subpoenaed by former Special Prosecutor Archibald Cox, the President claimed that it was "not in existence" because a White House recorder had run out of tape.

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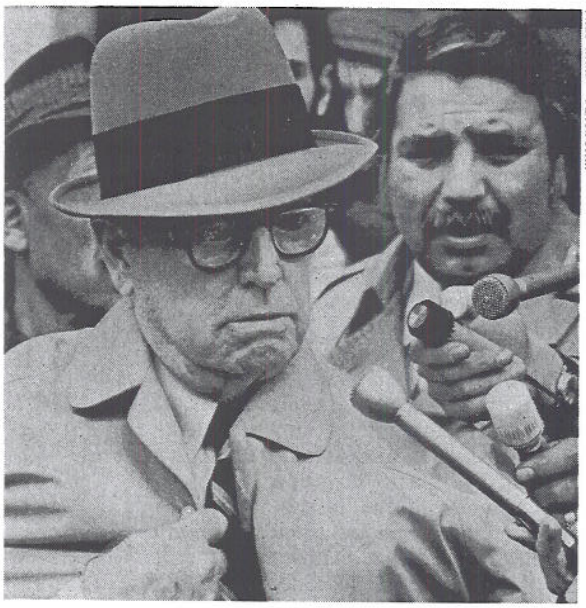
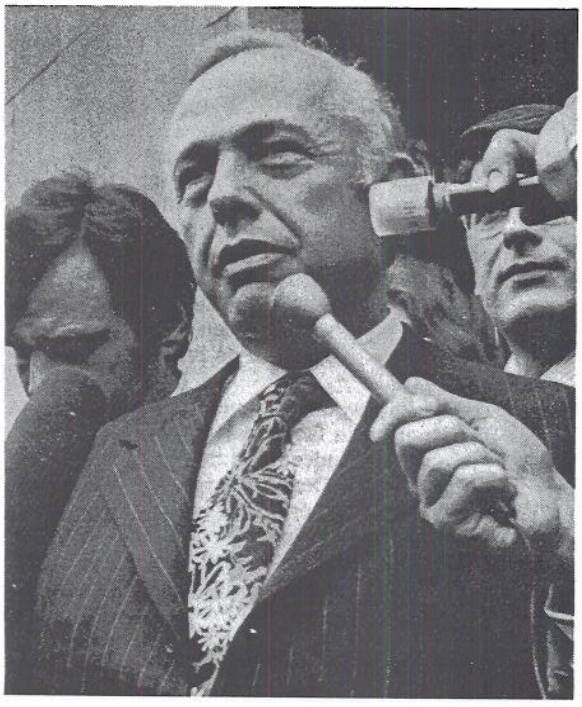


FRED WARD—BLACK STAR

DEFENSE ATTORNEY JOHN J. WILSON



PRESIDENTIAL COUNSEL JAMES ST. CLAIR

be an intolerable disservice to a public that is understandably impatient over the slowness in deciding Nixon's fate. Doar replied that the committee has not considered any such delay—a point that Sirica may merely have wanted on the record to express his concern about pretrial publicity involving the defendants (*see* THE LAW). Sirica gave no indication of when he will rule, but he probably will do so this week and give the evidence to the House committee.

The fact that the White House has agreed to give to the Judiciary Committee all of the evidence that it gave Jaworski does not lessen the significance of the decision that Sirica faces. The grand jury evidence presumably applies directly to the President's role. Its acquisition could eliminate the time-consuming need for the Judiciary Committee staff to scour all of the material involving all of Nixon's aides to determine what is relevant to impeachment. Moreover, the grand jury material must also contain testimony of various Nixon aides who appeared before it—again possibly reducing the need for lengthy impeachment staff interviews.

Seeking Evidence. If Sirica decides not to give the grand jury evidence to the Judiciary Committee, the committee will issue a subpoena for it. In any event, the committee will certainly push on to subpoena other White House documents and tapes that Jaworski has not been able to acquire. Jaworski too is determined to pursue his own requests for such material in court. At his press conference, Nixon distorted Jaworski's position in declaring that the special prosecutor had agreed that the grand jury had "all the information that it needed in order to bring to a conclusion its Watergate investigation."

The grand jury had enough information to issue indictments in the cover-up. But the Jaworski staff is still seeking tapes and memos about a variety of White House activities, including Nixon's relations with large campaign contributors, notably the milk producers and persons seeking ambassadorial posts. The prosecutors also want copies of Nixon's daily news summaries, on which he is known to have written instructions on Watergate developments, and files known to have been kept by Ehrlichman on the work of the President's secret group of investigators, called the plumbers.

One operation carried out by those White House plumbers led last week to additional indictments against Ehrlichman and Charles W. Colson, Nixon's former special counsel. For both, it was the second indictment within a week. The fresh indictments were for their roles in the burglary of Beverly Hills Psychiatrist Lewis J. Fielding on Sept. 3, 1971. The aim of the raid was to grab the doctor's files on Daniel Ellsberg, who was then being prosecuted for his release of the Pentagon papers' history of the Viet Nam War.

Ehrlichman and Colson were charged with being part of a conspiracy to deprive Dr. Fielding of his constitutional rights. Also indicted as members of the conspiracy were G. Gordon Liddy, one of the convicted leaders of the Watergate burglary, and three Cuban-Americans: Bernard L. Barker, Felipe de Diego and Eugenio R. Martinez. The special prosecutor's case in the Ellsberg-related burglary is considerably strengthened by the fact that several persons named as co-conspirators, but not as defendants, will presumably testify against the indicted men.

Ehrlichman is in great difficulty in the Fielding case. He not only was named a conspirator, but he also was charged with lying on four occasions to the grand jury or the FBI. The false statements, the indictment charged, include his claims that he had known nothing about the crime until after it had occurred. If convicted on all counts, Ehrlichman could be sentenced to up to 30 years in prison.

He was indicted six days earlier in the Wategate cover-up on charges that carry a possible penalty of another 25 years. He and the other six cover-up conspirators pleaded innocent to all charges last week before Judge Sirica. The others were Haldeman, Colson, John Mitchell, Robert Mardian, Gordon Strachan and Kenneth Parkinson. At the same time, Colson and Ehrlichman pleaded not guilty to the Fielding burglary charges. All were ordered to surrender their passports and to notify the court of any change of address.

False Testimony. The President at his press conference praised some of his former top aides for refusing in the past to use "the shield of the Fifth Amendment as they could have and plead self-incrimination." They had testified "freely," he said, and they had not sought immunity or engaged in "plea bargaining" with prosecutors. Actually, Colson had declared that he would take the Fifth Amendment if called before the Senate Watergate committee. Ehrlichman's lawyers did plea bargain but rejected Jaworski's final offer. Ehrlichman, Haldeman and Mitchell may have testified freely, but according to the grand jury indictments, they did so falsely.

The central issue in the continuing controversy over Nixon's own Watergate culpability was whether the President had taken part in some of the crimes for which his former aides have been indicted. He bristled when a reporter openly raised such a suggestion, replying coldly: "I've also quit beating my wife." Nixon conceded that such crimes as perjury and obstruction of justice are "serious crimes" and would be impeachable acts. After another dramatic Watergate week, a possible clarification of that fateful matter of the President's precise role in the cover-up conspiracy remained where it had been for some time—inside a sealed envelope and a dark brown briefcase in Judge Sirica's courthouse safe.