

Nixon and the Indicted 7

President and Ex-Aides Could Well Benefit by Making Common Defense

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WASHINGTON, March 10—When the grand jury investigating the Watergate cover-up indicted seven former Nixon aides on March 1, and simultaneously gave Federal Judge

News Analysis

John J. Sirica a secret report that allegedly implicated President Nixon, it raised anew a question that has been asked here since the scandal first erupted: The extent to which the legal interests of President Nixon coincide with the interests of such former aides as John D. Ehrlichman and H. R. Halde-

man, two of the seven defendants. According to well-placed sources, the jury concluded that Mr. Nixon was involved in the cover-up for which it indicted his seven colleagues; the secret report, which the jury wants transferred to the House impeachment inquiry, reportedly contains this conclusion.

If the grand jury's charges against the seven men and its reported conclusion about President Nixon are as have been reported, the legal interest of Mr. Nixon at least overlap with those of the others. The interests would not be identical, for each person's chief interest would be in saving himself. Thus it might be in one person's interests to cooperate with the government in return for leniency.

Common Defense

Still, if all the charges and conclusions are true, Mr. Nixon and the various defendants might well benefit from a common defense.

The President was asked at his news conference on March 6 if the White House was cooperating with the attorneys for Mr. Haldeman and Mr. Ehrlichman. Mr. Nixon said the White House was not "working with" lawyers for any of the men indicted. Indeed, there is no evidence that any common defense is under way.

It is clear, however, that even if none of the grand jury's conclusions is true, the legal interests of Mr. Nixon occasionally do coincide, by chance or design, with those of one or another of the defendants. Two recent actions in the courts have shown that if the President's and the defendant's interests are not identical, they can sometimes be complementary.

In one of those cases, lawyers for the defendants argued a position that, if accepted, would benefit the President.

In the second case, the President made a move helpful to one of the defendants.

The first case occurred last Wednesday, at Judge Sirica's hearing on the grand jury's secret report. Judge Sirica had invited all "interested" parties to present their views on what he should do with the secret report — turn it over to the House Judiciary Committee, make it public, or, perhaps, expunge it.

If the report is as damaging as has been widely reported, then the best solution from the President's point of view would be for it to be suppressed. But since the report has been described in news accounts as damaging to the President, any request by the White House for its suppression would cast even more suspicion over Mr. Nixon.

If the President's lawyer had been the only one interested in keeping the report secret at the hearing, he would thus have been in a dilemma. As it turned out, the attorneys for the seven men indicted last week also appeared at the hearing, as expected.

Asked Suppression

Each argued that the report should be suppressed — on the ground that its release would create so much publicity as to prejudice the case against their clients. And Mr. Nixon's lawyer, James D. St. Clair, said the President had no position on the question at all.

The second instance in which the President's legal interests have complimented those of a former White House aide occurred several weeks ago during the California prosecution against Mr. Ehrlichman in the case of the burglary of the office of Daniel Ellsberg's former psychiatrist.

Mr. Ehrlichman demanded Mr. Nixon's presence as a witness. The President refused to appear. Litigation over whether or not Mr. Nixon should be compelled to testify is still pending.

In refusing, according to legal experts, Mr. Nixon may thus be giving Mr. Ehrlichman the opportunity to have the charges against him dismissed on the ground that he is being denied his Sixth Amendment right to "have compulsory process for obtaining witnesses in his favor."