

# 2 Justice Chiefs Deny Nixon Ordered Probe

By Lawrence Meyer  
Washington Post Staff Writer

Assistant Attorney General Henry E. Petersen and former Attorney General Richard G. Kleindienst both asserted yesterday that President Nixon did not direct them on March 21 or at any time before April 15 "to get all the facts" regarding the Watergate affair and to report them directly to him.

The testimony by Kleindienst and Petersen, coupled with former acting FBI Director L. Patrick Gray's testimony Monday before the Senate select Watergate committee, established a strong conflict with what President Nixon said in his nationally televised April 30 speech regarding his efforts to unravel the Watergate cover-up.

In that speech, Mr. Nixon said that as a result of "new facts" concerning Watergate that came to his attention, "On March 21, I personally assumed responsibility for coordinating intensive new inquiries into the matter, and I personally ordered those conducting the investigations to get all the facts and to report them directly to me, right here in this office."

The testimony came as the committee recessed yesterday for at least four weeks. In the last two days, the three

top Justice Department officials responsible for the Watergate investigation—Kleindienst as attorney general, Petersen as assistant attorney general in charge of the criminal division and Gray as acting head of the FBI—said they did not receive orders like those described by Mr. Nixon in his April 30 speech.

The only known investigation conducted during this period, according to the sworn testimony of former top presidential domestic adviser John D. Ehrlichman, was an "inquiry" he began on March 30 when Mr. Nixon asked him to do so. In his testimony, Ehrlichman consistently refused to call what he did an "investigation," since it involved interviews with only about a half-dozen persons.

"Exactly who was it in the city of Washington who received orders?" Sen. Lowell P. Weicker Jr. (R-Conn.) asked Petersen rhetorically after reading Mr. Nixon's reference to March 21.

A White House spokesman last night declined to elaborate on Mr. Nixon's April 30 speech.

Petersen, the last witness to appear before the committee recessed, testified:

- That he and Kleindienst agreed in

April that they would resign unless President Nixon reversed an initial decision that would have barred the Justice Department from informing the presiding judge in the trial of Daniel Ellsberg that the offices of Ellsberg's psychiatrist had been burglarized by men acting under White House orders.

- That he, as the Justice Department official directly supervising the Watergate prosecutors in their investigation, determined that the investigation should be narrowed to exclude the activities of alleged political saboteur Donald H. Segretti and so-called "dirty tricks."

- That neither he nor the Watergate prosecutors believed a significant portion of former Nixon deputy campaign manager Jeb Stuart Magruder's testimony before the federal Watergate grand jury, long before Magruder gave the testimony during the Watergate trial in January.

- That he had a "visceral reaction" that he could not substantiate with evidence that a cover-up of the Watergate affair was occurring last summer and fall.

- That he resents the appointment

See PETERSEN, A15, Col. 1

## PETERSEN, From A1

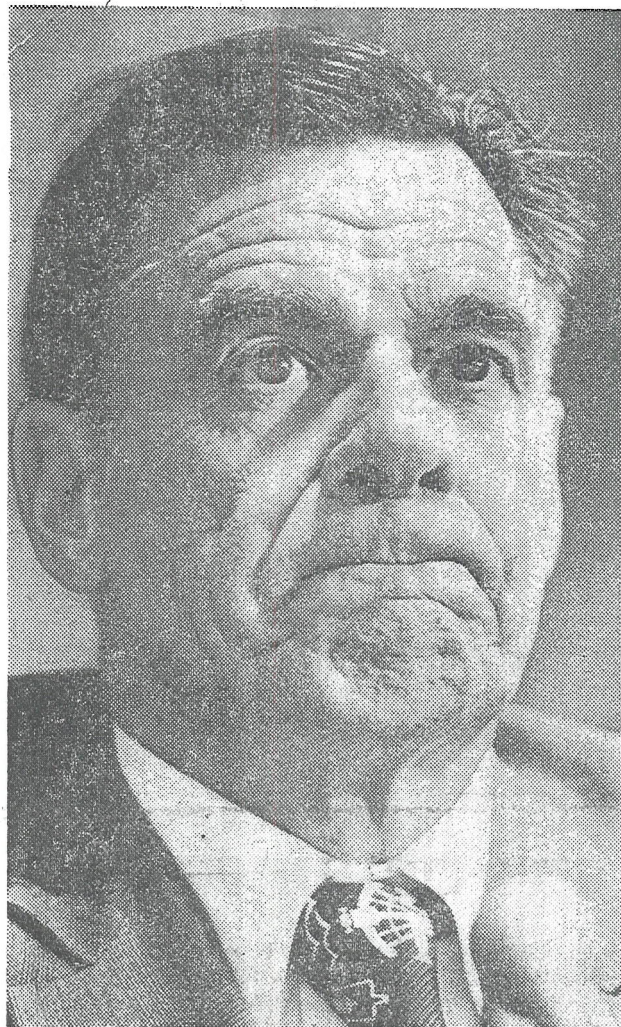
of a special Watergate prosecutor. That case was snatched out from under us when we had it 90 per cent complete," Petersen said. "We would have cracked the case wide open."

