

Grand Jury Named Nixon Co-Conspirator In Indicting 7 for Cover-Up of Watergate

By JOHN PIERSON

Staff Reporter of THE WALL STREET JOURNAL

WASHINGTON—Another bombshell exploded under President Nixon's impeachment defense.

The press discovered, and the White House confirmed, that the grand jury that indicted seven former presidential aides for covering up the Watergate affair named Mr. Nixon as a co-conspirator without indicting him. The vote to name Mr. Nixon is said to have been 19 to 0.

The White House brushed off the disclosure on the ground that the grand jury didn't have all the evidence. "All of the evidence before the grand jury on the Watergate matter relating to the President, together with information furnished subsequently by the President to the House Judiciary Committee, proves the President's innocence," Mr. Nixon's lawyer, James St. Clair, declared.

It seems probable, however, that disclosure of the grand jury's action, kept secret since March, will hurt the President's fight against impeachment in at least three ways:

—It's bound to persuade more of the public that Mr. Nixon committed acts warranting impeachment.

—It puts pressure on the Judiciary Committee to recommend impeachment or explain why it didn't in view of the grand jury's conclusion.

Support for Limited Inquiry

—It bolsters Special Prosecutor Leon Jaworski's case before the Supreme Court that Mr. Nixon hasn't any right to refuse to surrender 64 taped conversations relating to the Watergate cover-up.

The only good it might do the President is to lend a little support to his argument that the Judiciary Committee should limit its impeachment inquiry to the Watergate cover-up, disregarding allegations of bribery, burglary, bugging, tax fraud and other "high crimes and misdemeanors." This reasoning runs that as the Watergate grand jury found that Mr. Nixon conspired in the cover-up, and as none of the other grand juries are known to have named him a co-conspirator, shouldn't the Judiciary Committee concentrate on the cover-up alone? But those taking this tack ignore that other grand jury returns aren't in yet, and that months elapsed between the Watergate grand jury's action involving Mr. Nixon and its disclosure.

In any case, the Judiciary Committee—whose rank-and-file members learned of the grand jury action yesterday—didn't show any signs of narrowing the scope of its inquiry. Yesterday, for example, it began hearing evidence on allegations that Mr. Nixon ordered White House spies to bug and burglarize the homes and offices of persons regarded as enemies of the President.

Most committee members declared that the grand jury's decision to name Mr. Nixon won't influence them on whether to recommend his impeachment.

"Like all other external happenings, we have to disregard it," said Rep. Tom Railsback (R., Ill.).

"I'm not going to let them make up my mind for me," echoed Rep. Walter Flowers (D., Ala.).

"What's before a grand jury isn't going to have any effect on me," said Rep. John Seiberling (D., Ohio).

But Rep. Seiberling also said that the report of the grand jury action will have "tremendous impact" on the public. "These aren't politicians or lawyers," he declared. "These are just 19 ordinary citizens who came to an extraordinary conclusion."

'Bound to Be Prejudicial'

A minority view was expressed by Rep. Joshua Eilberg (D., Pa.), who said the disclosure is "bound to be prejudicial, I think, in our ultimate decision." Rep. Eilberg found it "very interesting" that Mr. Nixon "Would have been indicted had he not been President."

According to news accounts, the grand jury wanted to indict the President, along with his seven former aides, but was dissuaded by Mr. Jaworski, who argued that impeachment is the proper remedy for a sitting President's wrongdoing.

On Mr. Jaworski's advice, the grand jury in March sent the committee a briefcase of evidence bearing on Mr. Nixon's possible involvement in the cover-up. With this in hand, plus other evidence, the committee can draw its own conclusions.

But it will be harder for the committee to find Mr. Nixon innocent now that the public

knows that another investigative body found probable cause to believe that he took part in a conspiracy to obstruct justice. If it wants to exonerate the President, the committee will have to rebut the grand jury.

The disclosure of the grand jury action will also spell trouble for Mr. Nixon when he tries to persuade the Supreme Court against ordering him to surrender the 64 taped conversations that Mr. Jaworski says he needs for the cover-up trial, which is due to start in September.

That's because the disclosure affects the balancing process the high court must go through in deciding the case: weighing the need for presidential secrecy against Mr. Jaworski's need for this particular evidence. The evidence becomes more relevant because it involves conversations between individuals named as conspirators in the cover-up.

If Mr. Nixon hadn't been named, legal experts say, Mr. St. Clair might have argued that the evidence was of dubious value because it involved talks between defendants and someone unrelated to the proceeding. And if word of the grand jury action hadn't leaked out, Mr. Jaworski might have felt obliged to refrain from mentioning it before the court.

Late yesterday, presidential lawyer St. Clair said that since the word has leaked, the formal list of unindicted co-conspirators might as well be made public. He asked federal Judge John Sirica to remove the order he issued earlier to keep secret the list of co-conspirators, which the special prosecutor disclosed to the judge and the President's lawyer last month.