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Seven Charged, a Report and a Briefcase

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[They] unlawfully, willfully and knowingly did combine, conspire, confederate and agree together and with each other, to commit offenses against the United States ... [They] would corruptly influence, obstruct and impede ... the due administration of justice ... and by deceit, craft, trickery and dishonest means, defraud th United States.

With those words, a federal grand jury composed of 23 American citizens last week presented a grave and most exceptional charge: a criminal conspiracy existed "up to and including" the present at the highest level of Richard Nixon's Administration. The accused include four of the President's most intimate and influentia former official and political associates. And by clear implication in the language of the indictment, the juror disclosed their belief that the President has lied about at least one potentially criminal act of his own in the still-spreading scandal.

Nor was that all. Going beyond the indictment, which was carefully framed with the aid of Special Prosecutc Leon Jaworski and his staff, the Watergate grand jury took on its own initiative a step that portends serious consequences for the President. In a hushed and tense Washington courtroom, Jury Foreman Vladimir Pregelj delivered a sealed report to Federal Judge John Sirica. The judge solemnly opened the envelope, quickly scanned a covering letter, then resealed it. Without a word on when—or if—the contents would be made public, Sirica ordered the envelope locked in a courthouse safe.

There was little doubt that the report contains the grand jury's critical assessment of Nixon's role in the conspiracy to conceal the origins of the wiretapping and burglary of Democratic headquarters in June 1972. The report may also spell out the grand jury's reasons, presumably on constitutional grounds, for not now

indicting the President.

In making that decision, the grand jury, perhaps with some reluctance, was undoubtedly following Jaworski's own instincts. Since there is no precedent for indicting a sitting President, Jaworski feared that indicting Nixon might touch off a long and nationally divisive series of court battles ending in a Supreme Court decision in favor of the President. Such a prospect is particularly unnecessary when there is an impeachment inquiry under way in the House, where the Judiciary Committee is ready and eager to secure all evidence either implicating or exonerating the President of wrongdoing.

Undoubtedly at the grand jury's direction, members of Jaworski's staff also gave to Sirica a locked and bulging briefcase. It is believed to contain transcripts of White House tape recordings, documents and other evidence that was gathered painstakingly—and often despite dogged resistance from Nixon—by Jaworski and his fired predecessor, Archibald Cox. The evidence almost certainly is meant to support any charges made in the report against Nixon. The briefcase is also expected to reach the House impeachment investigators if that should be the course Sirica elects.

Sirica has several options in handling the sealed report and the apparently explosive evidence now in his possession. He can order it promptly dispatched to the House Judiciary Committee—a move seen as most probable. He can await a request for it from that committee or hold a hearing of all interested parties, including Jaworski and the White House, on what to do with it. He could simply make it public—or have it locked up indefinitely. Whatever his course, it is likely to become known this week.

The long-awaited, judiciously worded indictment sketched, in devastating detail, the cover-up plot that was hatched in the White House and in the Committee for the Re-Election of the President. The cover-up began almost the moment that five lowly burglars were arrested in the Watergate complex on June 17, 1972. The indictment attacks nearly all of the previous Watergate defenses put up by the men closest to Nixon. According to the grand jury, these aides tried to use the FBI and CIA to conceal the Watergate crime, not to protect national security. They arranged for payments of large amounts of cash to the arrested burglars, not for legitimate legal expenses but to keep them quiet. They extended offers of leniency and Executive clemency to the arrested men—inducements only a President has the power to fulfill. They destroyed evidence.

Seven of the President's former associates were indicted, and four of them were accused of lying a total of eleven times to grand juries, the Senate Watergate committee or the FBI. These are the men on whose testimony the President's own profession of innocence has heavily relied. Significantly, no perjury charge was made against John Dean, Nixon's former counsel and the one self-confessed member of the conspiracy

who has directly accused the President of being an active participant in the cover-up scheme. The grand jury has heard some of the tapes of conversations between Dean and Nixon — and apparently is convinced that Dean's version of those disputed talks is the correct one.