Petersen, a gruff, emotional witness who salted his testimony with periodic "damns," was the 35th witness to be heard by the committee in the 37 days of testimony which began on May 17.

The committee, which overstayed the Aug. 3 congressional recess to hear Gray, Kleindienst and Petersen, has several more witnesses to hear before completing the first phase of its inquiry into the 1972 election. The first phase deals with the June 17 break-in into the Democratic National Committee's Watergate headquarters and the subsequent cover-up. Later phases will focus on "dirty tricks" during the campaign and on campaign financing.

Petersen's testimony in broad-brush form covered the entire chronology of events of the Watergate affair from June 17, 1972, through President Nixon's announcement on April 30, 1973, that Kleindienst had resigned along with Ehrlichman and white House chief of staff H.R. (Bob) Haldeman and that White House counsel John W. Dean III had been fired.

As Petersen was speeded through his testimony by the committee and his staff, he touched on his relations with Dean, which he characterized as "good," his decision to keep the investigation of Segretti's "dirty tricks" separate from the Watergate inquiry, the frustrations of the prosecutors, his advice to President Nixon to discharge Haldeman and Ehrlichman but to retain Dean, his attempts to disclose the Ellsberg break-in after he learned of it, his learning that Gray had destroyed documents found in the White House safe of Watergate conspirator E. Howard Hunt Jr. and President Nixon's final decision to act on Petersen's advice.



By James K. W. Atherton—The Washington Post  
Henry E. Petersen: "Would have cracked the case."

Petersen's testimony, which conflicted with previous testimony—especially by Ehrlichman concerning Gray's destruction of the Hunt files—left the committee with irreconcilable contradictions among many of the witnesses heard to date.

At the outset of the Watergate investigation, Petersen said, he decided, as the man in charge of supervising it, that it should be as "isolated as it possibly could be" from politics.

At the same time, Petersen testified that in an early conversation with Dean, "I do recall some discussion, some concern about this ought not to be an excuse in a political year to run a general probe of the White House. I had no problem agreeing with that." Petersen said he assured Dean, the

man designated as the White House contact for the Justice Department, "there would be no fishing expedition as far as White House activities were concerned in this investigation but that we would run a thorough investigation of the burglary."

In his dealings with Dean, Petersen said, "I had no suspicion of John Dean as such. Indeed, on April 15 when I heard by his own admission that he was involved I was the most surprised person in Washington, I guess."

Petersen said he knew little of Dean's contacts with Gray in which Dean attempted to impede the FBI investigation by suggesting it would jeopardize CIA operations. Petersen said he told Gray, "If you accept it, I am not going to be bound by it because I just don't believe that, it is too convenient."

