

Legal case being built against Nixon

By Jon Margolis and Harry Kelly
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WASHINGTON — House impeachment investigators reportedly are building a case against President Nixon based on interference with an official investigation, a charge they regard as being easier to prove than obstruction of justice.

In this connection, they already have questioned Federal Judge William Matthew Byrne Jr. of Los Angeles and Assistant U.S. Attorney Henry Petersen, and they will talk to former Attorney General Elliot Richardson this week.

The sources said Nixon may have violated two laws against interfering with investigations and that the transcripts he released seem to provide substantial evidence.

One law prohibits interference in an investigation generally, the sources said. The other specifically outlaws lying to a federal investigator.

The strongest case against the President has been thought to be conspiracy to obstruct justice as a result of his discussion of paying hush money to Watergate burglar E. Howard Hunt.

But the sources close to the inquiry pointed out that conspiracy charges are vague and often hard to prove. The other laws are more precise, they said.

The sources did not provide specific title and chapter numbers of the laws in question. One of the statutes they may be referring to is section 1510 of Title 18 of the U.S. Code, which states that someone has committed a crime who "wilfully endeavors by means of bribery, misrepresentation, and intimidation . . . to obstruct, delay or prevent the communication of information relating to a violation of any criminal statute . . . to a criminal investigator."

The law defines a "criminal investigator" as anyone authorized by any "department, agency or armed force" to investigate criminal activity.

Justice Department sources observed, however, that this statute was designed to protect witnesses against re-

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prisals, not to deal with general interference.

The sources did not specify what presidential actions might comprise violations of these laws. But there appeared to be several possibilities.

Among them:

- Nixon's apparent effort to keep Petersen from investigating the President himself while probing the Watergate coverup. "We've got to head them off at the pass," Nixon told Petersen on April 27, 1973, referring to Justice Department investigators, "because it's so damned — so damn dangerous to the presidency."

- The President's order when the coverup fell apart that no White House officials were to receive immunity from prosecution in the transcripts. Nixon seems to concede he issued that order to bar immunity for John Dean, his former counsel who was threatening to implicate others, including Nixon.

- Nixon's reported offer to Judge Byrne of the directorship of the FBI while Byrne was presiding over the Pentagon Papers trial of Daniel Ellsberg.

- The President's lack of cooperation with former special prosecutor Archibald Cox, whom he fired, and the House Judiciary Committee, whose subpoena he complied with only partially.

Nixon probably will receive another committee subpoena this week, asking for the tape of a presidential conversation held April 4, 1972. He already has stated he will not give up any more Watergate-related information.

The committee reportedly has evidence that on that date, Nixon may have been briefed about the political espionage plans of G. Gordon Liddy, plans which culminated in the June 17, 1972 Watergate break-in.

A source close to the committee said Nixon would get a subpoena each time the committee felt he was withholding an especially valuable piece of evidence. "He's going to get a whole string of them," the source said, "one after another."

Committee chairman Peter Rodino (D-N.J.) has indicated that all failures to honor subpoenas would be considered in the committee's final report on impeachment.

Neither Richardson nor Petersen could be reached to comment on their talks with the impeachment inquiry staff. A secretary in Judge Byrne's chambers said he would not discuss the subject.

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