Last week's indictment of the seven men brought the number of former Nix on agents charged or convicted in the scandal to 25 (see box page 20). Individual guilt or innocence is yet to be established through trials in many of these cases. But no equivalent litany of official accusation has ever before been directed on such a scale against the associates of any U.S. President. The scandals of Ulysses S. Grant and Warren G. Harding were far less pervasive.

The Indicted Seven

Because the positions of most of the men charged last week had been so high on President Nixon's once powerful inner team, their indictment, though long expected, was still shocking. That staff, once widely viewed as aloof and arrogant but sure-footed and efficient, has, of course, been progressively tarnished ever since Watergate broke wide open nearly a year ago. Now an appalling number of its members are desperatel fighting to stay out of prison. Last week's seven accused conspirators were:

JOHN MITCHELL, 60. Once the Administration's high priest of law-and-order, the former Attorney Genera and head of Nixon's re-election committee was undoubtedly Nixon's closest political confidant. The two mei had known each other intimately ever since Mitchell, a seemingly imperturbable municipal-bond specialist, and Nixon were partners in a New York City law firm. In the Administration, Mitchell was an eager but unsuccessful prosecutor of antiwar extremists (the Chicago Seven, the Harrisburg Seven, Daniel Ellsberg). Mitchell's most celebrated comment on the Nixon Administration was his ironically prophetic "Watch what we do, not what we say." Now he stands indicted on charges of conspiracy, obstruction of justice, and four counts of making false statements to the FBI, the Senate Watergate committee or the grand jury. Last week Mitchell also went on trial in a New York federal court on six counts of perjury. He and former Commerce Secretary Maurice Stans are accused of attempting to intervene with the Securities and Exchange Commission to help Fugitive Financier Robert Vesco evade a massive fraud investigation in return for a secret $200,000 contribution to Nixon's 1972 campaign.

H.R. HALDEMAN, 47. As Nixon's stern chief of staff, the former California advertising executive once noted on a memo returned to a White House aide: "I'll approve of whatever will work and am concerned with results—not methods." The most formidable guardian of Nixon's Oval Office, Haldeman curtly and coldly ran a staff that protected the President against unwanted intrusions and unappreciated advice. Haldeman is charged with conspiracy, obstruction of justice, and three counts of perjury in his public testimony before

Senator Sam Ervin's select Senate committee.

JOHN D. EHRLICHMAN, 48. Formerly Nixon's chief adviser on domestic affairs, the outgoing and often witty Ehrlichman has acidly termed Congressmen "a bunch of clowns" and argued that a President has the right to simply "set aside" anything Congress did that was "not in the public interest." A Seattle attorney wh specialized in municipal and land-use law, he is charged with conspiracy, obstruction of justice, and three counts of lying to the grand jury and the FBI.

CHARLES W. COLSON, 42. A tough and wily political infighter, Colson was Nixon's special counsel, concentrating on soliciting labor support and punishing the President's political enemies. Colson's footprint kept appearing at the fringes of the Watergate scandal, although he insisted loudly that he would never be indicted—and for many months investigators seemed persuaded. Yet Colson, who once declared that "I would do anything that Richard Nixon asks me to do," and now professes to have "found God" in a religious conversion, was indicted for conspiracy and obstruction of justice.

ROBERT C. MARDIAN, 50. A wealthy Phoenix lawyer-contractor and a Western coordinator of Barry Goldwater's 1964 presidential campaign, Mardian was one of the architects of Nixon's Southern strategy on school integration while general counsel for the Department of Health, Education and Welfare. Rigidly conservative, Mardian later showed much anti-radical fervor but little savvy as chief of the Justice Department's Internal Security Division. Disappointed when he did not earn a higher position in the Nixon Administration, he said with foresight about the Nixon camp: "When things are going great they ignore me, but when things get screwed up, they lean on me." He was indicted for conspiracy.

GORDON C. STRACHAN, 30. A former junior member of the Nixon-Mitchell law firm in New York, Strachan was Haldeman's chief aide in the White House. He later became general counsel of the U.S. Information Agency as part of a White House effort to exert greater control over the federal bureaucracy by transferring White House men to key department and agency posts. It was Strachan who startled the Ervin committee by advising young people who were considering government work: "Stay away." He is charged with conspiracy, obstruction of justice, and one count of lying to a grand jury.

