

Nixon to Submit Watergate Data To House Panel

Would Give Sworn Reply To Questions

By George Lardner Jr.
Washington Post Staff Writer

President Nixon has decided to give the House Judiciary Committee all the tapes and documents he submitted to federal grand juries investigating Watergate-related scandals, his lawyers disclosed yesterday.

White House special counsel James D. St. Clair made the announcement at a dramatic and tangled hearing in U.S. District Court here involving all three branches of the government. He said Mr. Nixon would also be willing to respond in writing to questions from the House panel and then to sit down with several members of the committee for an "oral interview."

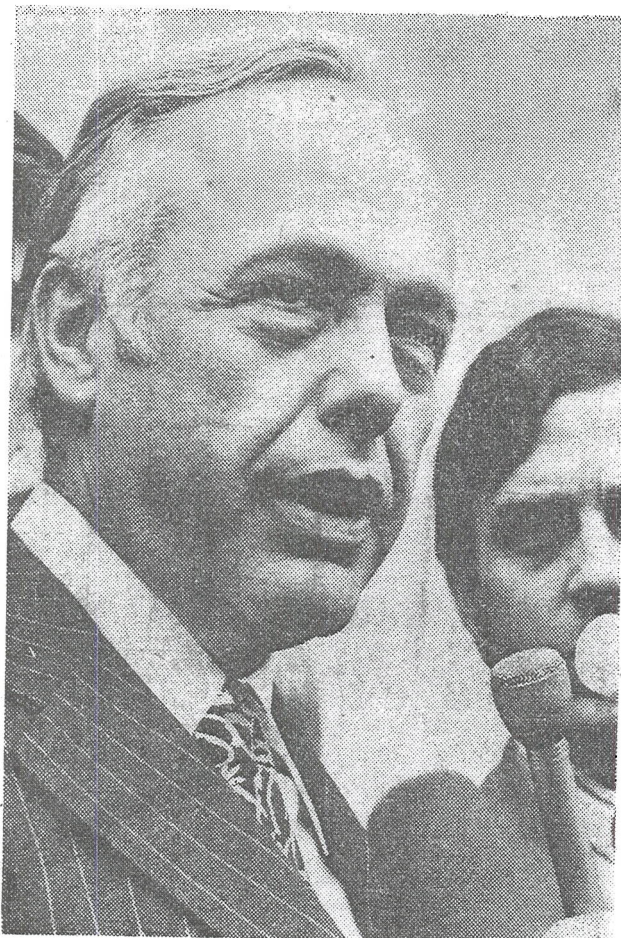
St. Clair refused to say, however, whether the President would give the House impeachment inquiry any more documentary evidence than the grand juries got.

Both Watergate Special Prosecutor Leon Jaworski and the House Judiciary Committee have already asked for more. Committee Chairman Peter W. Rodino (D-N.J.) said yesterday afternoon that he would not be satisfied with just the grand jury evidence. "We've made a request that goes beyond that," Rodino said, warning that a subpoena may still be necessary. "We'll stick by our request."

Speaking to newsmen during a recess at the court hearing on the other points in Mr. Nixon's proposal, St. Clair said at first that the President would be willing to submit to the oral interview under oath, but later in the day, the White House lawyer took that back and said this was not part of the President's offer.

At this point, St. Clair said, Mr. Nixon contemplates taking an oath only for his written responses—which presumably would be drafted by his attorneys.

At his press conference last night, however, Mr. Nixon returned to the original formula and said he would be willing to give the personal interview "under oath," too.



By James K. W. Atherton—The Washington Post

Presidential lawyer St. Clair during break in hearing.

HEARING, From A1

The President, however, showed no inclination to give House Judiciary whatever evidence the committee decides is pertinent, beyond what was submitted to the grand juries. He said he did not intend to let the committee "paw through" White House files "on a fishing expedition" that would take months to resolve.

Despite its rough edges, the offer still blunted the impact of the court hearing itself which Chief Judge John J. Sirica convened to determine what to do with a secret Watergate grand jury report dealing with the President.

The grand jury asked Sirica last Friday to send it to the House Judiciary Committee, along with a bulging brown briefcase evidently crammed with documents.