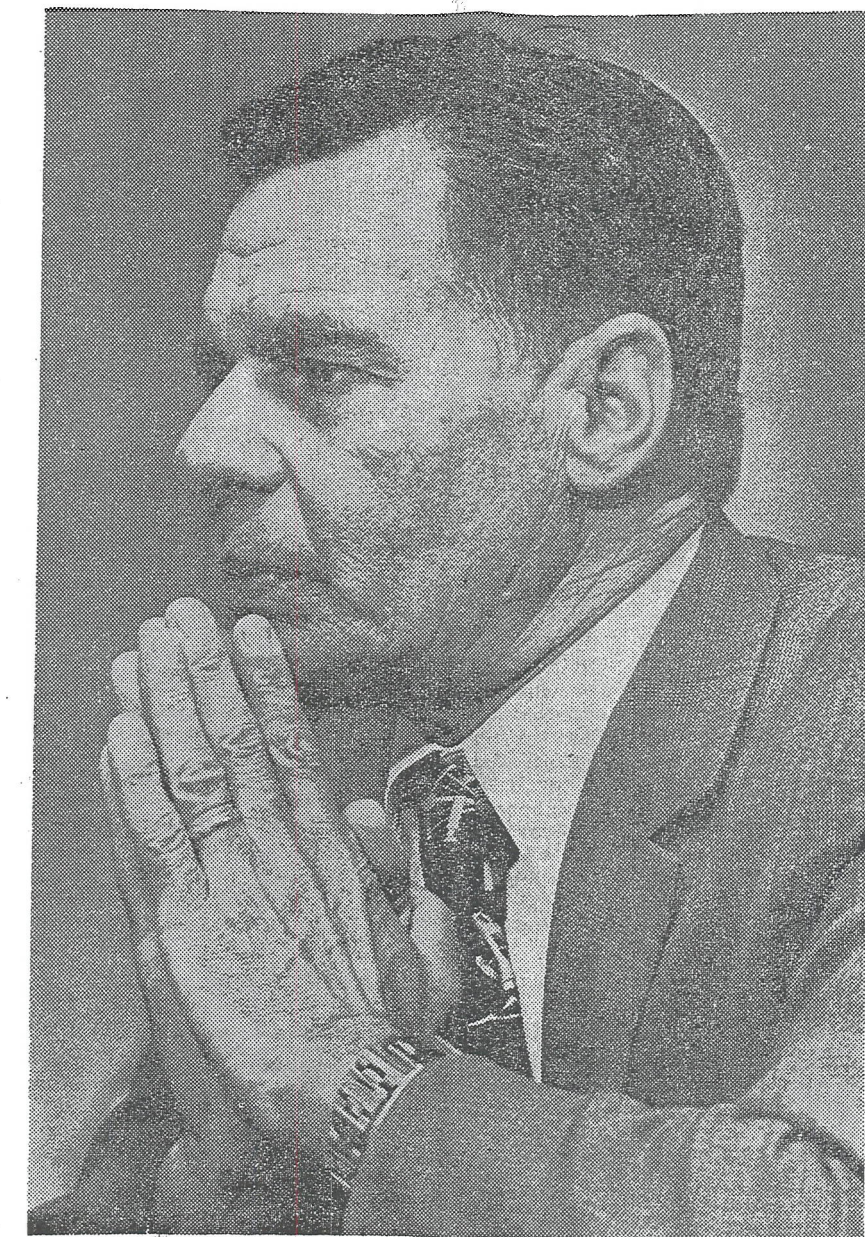
In August, Petersen said he received a call from Dean asking how deputy Nixon campaign manager Magruder had fared in his testimony before the grand jury. Dean has testified that he called Petersen at the request of Lawrence Higby, an aide to White House chief of staff Haldeman because Haldeman wanted to know if Magruder would be indicted.

Petersen said he called principal Assistant U.S. Attorney Earl J. Silbert, the prosecutor directly in charge of the investigation. Petersen said Silbert told him, "Well, you know, as you all know, he (Magruder) is a very articulate young man and he (Silbert) described him, he made a good witness in his own behalf, but Henry, nobody believes the story about the money. And, you know, that is, in those words, what I told Mr. Dean."

Magruder has testified that he perjured himself before the grand jury by saying he did not know that Watergate conspirator G. Gordon Liddy was using Nixon re-election committee funds for the Watergate break-in.

"We were focusing on the money," Petersen told the committee. "Maybe it is a poor-boy syndrome, but we could not imagine how \$350,000 was just tossed out and nobody wants to know where it went or what it was used for and, of course, the grand jury had the poor-boy syndrome, too, I guess. They could not understand that either."

Throughout the Watergate investigation, Petersen said, he harbored the notion that a cover-up was being conducted. "That was visceral," Petersen said, "We didn't have the evidence. We didn't have the evidence. We had had five. We added Hunt and Liddy by investigation. I never believed that Liddy was the be all and end all. I could not as assistant attorney general come out as a public official and say



By Frank Johnston—The Washington Post

#### Assistant Attorney General Henry E. Petersen weighs question.

there is more involved because I couldn't prove it."

Using the words he said he spoke to Silbert and Kleindienst, Petersen testified, "Nobody acts innocent. We couldn't translate that. There were no records. Evidence had been destroyed. Innocent people come in and ask you what you want."

Magruder, despite the disbelief of his testimony, was put on at the Watergate trial as a prosecution witness, Petersen said, "Because we couldn't disprove him. All we had was a visceral

reaction. But for a prosecutor, we have to go beyond that."