KENNETH W. PARKINSON, 46. A Washington attorney specializing in personal injury insurance cases, Parkinson was untouched by Watergate until the Nixon committee hired him to defend itself against a civil suit filed by the Democratic National Committee because of the wiretapping-burglary. Once a law clerk in the same Washington district court in which he is now indicted, he is charged with conspiracy.

The new Watergate Seven face maximum sentences of five years in prison for each count of conspiracy,

obstruction of justice and making a false statement to the FBI or a grand jury. If there are convictions on all counts, the consecutive sentences could total as much as 30 years for Mitchell and 25 each for Haldeman and Ehrlichman. Judge Sirica ordered that all seven men appear before him this Saturday to be arraigned and to plead to the charges. Trials normally are scheduled to begin within 60 days after indictment, althoug delays can be sought by either defenders or prosecutors. Though defense attorneys may object, the prosecution hopes to try the seven together. Sirica assigned himself to preside over the case.

The most intriguing detail in the indictment was one of the counts against Haldeman. In his televised testimony before the Ervin committee last July 30 and 31, Haldeman told of listening to a tape of a conversation among Nixon, John Dean and, for a time, himself that had taken place on March 21, 1973. The indictment contends that Haldeman committed perjury when he related his version of what the tape record Since the jurors have heard the tape, the conclusion is inescapable that it does not confirm Haldeman's testimony.

The Five Words

The details of this charge also strongly support Dean's televised testimony about this conversation—and impugn Nixon's public statements about the talk. To a surprising degree, Haldeman's testimony had verifie Dean's recollection of the conversation, although Dean had thought that parts of it had occurred earlier, on March 13.

Haldeman agreed that Dean told the President that E. Howard Hunt, one of the arrested Watergate burglar was demanding $120,000 in cash, "or else he would tell about the seamy things he had done for Ehrlichman," presumably as one of the White House squad of secret investigators, "the plumbers." According to Haldeman, Nixon asked how much money.would have to be raised over the years to meet such demands, and Dean replied, "probably a million dollars—but the problem is that it is hard to raise."

The President replied, according to Haldeman, "There is no problem in raising a million dollars, we can do that." Up to this critical point, Haldeman and Dean were still in agreement. Then, Haldeman testified, Nixo added five crucial words: "But it would be wrong." Those five words, claims the indictment, as Haldeman "then and there well knew, were false." They, of course, change Nixon's position completely. Instead of agreeing to pay Hunt hush money, as Dean charged, the President was portrayed by Haldeman as ruling such a move out of consideration. Another Haldeman claim that the grand jury apparently did not accept was that throughout this exchange Nixon "led Dean on. . . obviously trying to smoke out what was really going."

If the grand jury is right, Nixon has repeatedly lied about never having acquiesced in any cash payments by his associates to any of the original Watergate defendants. Nixon issued a long Watergate paper last May 22 claiming that "I did not know, until the time of my own investigation, of any efforts to provide the Watergat defendants with funds" and "I took no part in, nor was I aware of, any efforts that might have been made to cover up Watergate." Asked during an Aug. 22 press conference about Haldeman's version before the Senat committee of the $1 million discussion, Nixon replied: "His statement is accurate." Nixon said he had. in fact, told Dean: "John, it is wrong. It won't work."

Woven through the grand jury's various allegations against the newly indicted men was evidence that a larg payment was, in fact, made to Hunt a few hours after this crucial conversation of Dean, Haldeman and Nixon. It would have been foolhardy, indeed, for Nixon's aides to carry out such payoffs if the President had flatly banned them as wrong. According to the indictment, after the end of this White House meeting, Haldeman called John Mitchell. Mitchell minutes later "had a telephone conversation with Fred C. LaRue [a Mitchell deputy], during which Mitchell authorized LaRue to make a payment of $75,000 to and for the benefit of E. Howard Hunt Jr." LaRue, who has pleaded guilty to conspiring to obstruct justice, according to the indictment gave the $75,000 to Hunt's attorney, William O. Bittman, that very evening, March 21. Next day, contends the indictment, Mitchell told Ehrlichman that Hunt "was not a problem any longer."

