

'He Shall Take Care...'

By Anthony Lewis

BOSTON, May 19—An essential task that will face the House Judiciary Committee in due course is to take the massive charges against President Nixon and reduce them to a relatively few counts in a bill of impeachment. For in this process, as in criminal justice, focusing on a few manageable issues is likely to be more effective.

One count could charge specific attempts to obstruct justice in the winter of 1973. In the opinion of many lawyers experienced in the criminal law, the edited White House transcripts provide evidence, ample by indictment standards, that Mr. Nixon approved the payment of hush money and suborned perjury "to keep the cap on the bottle" of Watergate.

A second count could well allege a larger design to impede the Watergate investigation. It would cite many overt acts by which, over a period of months, Mr. Nixon sought to frustrate the regular process of law.

1. The published transcripts show Mr. Nixon persistently working to suppress as much information for as long a time as possible. He and his aides schemed to "stonewall," to make empty claims of "national security" and "executive privilege," to threaten the Speaker of the House, to maneuver prosecutors—all in order to keep the facts from coming out in either a Congressional or a judicial forum.

2. At least as of March 13, and even more explicitly on March 21, 1973, the President knew that various present and former members of his staff had committed crimes. He did not inform any of the Justice Department or F.B.I. officials in charge of the Watergate investigation.

3. The President arranged to be briefed by Assistant Attorney General Henry Petersen on secret Watergate grand jury proceedings—ostensibly to be ready to act against wrongdoers but actually, as the transcripts show, to work out new scenarios of evasion. On April 16 he explicitly promised Mr. Petersen that the information would "not be passed . . . because I know the rules of the grand jury." The next morning he told H. R. Haldeman and John Ehrlichman, two prime suspects.

4. In his comments on Watergate through the spring and summer of 1973 Mr. Nixon made a number of statements that were false—and evidently designed to throw off the pursuers. For example, he said on May 22 that he had not been aware of any offer of clemency or money to the Watergate defendants—both of which had in fact been thoroughly discussed on March 21. Last Aug. 15 he said he

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had been told of money to cover "attorneys' fees and family support" but not "to procure silence," but the March 21 talk was all about payments to procure silence.

5. On May 22, 1973, Mr. Nixon said he had not learned until after March 21 of the break-in to the office of Daniel Ellsberg's psychiatrist, and then he had "specifically authorized" telling Judge Matthew Byrne, who was trying Mr. Ellsberg. In fact, the President was told of the break-in on March 17—and did nothing. When Henry Petersen raised the matter on April 18, the President told him to keep out of it. Only on April 25, when Mr. Petersen threatened to resign, did Mr. Nixon allow the judge to be officially informed.

6. On April 2, 1973, John Dean, who had told the President of the burglary, informed the prosecutors that he was ready to talk. On April 5 Judge Byrne was called to San Clemente by Mr. Ehrlichman, asked if he would like to be head of the F.B.I., and introduced to the President. Was Judge Byrne also told about the burglary? In any event, this episode may have been an effort to soften the likely impact of the burglary on the Ellsberg trial.

7. The President consistently refused information to Special Prosecutor Archibald Cox, and sought to confine his investigations. As early as July 23, 1973, White House staff chief Alexander Haig called Attorney General Elliot Richardson and, according to Mr. Richardson, "said the President wanted a tight line drawn, no further mistakes, if Cox doesn't agree, we will get rid of Cox." In October the President fired Mr. Cox and tried to close the special prosecutor's office.

8. Mr. Nixon said in July that the White House tapes would remain "under my sole personal control." Thereafter, a crucial passage on one tape was erased and others were reported missing. Determined efforts were made to keep Congress and the Watergate grand jury from hearing any tapes, but a large number were lent to Mr. Haldeman, a potential defendant.

There, in outline, are some ingredients of a charge that for many months Richard Nixon deliberately impeded Federal investigations. That pattern of action may constitute a crime. More important, from the point of view of impeachment, it violated one of the fundamental trusts that the Constitution lays upon the President of the United States:

"He shall take care that the laws be faithfully executed."