Watergate special prosecutors acknowledged that the President "to some extent" made the submission of the grand jury's secret report to the House committee academic, but they hinted that it was not confined to material obtained from the White House.

The counsel to the Watergate prosecution force, Philip A. Lacovara, maintained that it was still important to act on the grand jury's request "to the extent there are other items" that it wants to send to the House.

Now that Mr. Nixon has decided to give the House committee all the tapes and documents already produced for the three federal grand juries at work here, Lacovara suggested that the risk of prejudicial publicity stemming from any additional secret evidence in the briefcase would be minimal.

The stiffest objections to sending the grand jury's evidence to Capitol Hill came from the lawyers for former White House aides H.R. (Bob) Haldeman and John D. Ehrlichman, who were supported down the line by attorneys for the five other former presidential aides and Nixon campaign advisers indicted last week in the Watergate cover-up.

"The leaks up there are big enough to drive a truck through," charged John J. Wilson, the chief Washington attorney for Haldeman and Ehrlichman. He demanded that the grand jury report be suppressed before it gets out and jeopardizes the trial of his clients.

Judge Sirica withheld any ruling. At one point during the long hearing, he suggested that the House impeachment inquiry be postponed until completion of the Watergate conspiracy trial, which he said he plans to start Sept. 9, but the proposal was quickly put down by the Judiciary Committee's lawyers, chief counsel John Doar and minority counsel Albert Jenner. The impeachment inquiry, they maintained, must come first.

"The people of the country are very anxious and pressing that the House Judiciary Committee proceed with all deliberate speed," Jenner emphasized. He maintained that Sirica, both as a citizen and a judge, had an overriding constitutional responsibility to turn over any pertinent evidence in his possession, no matter how he came by it.

"Your Honor has the briefcase," Jenner declared. "We are led to believe—just by osmosis—that it comes within the duty of the House Judiciary Committee at least to examine it. You are a citizen. The House of Representatives honors and respects you as a member of a coordinate branch of government." But, Jenner told Sirica evenly, "however you came into possession" of the materials, he must turn it over to the House.

The judge was not pleased. "I'm fully aware of what my responsibilities are," he told Jenner. He said the dispute still posed "great questions" for him to resolve.

Speaking for the White House, St. Clair said the President would go along with whatever Sirica decides, but was taking no stand at yesterday's hearing because he did not want to be held responsible for any impact the judge's ruling might have on Watergate criminal trials.

The hearing opened at 10 a.m. in the huge ceremonial courtroom at the U.S. courthouse here, its marble front wall decorated with statues of Moses, Hammurabi, Justinian and Solon. Spectators and news reporters filled every seat a few minutes after the doors were opened.

Walking up to the podium first, St. Clair charged that there has been "a serious breach of grand jury secrecy" in news stories of the past few days alluding to the contents of the secret report.

He maintained that there had been "a gross distortion of facts" concerning the two-page grand jury report, or covering letter, which was turned over to Sirica separately last Friday, in addition to the contents of the briefcase. St. Clair read the letter Monday, with Sirica's approval, and informed Mr. Nixon of what it said.

In reading it privately last week, before resealing it, Sirica described the two-page letter as the grand jury's "report and recommendation" but it apparently did little more than express the jury's recommendation that the accompanying evidence be sent to the House committee.

A long, dry recitation summarizing the Watergate grand jury's evidence concerning Mr. Nixon's involvement in the Watergate scandal was believed to have been contained in a separate document.

A flat recitation—without characterizing the evidence—would be in accord with a general rule that grand juries, in making such presentments, are not supposed to express their opinions "as to the force and effect of the evidence" they have compiled.

After registering his protests, St. Clair told Sirica of Mr. Nixon's decision to give the House committee the 19 tapes and more than 700 documents he has already turned over to the federal grand juries investigating his administration.

"The President," St. Clair reported, "has authorized and directed me to tell Mr. Doar on behalf of the House committee that the President is prepared to turn over to the House Committee all of the materials that he has furnished to the grand jury without limitation and further that he is prepared to answer written interrogatories and participate in an oral interview in regard to his answers if that is deemed necessary."

The White House lawyer said later that he had given Doar a letter containing the proposal shortly before the hearing began. The House Judiciary Committee is expected to consider it at a meeting today.