The charges against Haldeman raise an obvious question: Why would he risk perjury by testifying publicly that the tape contained those five words of Nixon's if, indeed, it did not? One answer may lie in the fact that Haldeman was testifying only a couple of weeks after the existence of the secret Nixon taping system had been revealed to the Ervin committee. Nixon later fought vainly on two court levels to withhold his tapes from Archibald Cox, then the Watergate special prosecutor. He yielded seven of them, including the one of the March 21 meeting, only after the public uproar that followed his firing of Cox, who was seeking the tapes and other White House evidence. At the time he was before the Ervin committee, Haldeman may have felt certain that the tapes would never have to be given to the prosecutors or the committee.

Throughout, the 50-page indictment handed up by the grand jury carefully refrains from citing any acts of the President. It sometimes even fails to note that a meeting singled out as an overt conspiratorial act was attended by Nixon and was held in his office, although his presence there is public knowledge. This is presumably part of the strategy of keeping the grand jury's report on Nixon thoroughly separate from the indictments, on the theory that Nixon's guilt or innocence ought constitutionally to be only the province of the House impeachment committee headed by New Jersey Democratic Congressman Peter Rodino.

Overt Acts

The indictment spares no harsh words in describing the cover-up conspiracy involving the seven indicted Nixon associates "and others known and unknown." The aim of the conspiracy, the indictment claims, was t conceal the identity of the persons responsible for the Watergate wiretapping, as well as "other illegal and improper activities." Toward that end, the seven tried to prevent officials of the CIA, FBI and Department of Justice from transacting "their official business honestly and impartially, free from corruption, fraud, improper and undue influence, dishonesty, unlawful impairment and obstruction."

No fewer than 45 conspiratorial acts were cited in concise paragraphs that undoubtedly will be buttressed b extensive evidence, and sharply assailed by defense lawyers, in future trials. Those curt recitations of specifi acts for the first time detailed the chronology of an increasingly desperate effort to keep the lid on the scandal. Free of all the testimonial contradictions and denials that have so confused the complex affair, the indictment included these overt acts:

June 17, 1972. On the night of the ill-starred Watergate breakin, John Mitchell and a group of Nixon campaign officials were attending political meetings in Beverly Hills. After news of the burglars' capture reached him, Mitchell told Mardian to ask G. Gordon Liddy, the counsel to Nixon's re-election finance committee and one of the originators of the political-espionage plan, to seek the help of Attorney General Richard Kleindienst in Washington to get the arrested men out of jail. (Kleindienst has testified that Liddy accosted him at Washington's Burning Tree golf club and sought such help, but that he sharply rebuffed the plea.)

June 18. Haldeman's aide Gordon Strachan destroyed documents on Haldeman's orders. (Strachan has admitted doing so, claiming that the papers included reports he had prepared for Haldeman about Liddy's intelligence-gathering plan before the men were arrested. Federal investigators believe that transcripts of th illegally intercepted Democratic conversations were also destroyed.)

June 19. Ehrlichman met with Dean at the White House and directed him to relay word via Liddy that E. Howard Hunt should leave the country. (Hunt had been a member of the White House plumbers and was later convicted of the Watergate wiretapping. Dean testified that he carried out Ehrlichman's instructions, then convinced Ehrlichman that it was a mistake and asked Liddy to rescind the order to Hunt.)

June 19. Charles Colson and Ehrlichman met with Dean at the White House, and Ehrlichman directed Dean to open Hunt's safe in the Executive Office Building and take the contents (which included various secret documents and electronic equipment). Dean has testified that he did so.

June 19. Mardian and Mitchell met with Jeb Stuart Magruder, deputy to Mitchell on Nixon's re-election

committee, in Mitchell's Washington apartment. Mitchell suggested that Magruder destroy his files on the Watergate wiretapping plan, code-named Gemstone. (Mitchell said, according to LaRue, who has pleaded guilty to conspiracy to obstruct justice, "that it might be a good idea if Mr. Magruder had a fire.")

June 20. Liddy met with LaRue and Mardian at LaRue's Washington apartment. Liddy told the other two that certain "commitments" had been made to himself and others who had carried out the Watergate breakin. (Apparently the commitments were from Hunt to the others that if anything went wrong with the operation his White House friends would assist them and their families.)