In August or September, Petersen said, he spoke with Silbert about Segretti's activities after Silbert said he saw no illegal acts. Petersen said he agreed. When the FBI asked him about Segretti in October, Petersen testified, he told them he saw no violations of the federal Corrupt Practices Act.

"It could well have been I told Silbert I wanted him to confine his investigation to the Watergate," Petersen

testified. "I don't regard this crime as an excuse for us to run a general investigation of the White House and the entire Republican Party."

Petersen said that after talking to John Dean he directed Silbert to stay away from investigating the relationship between Herbert W. Kalmbach, President Nixon's personal lawyer, and Mr. Nixon "or the fact that the President's lawyer might be involved in some (of) what I thought (were) legitimate campaign activities on behalf of that in addition to financing Segretti's activities he also raised money to pay the legal fees and support money for the Watergate defendants."

Following the January Watergate trial but before the March sentencing of the seven defendants, Petersen said Kleindienst told him that Dean and Ehrlichman had inquired about "leniency" for the defendants.

Petersen said he told Kleindienst "absolutely not, I said indeed, we are going to do just the contrary . . . We intend to recommend jail time for these people and beyond that, after they are sentenced we intend to call them back and immunize them in order to compel their testimony as to whether or not other persons are involved."

According to Petersen, Kleindienst said, "Do me a favor. Go on back and go on over to the White House and tell those crazy guys over there what you just told me before they do something they will be sorry for."

Petersen said he called Dean and told him the prosecutors would recommend "jail time" for the seven convicted defendants.

Petersen was then directed in his narrative to April 14, when Silbert called him and said it was "imperative" that Petersen meet with the Watergate prosecutors. They informed Petersen that they had made a "breakthrough" in their investigation on the basis of interviews with Dean and Magruder.

Petersen contacted Kleindienst who met with Silbert and Petersen in the early morning hours of April 15. Kleindienst and Petersen later met with Mr. Nixon to tell him what they had learned.

In his first face-to-face meeting with Mr. Nixon, Petersen said, he recommended that Haldeman and Ehrlichman be dismissed. Mr. Nixon's reaction was "one of concern," Petersen said, but "I remember remarking to Mr. Kleindienst how I admired his calm."

Petersen said he told Mr. Nixon that Haldeman and Ehrlichman were potential defendants. "I can guarantee you that these people are going to be a source of vast embarrassment to the presidency and for that reason I think

that the best thing that you could do would be to get rid of them immediately," Petersen said he told Mr. Nixon.

When Mr. Nixon asked if Dean, too, should be dismissed, Petersen said he replied, "My goodness, no. Now here is the first man who has come in to cooperate with us and certainly we don't want to give the impression that he is being subjected to reprisal because of his cooperation. So please don't ask for his resignation at this point."

Later in the month, Petersen said, he told Mr. Nixon he could no longer justify retaining Dean because the prosecutor's negotiations with him had reached an impasse.

Three days later, on April 18, Mr. Nixon called him, Petersen said, to ask if Dean had been given immunity. Petersen said he replied that Dean had not. Mr. Nixon said Dean had told him during an April 15 meeting that he had immunity, Petersen said. Petersen testified he checked with Silbert and called Mr. Nixon back to confirm the point.

Mr. Nixon told him, "Well, you know, I have it on tape if you want to hear it," Petersen said, adding that he refused the offer. Committee members who are going to court seeking President Nixon's tapes of conversations questioned Petersen at several points about Mr. Nixon's offer to play a tape but Petersen provided few details.

On April 17, Petersen testified, he received a memo from Silbert disclosing the Ellsberg break-in. Petersen said he contacted Mr. Nixon on April 18 and told him of the memo. Petersen quoted Mr. Nixon as saying, "I know about that. That is a national security matter. You stay out of that. Your mandate is to investigate Watergate."

"Now he didn't say he knew about the burglary," Petersen continued. "He said he knew about it—the report. I think that is a vital distinction to be made."

After first accepting that order from Mr. Nixon, Petersen said he "pondered the situation" and finally decided to press the matter. With the help of Kleindienst, whom Petersen said agreed they should resign if Mr. Nixon did not change his mind, the matter was brought up again with the President, who agreed to allow the break-in to be disclosed to U.S. District Judge W. Matt Byrne, the presiding judge at the Ellsberg trial.

Petersen said Mr. Nixon made the "right answer" and has been subjected to criticism that is "wholly unwarranted" for his handling of the matter.