Opening up to newsmen for the first time since he joined the White House, St. Clair said during a recess and again after the hearing that "the mechanics of the proposal still have to be worked out."

But he said that the President's "principal response" to questions raised by the House impeachment inquiry would be contained in sworn written answers to written interrogatories.

St. Clair envisioned an "oral interview" later on at the White House, with Mr. Nixon sitting down alone with a small delegation from the House committee, perhaps just Chairman Rodino and Rep. Edward Hutchinson (R-Mich.), the ranking Republican member.

The White House made substantially the same offer to the Watergate special prosecutor and the Watergate grand jury, but it was rejected, partly because the grand jurors were dissatisfied with secret depositions taken outside their presence during their initial investigation of the Watergate scandal during the summer of 1972.

St. Clair said he would not expect lawyers for either the House committee or for Mr. Nixon to be present during the proposed "oral interview" and he was even reluctant to promise that a transcript would be made of the session.

At first, the White House special counsel said the oral interview could be conducted under oath, but later, after a luncheon recess, he told reporters he hadn't meant to say that.

The President added last night that he thought it would be "improper" to submit to traditional cross-examination. He called Rodino and Hutchinson "very good lawyers" and suggested they could handle all of the final questioning adequately themselves. He made plain that he does not intend to give them an interview until "the conclusion of their own investigation."

St. Clair's sudden burst of public comment was itself a marked departure from past practice and he readily acknowledged that the White House had "indeed" decided on the change.

"It's not a change in policy or attitude," he maintained. "There's a change in circumstance. The grand jury has spoken. The whole focus has shifted from the secrecy of the grand jury to a House investigation."

He said Mr. Nixon wants it wound up as quickly as possible, thought that the April 30 target date, which the House rebels. St. Clair said he himself refused to accept as a formal deadline, was still "a realistic target."

The rest of the hearing was dominated by tart debate over the Watergate grand jury's right to make the presentment. Wilson, the lawyer for Haldeman and Ehrlichman, maintained that it was completely unauthorized and that its submission to the House was clearly prohibited by the Federal Rules of Criminal Procedure.

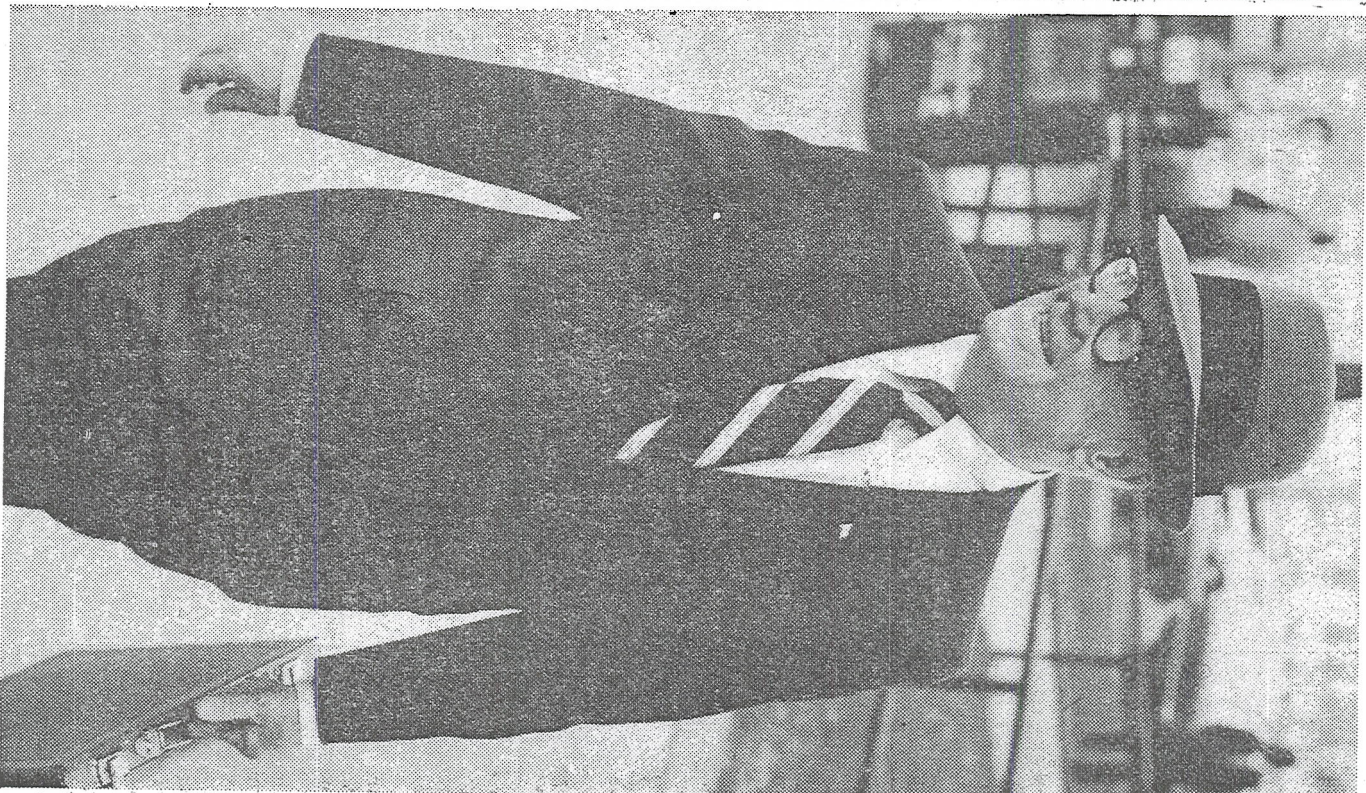
Those rules permit pretrial disclosure of "matters occurring before the grand jury only when so directed by the court preliminarily to or in connection with a judicial proceeding . . ." Wilson contended that the impeachment inquiry could not be considered a "judicial proceeding."