June 24. Mitchell and Mardian met with Dean at Nixon re-election committee headquarters in Washington. Mitchell and Mardian suggested that Dean ask the CIA to provide secret funds for Hunt, Liddy and the five burglars who had been arrested in the breakin.

June 26. Ehrlichman met with Dean at the White House and approved a suggestion that Dean ask General Vernon A. Walters, deputy director of the CIA, whether the CIA could use covert funds to pay salaries and bail for the arrested men. (Both Dean and Walters have testified that Dean did so.)

July 7. Anthony Ulasewicz, a former New York City policeman recruited to help distribute payments secretly to the break-in defendants, delivered approximately $25,000 in cash to William O. Bittman in Washington. Bittman was Hunt's attorney.

Mid-July. Mitchell and Kenneth Parkinson met with Dean at Nixon committee headquarters. Mitchell asked Dean to get FBI reports on the Watergate investigation for Parkinson and others. (Lawyer Parkinson was defending the Nixon re-election committee against a Democratic Party civil suit, and these reports could have been useful for this non-Governmental purpose.)

July 17. Ulasewicz delivered approximately $40,000 in cash to Howard Hunt's wife Dorothy at Washington National Airport. (She later died in a crash of a commercial plane, carrying $10,000 in cash at the time.)

July 21. Mardian met with Dean at the White House and examined FBI reports of its Watergate investigation. (Mardian, then a member of the Nixon committee staff, had no official right to see such documents.)

July 26. Ehrlichman met with Herbert Kalmbach, the President's personal lawyer, at the White House. He told Kalmbach to raise funds for the persons who had committed the break-in and that the fund raising and the payments should be kept secret. (This tends to back up Kalmbach's Senate testimony in which he related

"I said, 'John, I am looking right into your eyes ... it is just absolutely necessary, John, that you tell me, first, that John Dean has the authority to direct me in this assignment, that it is a proper assignment, and that I am to go forward on it.' He said, 'Herb. John Dean does have the authority. It is proper and you are to go forward.' ")

Aug. 29. Colson had a conversation with Dean in which Dean advised him not to send a memorandum to th authorities who were investigating the breakin. (The Colson memo reported that he had been interviewed b Justice Department investigators. But, the memo noted, they had failed to ask him about a meeting that he had held before the break-in with Liddy and Hunt. At that meeting the pair asked Colson for help in getting approval for their political intelligence-gathering plans. Investigators believe that by showing the memo to Dean, Colson made a clever attempt to protect himself and entrap Dean in the conspiracy. If asked later wh he did not volunteer information about his meeting with Liddy and Hunt.

Colson would be able to cite Dean's orders to squelch the memo.)

Nov. 13. Hunt had a telephone conversation with Colson in which they discussed the need to make additiona payments to the defendants.

Mid-November. Colson met with Dean at the White House and gave Dean a tape recording of a telephone conversation between Colson and Hunt. (This call has been described by Hunt as a direct appeal for more financial help.)

Nov. 15. Dean played this Colson-Hunt recording for Ehrlichman and Haldeman at Camp David.

Nov. 15. Dean played the same recording for Mitchell in New York City.

Early December. Haldeman had a phone talk with Dean in which Haldeman approved the use of part of a fund of approximately $350,000, then under Haldeman's control, for the defendants.

Early December. Strachan met with LaRue at LaRue's apartment in Washington and delivered approximately $50,000 in cash to him.

Early December. LaRue arranged for the delivery of about $40,000 in cash to Bittman, Hunt's attorney.

Jan. 3,1973. Colson met with Ehrlichman and Dean at the White House and discussed the need to assure Hunt how long he would have to spend in jail if he were convicted. (This was the indictment's oblique way o

saying that the talk centered on getting Executive clemency for Hunt. Dean testified that Colson told him that just after the meeting he had asked Nixon about clemency. On the next day, according to Dean, Ehrlichman gave Colson assurance that clemency could be promised to Hunt.)

Early January. Haldeman had a conversation with Dean in which Haldeman approved the use of the balanc of his $350,000 cash fund for additional payments to the defendants.

