

# ST. CLAIR OFFERS LIMITED DEFENSE

Nixon Response to Inquiry Focuses on Hush Money, Ignoring Other Issues

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WASHINGTON, July 11 — President Nixon responded to the House Judiciary Committee staff's evidence against him with a defense focusing on the argument that he did not authorize hush money payments to the Watergate burglars.

The President told the committee, in a 242-page response prepared by his lawyers and released today by the committee, what he has told the public for months: that he first learned of the Watergate cover-up on March 21, 1973; that as soon as he learned of it, he tried to ascertain the facts; that he then took steps to bring the facts to the proper authorities.

"The president had no knowledge of an attempt by the White House to cover up involvement in the Watergate affair," Mr. Nixon's official response to the Judiciary Committee stated.

In its narrow focus, the Nixon response thus ignored

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much of the committee's evidence—both its statements of facts, the implications those statements raise, and the large duplication that the President failed to make sure that his subordinates acted properly.

The President's answer to the committee made no mention of his remarks to his aides on June 30, 1972, just after the Watergate break-in, that he hoped "nothing" would surface publicly about the break-in that might aggravate the scandal.

It made no mention of the conversation he held on March 22, 1973, in which, according to the committee's information, the President told his aides, "I want you all to stonewall it, let them plead the Fifth Amendment, cover up or anything else, if it'll save it—save the plan."

Nor did the argument note that the Judiciary Committee had prepared transcripts of White House tape recordings that differed, often significantly, from the official White House transcripts. In fact, a number of the points in the Nixon defense are based on excerpts from now-disputed portions of the White House version of the tape transcripts.

By focusing on the controversy on the hush money payments, rather than giving the committee a point-by-point answer to the 243 "statements" in the committee's collation, the President and his lawyers were carrying out their strategy of trying to limit the area of the impeachment inquiry.

### Strategy No Secret

The White House has made no secret of that strategy; statements on the cover-up have centered for some time on the controversy over the hush money payments and the President's insistence that he did not authorize them. But the eight volumes released today by the committee show the strategy in action.

The President's response differs from the committee's massive document both in size and tone—the President has only 34 "statements" in his response, and the committee 243; the President's "statements" also include some items—such as the assertion that the President had no knowledge of White House involvement in the cover-up—which apparently were intended to be final.

### Substantive Differences

The committee's statements, on the other hand, seemed to be statements of fact. Where there is a conflict in testimony, the dispute is noted.

Some committee members objected to some of the President's statements, saying they were not prepared in accordance with the committee rules, and the objections are noted in the record.

Even more basic, though, the sets of documents differ

in substance. The committee's statements, arranged in chronological form, tell the story of the Watergate affair, up to April 30, 1973.

It is not a complete story, as the document itself acknowledges, but it presents as complete a picture of the events as has emerged—a picture of the President and his aides grappling with the greatest political scandal of the country's history.

The document that Mr. Nixon's lawyers, headed by James D. St. Clair, presented to the committee, however, gives several smaller pictures rather than an over-all view.

There is the picture of the March 21, 1973, meetings between Mr. Nixon and his aides, in which hush money payments are discussed. There are other meetings on other days, but they are not in chronological order, and they do not include all the meetings that are known to have occurred in which the President and his aides had Watergate-related conversations.

### Two Influences

Two factors appear to explain the difference between the committee's evidence and the President's response.

The President, for one thing, is in a defensive position; it is standard practice for the defense in a criminal case to ignore as much of the prosecutor's case as it thinks it can. By ignoring part of the case, the defense may give the jury the impression that the prosecution's case is insubstantial.

The second reason is that President Nixon is trying to convince the committee—and the public—that a President can be impeached only for a serious violation of the criminal law.

The majority view, both in the legal profession and on the committee, is that an offense need not be an indictable crime before it can be ground for impeachment.

One of the drafters of the Constitution, in fact, stated that a President could be impeached for failure to take care that his subordinates behave properly.

Many experts also believe that a President could be impeached on a general count of failing to fulfill his Constitutional obligation to "execute" the laws.

Some observers have interpreted the committee's seven volumes as a basis on which such counts could be drafted.

Under the White House view of an impeachable offense, these grounds would not be sufficient. The only grounds would be evidence of conduct prohibited by statute.

### Dean Testimony

And the White House response to the committee, essentially, is an attempt to rebut any inferences of criminal conduct by the President.

An order to pay hush money, if one was issued, would be the most serious of these inferences; it is clearly a crime.

To rebut it, Mr. Nixon, through his lawyers, cites testimony by John W. Dean 3d, once his counsel and now his chief accuser. They quote Mr. Dean as saying in his appearance before the Senate Watergate committee, "The money matter was left very much hanging at the [March 21] meeting. Nothing was resolved."

Various portions of the President's edited White House transcripts are also cited, including a portion that shows Mr. Nixon saying, in regard to paying the money, "Would you agree that that's the prime thing you damn well better get done?"

However, the Judiciary Committee's transcript of this remark reads: "Would you agree that that's a buy-time thing, you better damn well get that done, but fast?"

If Mr. Nixon urged his aides to commit perjury or otherwise obstruct the investigation into the cover-up, that too would be an indictable offense.

Some of the items in the committee's evidence—particularly its transcript of Mr. Nixon's statement on March 22, 1973, regarding "stonewalling" and the cover-up, could be interpreted as evidence of such a crime, in the view of some who have read the documents.

The President's response does not mention that particular exchange. However, in an apparent effort to rebut it, the response does cite a number of other statements by the President in which he is quoted as having told various aides that they should tell the truth to the grand jury.

### Other Rebuttals

There were other examples as well in which the Nixon response represents specific quotations from the President's conversations to rebut inferences that could be drawn from other Presidential quotations that were included in the committee compilation.

The committee evidence, for instance, includes references to White House pressure on Justice Department officials and to the President's disclosure to his aides of secret grand jury material he had received from the prosecution.

The Nixon defense, on the other hand, cites a conversation in which Mr. Nixon tells Assistant Attorney General Henry Petersen that he wants G. Gordon Liddy, one of the original burglars, to cooperate with the prosecution.

The President closes his argument with the statement that seven persons were indicted March 1, 1974, on charges of conspiring to cover up the Watergate affair, presumably to show either that he was duped by his aides or that the processes of justice have been carried out. The grand jury named Mr. Nixon as an unindicted co-conspirator the same day.