Judge Sirica asked Wilson at one point whether he might be inclined to change his mind in light of the President's decision to send up his tapes and documents.

Wilson said he wasn't impressed. "I don't care what the position of the White House is," he told the judge. "I'm not working for the White House. I work for Haldeman and Ehrlichman."

There has been speculation that the White House might be coordinating its strategy with Wilson and letting him take the hard line, but the President denied last night that the White House was working with him. Wilson's own statements in court yesterday also flatly disputed such talk.

Wilson said he has not been told what the briefcase contains, but he guessed that one of the times in it is probably the tape, "or at least a free translation" of the White House meeting last March 21 between Mr. Nixon, Haldeman



Photos by Margaret Thomas and James K. W. Atherton—The Washington Post
After Sirica hearing, Judiciary Committee chief counsel Doar, left, answers questions. Earlier, defense attorney Wilson, right, enters courthouse.

and former White House counsel John W. Dean III.

In any event, Wilson said it was impossible for a congressional committee to guarantee against any leaks despite the tight security measures that House Judiciary Committee has adopted.

Nettled by the leaks this week of his own confidential memo to fellow judges about the timing of prospective Watergate trials, Sirica interrupted Wilson at that point to express his own chagrin about the difficulty of keeping secrets. The contents of the memo were first reported in the Washington Star-News Tuesday afternoon.

Sirica said he hoped to find out who gave the memo to newsmen. If he does, the judge exclaimed, "his job won't be worth a nickel—his or hers. . . I thought it was a very terrible thing to do."

Speaking for the House Judiciary Committee, Jenner declared that all federal court rules, indeed all laws, are "subject to the Constitution," which clearly provides that the House of Representatives shall have the "sole" power of impeachment. The normal rules, Jenner argued, are simply irrelevant.

In such a situation, Jenner argued, the fair trial rights of

Watergate defendants in the courts ought to be protected not by suppression of the grand jury's report, but by careful selection of trial jurors and, if necessary, postponements of criminal trials or changes in venue.

Lacovara, the counsel for the Watergate prosecution force, agreed. He said that if the grand jury's request for immediate transmission of its report to the House was approved, the problem of prejudicial publicity might "evaporate" by the time the trials roll around.

Lacovara also indicated that

the report is hardly as stunning as has been suggested. He insisted that federal grand juries have the power to return even "accusatory presentations," but he said the Watergate grand jury's report does not amount to that.

Before the hearing was over, Sirica offered the lawyers for each of the seven defendants a chance to look at the two-page "report" or "letter of transmittal" accompanying the grand jury's evidence, but all refused except John Bray, the attorney for former White House aide Gordon Strachan.