Early January. Strachan met again with LaRue at LaRue's apartment and gave him about $300,000 in cash

March 21. LaRue arranged to deliver about $75,000 in cash to Bittman.

March 22. Ehrlichman had a conversation with Egil Krogh Jr., one of the White House plumbers, now imprisoned for his role in the burglary of Daniel Ellsberg's psychiatrist. Ehrlichman assured Krogh that Hur would not reveal certain matters. (One matter presumably was the burglary of the psychiatrist's office. This statement in the indictment seems to signal that Krogh will be a witness against Ehrlichman.)

The False Statement

The multiple accusations of lying to official investigative bodies is described in even fuller detail in the indictment, though the evidence leading the grand jury to believe that the statements were false is tantalizingly omitted. Several allegations of falsehood are charged even when a defendant testified that he could not recall an alleged act. Such accusations are difficult to sustain without documentary evidence or corroboration by several witnesses, and they are certain to be vigorously attacked by defense attorneys.

John Mitchell was accused of lying as early as June 1972, when he told the original Watergate grand jury tha he had known nothing about any scheme to spy illegally on Democratic candidates or the Democratic Party. At that time he also denied knowing anything about Liddy's political intelligence proposals, though he later publicly admitted attending three meetings at which Liddy's plans had been presented to him. The indictment claims that Mitchell also lied to the grand jury in denying that LaRue had ever told him that Liddy had confessed his role in the breakin.

The nation's former chief law enforcement official was charged, too, with lying to Senator Sam Ervin's Watergate committee in his public testimony last July. The indictment contends that he falsely denied having even heard about the existence of the Gemstone wiretap transcripts when it was suggested on June 19, 1972, that they be destroyed.

He said, moreover, that "to the best of my recollection" the destruction of documents was not even discussed at a meeting he attended on that date—a statement that the indictment also charges was false. Another part of the indictment charges that it was Mitchell who suggested the destruction.

Haldeman, too, is accused of perjury in his Senate testimony. He denied having been aware that money formerly under his control and later paid to the Watergate defendants was meant as blackmail or hush money. He testified that at the key March 21 meeting attended by Dean (and Nixon, though the indictment does not say so), he did not believe that Dean had made any reference to Jeb Magruder's having committed perjury. Both statements, the indictment says, were untrue.

Ehrlichman's untruthfulness surfaced, according to the indictment, before both the grand jury and FBI agents. The indictment cited Ehrlichman's claim to FBI agents last July 21 that he knew nothing about the Watergate break-in beyond what he had read in newspapers. Also noted were a series of answers that he gave the grand jury last May, in which he could not recall when he first learned that Liddy might have been involved in the breakin. The questions seemed to show that investigators have proof that Dean had told Ehrlichman of Liddy's involvement shortly after the Watergate arrests. Ehrlichman was also accused of lying in his conversation with Kalmbach about raising money for the defendants. He spoke falsely, claims the indictment, when he said he could not recall giving Kalmbach approval to use money for that purpose.

The clearest indication of how active the grand jury was in the questioning of witnesses came in the charge that Gordon Strachan had responded falsely in a grand-jury appearance in June of 1972. He was pressed closely by Foreman Pregelj and an unnamed juror about his admitted delivery of the $350,000 in cash to LaRue. Strachan contended that he gave the money, which had been controlled by Haldeman, to LaRue only for him to return it to the Nixon re-election committee. But jurors wanted to know why he carried it in a briefcase at night to the apartment of LaRue in stead of taking it to committee headquarters near the White House in the daytime.

The indictment contends that statements by Strachan that he did not recall who told him to give the money to LaRue were false. The implication was that the grand jury believes that Strachan was protecting someone — probably Haldeman — who knew that the money was to be sent to LaRue for payoffs to the burglars. The grand jury presumably has evidence of who that unnamed person was.

Despite the mass of detail, the handing up of the indictment and the sealed grand jury report took only twelve quick minutes in Judge Sirica's courtroom. When it was over, most of the defendants either refused comment or expressed their certainty that they will be cleared of all wrongdoing when all the evidence merges in the impending trial battles among high-powered attorneys.

