

# NYTimes MAY 3 1974 Transcripts Give Glimpses of President's

## Creating a 'Super Panel' Was Apparently Studied

By LESLEY OELSNER  
Special to The New York Times

WASHINGTON, May 2—The edited transcripts of Watergate conversations provide a number of glimpses of President Nixon's views of the law and the nation's legal system.

These views seem to have led him at one point to consider going outside the established court system and creating a "super panel," headed by the Chief Justice of the United States, to determine the guilt or innocence of White House aides implicated in Watergate.

"You're condemned in a court," Mr. Nixon contended, in discussing the super panel with his aides.

He also revealed in his Watergate conversations a personal sense of right and wrong, a sense sometimes at odds with the standards of criminal liability set by statute.

"I mean there is no venality involved in the damn thing, no thievery or anything of that sort of thing," the President said in the course of a discussion about the Watergate affair on April 14, 1973, several weeks after he was informed, by his own account, of the payment of hush money to the original Watergate defendants.

"This was not an obstruction of justice, we were simply trying to help these defendants," he contended a few moments later.

### And Other Officials

The edited transcripts of Watergate-related White House conversations that Mr. Nixon released this week also show that the President was not alone in his apparent tendency to stray from traditional legal precepts.

In one conversation, for instance, Richard G. Kleindienst, then the Attorney General, told Mr. Nixon that he had discussed with the Chief Justice of the United States, Warren E. Burger, the question of whether or not a special prosecutor should be appointed.

Neither Mr. Kleindienst nor Mr. Nixon — nor, apparently, the Chief Justice — appeared from the transcripts to feel that such a discussion might not be consistent with the independent stance that a Chief Justice is traditionally expected to take in cases that might eventually come before the Supreme Court.

The Chief Justice, in fact, according to Mr. Kleindienst, not only said he was in favor of the creation of a special prosecutor but also recommended a candidate—Barnabas Sears, a Chicago lawyer who had been involved in investigating the killing of a Black Panther leader.

### Realization of Duty

The President's transcripts show that Mr. Nixon realized he had certain duties regarding the prosecution of crimes, stemming both from his oath of office, in which he swore to protect the Constitution and execute the law, and from the "law and order" platform that helped win his election.

The transcripts show that he was prepared sometimes to fulfill those duties even if it meant personal "pain" or difficulty, as when he followed up a conversation about the need to clear up the Watergate affair by saying, "I mean, after all, it is my job and I don't want the Presidency tarnished, but also I am a law enforcement man."

But such remarks appear only now and then in the more than 1,200 pages of transcripts. Sometimes the President appears to make the remarks in the course of thinking out a public statement that he will make at a later time.

There may be a far greater number of remarks, moreover, that are likely to be cited by his critics as signs of his apparent failure to fulfill his legal obligations.

In some conversations, for instance, Mr. Nixon considers or even suggests a course of action that he either concedes is wrong or is told by his aides is wrong.

### Discussed Strachan

On March 13, 1973, for instance, he and his counsel, John W. Dean 3d, discussed statements to investigations by Gordon Strachan, an aide to H. R. Haldeman, the former Presidential assistant.

"He was judicious in what he relayed, but Strachan is as tough as nails," Mr. Dean said. "He can go in and stonewall, and say, 'Don't know anything about what you are talking about.' He has already done it twice you know, in interviews."

"I guess he should, shouldn't he?" Mr. Nixon replied. "I suppose we can't call that justice can we?"

In another conversation, with Mr. Haldeman and John D. Ehrlichman, another Presidential aide, on March 27, 1973, Mr. Nixon appeared to be dubious about the propriety of White House aides demanding reports on testimony before the grand jury. He suggested that the demand be made nonetheless, and promised the following procedure:

"Ask Kleindienst, John. Put it on the basis that you're not asking nor in effect is the White House asking, that John Mitchell [former Attorney General] says you've got to have this information from the grand jury at this time and you owe it to him. Put it right on that

basis, now, so that everybody can't then say the White House raised hell about this, because we are not raising hell."

Similarly, Mr. Nixon and his aides seemed to feel that because of the President's constitutional duty to "faithfully execute" the laws, he had a duty to turn over certain incriminating materials to the Justice Department.

But in a discussion in the Oval Office on April 14, they appeared to agree that the material should be given to Mr. Kleindienst rather than to the lawyer working directly on the case, Earl J. Silbert, the chief assistant United States Attorney for the District of Columbia — because Mr. Silbert would be likely to "walk you right into the grand jury."

By giving the material to Mr. Kleindienst, the risk would apparently be lessened and the White House would apparently have established for the record that, as Mr. Nixon put it, "the White House has conducted an investigation, and has turned it over to the grand jury."

In several instances the President also suggested to his aides that certain White House employes be told of testimony that others had given before the grand jury, so that those employes could be prepared for their own grand jury appearances. On several occasions the aides responded to such suggestions by saying that this was improper.

### Problems in Burglary

In another conversation, Mr. Nixon was told that the burglary of the office of Daniel Ellsberg's former psychiatrist might, if disclosed, cause either a mistrial or a dismissal of charges in the then ongoing trial of Dr. Ellsberg.

The burglary raised "search and seizure problems," Mr. Ehrlichman explained.

Mr. Nixon, who is sworn to protect the Constitution, which prohibits unwarranted search and seizure, asked, "Isn't this case about finished yet?"

Mr. Ehrlichman replied that the trial would continue "a little while yet." Mr. Nixon made no further comment on that subject.

The transcripts also appear to show that Mr. Nixon seemed willing to use the Justice Department and its agencies for his own purposes, not all of them, as he himself appeared at times to concede, entirely proper.

### 'Didn't Have to Do It'

On Sept. 15, 1972, for example, he met with Mr. Dean and Mr. Haldeman in the Oval Office. The subject of White House enemies arose.

"I want the most comprehensive notes on all those who tried to do us in," the President said. "They didn't have to do it. If we had a very close election and they were playing the other side, I would understand this. No—they were doing this quite deliberately and they are asking for it and they are going to get it."

Views of Law and Nation's Legal System

FRIDAY, MAY 3, 1974

27

"We have not used the bureau [Federal Bureau of Investigation] and we have not used the Justice Department, but things are going to change now," he said.

The following March, when the President and his aides were trying to determine how to cope with the continuing al- some of the original Watergate defendants, Mr. Nixon made it clear that he was ready to use the board of Parole as well.

"The only thing that we could do with him [E. Howard Hunt Jr.] would be to parole him like the [unintelligible] situation," Mr. Nixon said.

Mr. Dean then noted that parole was quite feasible, saying, "Kleindienst has now got control of the Parole Board, and he said to tell me we could pull off paroles now where we couldn't before."