The Defence View

The most likely defense tactics apparently will be to seek a change of venue from Washington, where the Watergate controversy is the hottest, and try to have the defendants' cases split off into separate trials. A mass trial affords prosecutors greater opportunity to introduce more evidence affecting each defendant. But the main strategy may be to try to discredit the accusing witnesses, many of whom have admitted their own criminal roles. The defense attorneys may ask: How can anyone believe convicted felons who are making charges against others so that they can get away with the lightest sentences themselves?

President Nixon issued only a statement through his press office: "The President has always maintained tha the judicial system is the proper forum for the resolution to the questions concerning Watergate. The indictment indicates that the judicial process is finally moving toward the resolution of the matter. The President is confident that all Americans will join him in recognizing that all those indicted are innocent unless proof of guilt is established in the courts."

That reminder was proper and essential. But the notion that Watergate can only be resolved in the courts is not entirely accurate. While the judicial role is still vital in determining the innocence and guilt of former high officials, the resolution of Nixon's own Watergate fate rests with the Congress.

The grand jury's difficulty in dealing with the President was clearly demonstrated last week when Nixon, in his first press conference since November, revealed that the Watergate jury had sent him a request asking that he appear before it to answer questions. He said he had "respectfully declined" on constitutional grounds. Nixon said that he had offered to answer written questions from Jaworski or to talk with the prosecutor personally, but "he indicated that he did not want to proceed in that way." That would seem to represent a sound legal judgment on Jaworski's part, since such unsworn informal contacts would have no standing in court and would probably only serve to complicate the situation.

The briefcase handed to Judge Sirica by Jaworski's staff attorneys may well contain evidence that could render irrelevant the continuing controversy over whether a President can only be impeached if found guilty of criminal conduct. House Democratic Leader Tip O'Neill said as much last week at a seminar with student at Harvard. "I have absolutely no doubt in my mind that Jaworski could have indicted the President of the U.S.," O'Neill said. "But he didn't try and I'm glad he didn't, because I'd hate to see the President of the U.S. indicted." The evidence that Jaworski has, O'Neill declared, apparently indicating he has some knowledge o it, "is extremely damaging. Rather than see the evidence made public, I think the President will resign."

At his press conference, Nixon appeared more relaxed, subdued and conciliatory than he has in a long time.

For the most part, he fielded reporters' questions in an assured and forthright manner. He gave not the slightest hint that he either feared that any such fatal revelation might be imminent or that he would ever quit under any circumstances. Even if his continuance in office meant resounding defeat for his party in the coming congressional elections, he indicated, he would not resign. Once again confusing his personal fate with that of the institution of the presidency, Nixon declared: "I want my party to succeed, but more important, I want the presidency to survive." And, Nixon added, "I do not expect to be impeached." Later in the week he told a gathering of cheering young Republicans, "You learn from your defeats, and then you go on to fight again—never quit, never quit."

That could be bluster before the fall, or it could represent Nixon's sincere belief in his innocence of impeachable "high crimes and misdemeanors." Depending on what may be in that briefcase, his survival strategy has some practical chance of success. His lawyers are advancing the narrowest possible grounds for impeachment, limited to indictable crimes of "a very serious nature committed in one's governmental capacity."

Nixon's narrow view of the permissible impeachment grounds might permit his attorneys to stall. They coul argue that most requests for evidence from the Rodino committee were irrelevant to impeachment. The Supreme Court might have to decide these battles. The basic Nixon strategy still seems to be to hold out and play for some unexpected break.

There are few in sight. Indeed, many more troubles still loom for the increasingly isolated President. He as much as admitted at his press conference that his income tax deduction of $482,000 for the donation of his public papers was at least technically illegal—because the paper work was not completed before the law allowing such deductions expired—and he hinted that he would have to pay a large sum in back taxes. His own tax accountant, Arthur Blech, was quoted last week as saying that he objected to some of Nixon's 1970 and 1971 deductions but had been prevented, apparently by White House aides, from telling the President o his misgivings before returns were filed.

The President's Lawyer

While pushing the cover-up prosecution, Jaworski's busy staff also netted another top Nixon associate in a somewhat peripheral phase of the Watergate scandal—but one that also has serious implications for Nixon. Kalmbach, the President's personal lawyer, pleaded guilty to two charges: 1) violating the Federal Corrupt Practices Act by helping create and run a secret committee in 1970 for which he collected nearly $4 million for congressional candidates but had no treasurer or chairman and failed to file reports as required by law; 2) soliciting and accepting a $100,000 political contribution in 1970 from J. Fife Symington Jr., Ambassado

to Trinidad and Tobago, in return for a pledge—which Kalmbach testified that he cleared with an unnamed White House aide—that Symington would get a higher-ranking ambassadorial post in Europe.

The operation of the secret committee was a felony charge. The Jaworski staff told Judge Sirica that three other unnamed former White House aides helped Kalmbach run the committee. They, too, will presumably be charged at some later date. It seems highly unlikely that such a large fund would have been gathered without the President's knowledge. The deal with the ambassador was only a misdemeanor, and Symington never got a European job; but it would have taken presidential concurrence even to make such an offer, if it was made in, so to speak, good faith. Why the Kalmbach pledge was not fulfilled was not revealed—and Kalmbach cannot testify about his conversations with Nixon unless the President waives their attorney-clier privilege.

Kalmbach pleaded to the relatively light charges in return for his full cooperation in the expected trials of other defendants. One of the Nixon campaign's chief fund raisers, he has publicly admitted soliciting some $190,000 that was passed covertly to the original Watergate defendants, the five burglars and their two tear leaders, Liddy and Hunt, while they were in prison or awaiting trial. Kalmbach claimed that Ehrlichman personally assured him that the payments were proper and that he should carry out John Dean's instructior to make them, and he apparently will so testify if Ehrlichman goes on trial. Judge Sirica postponed sentencing Kalmbach—apparently until after he makes good on his promise to cooperate with Prosecutor Jaworski.

Not even the work of the original Watergate grand jury is complete. Sirica ordered the understandably wear jurors to be prepared to return within two weeks. One pending bit of unfinished business could be serious indeed for Nixon. The FBI and Jaworski's staff have been investigating the 18½-minute erasure on one presidential tape recording, as well as the claimed nonexistence of two other tapes and unexplained gaps in several more.

What Lies Ahead

Two other grand juries have yet to report on such Watergate-related situations as the clandestine operations of the White House plumbers, the President's dealings with ITT and milk producers, and possible campaign funding violations by Nixon's political moneymen. Any of these juries could produce more indictments that would give new impetus to the impeachment sentiment in Congress. Indictments may be handed up this week in the plumbers' case. Said one Republican member of the House Judiciary Committee, "Impeachmen is most likely to come in the area of obstruction of justice — the tape erasures, the possibility that the President offered money to people to keep quiet or to commit perjury, the possibility that he authorized

bribes in exchange for campaign contributions."

Once, the President's lawyers had claimed that John Dean, acting as the mastermind of a cunning scheme to conceal his own guilt, had duped all of those powerful aides above him. In its indictments the grand jury has exploded that story, which always had defied logic, and a good many other stories as well. The result inevitably is to narrow the circle of evidence around the President. To a large extent a presumption of Nixon innocence must rest on the vision of an exceptionally loyal and subservient White House staff successfully deceiving one of the most self-protective and politically sensitive Presidents.

How much narrower the circle has been drawn by the grand jury remained locked at week's end in Judge Sirica's courthouse safe: a letter in a manila envelope and a bulging briefcase. Together, those two ordinary artifacts of everyday life could contain enough critical mass to produce the largest bombshell yet in Watergate's long, concussive series. Richard Nixon may manage to survive whatever conclusions and evidence they lay out; perhaps their contents are not charges of sufficient clarity or magnitude to persuade either Congress or the American people that impeachment is justified. But they surely, at least until answered, pose the greatest threat yet to Nixon's survival. For they are the work not of his traditional enemies, of a hostile press, of partisans attempting to overthrow his mandate, or any of the groups that the President has at various times accused of magnifying and distorting Watergate for their own vindictive ends They are the considered judgment of 23 ordinary Americans who, if having examined the evidence and found cause for the probable guilt of Richard Nixon, may be very hard to answer.