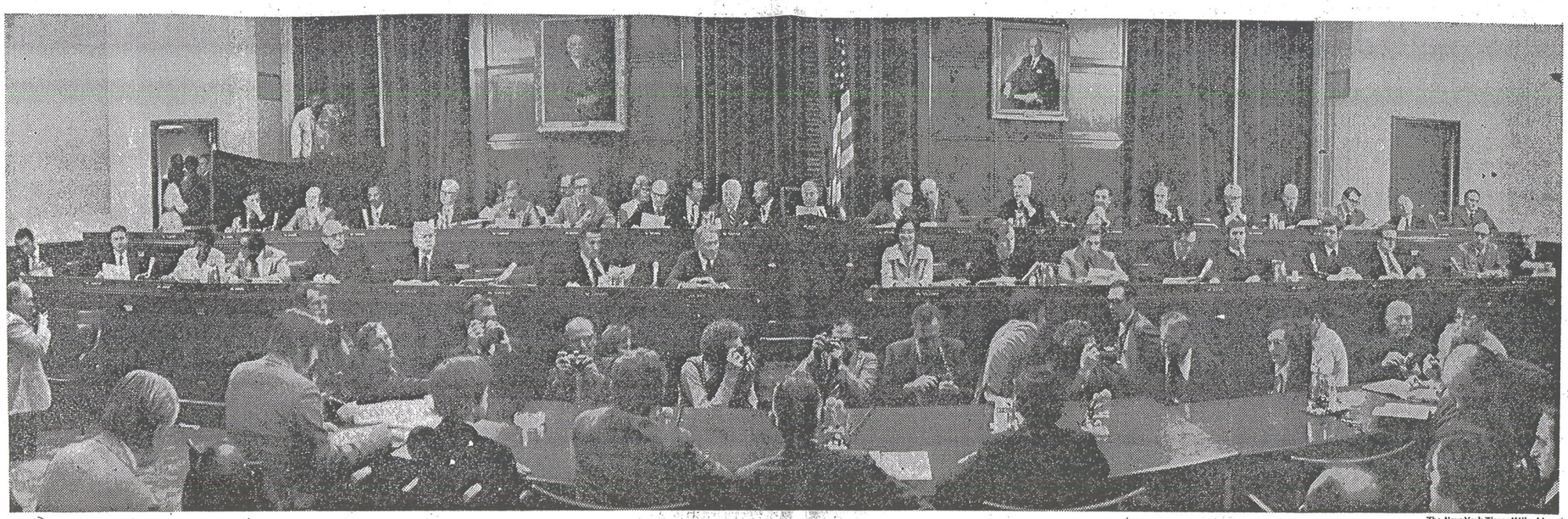
FINAL IMPEACHMENT REPORT: EXCERPTS



The New York Times/Mike Lien

The House Judiciary Committee about to open a session. Peter W. Rodino Jr., chairman, is seated at center, under the flag. At the table in foreground, their backs to the camera, are the counsels.

Special to The New York Times

WASHINGTON, Aug. 25—Following are excerpts from the final report of the House Judiciary Committee on its inquiry into the impeachment of Richard M. Nixon. The 528-page report was published last Thursday. If Mr. Nixon had not resigned as President, the document would have formed the basis for the impeachment debate in the House and the possible trial in the Senate. Occasional passages set off by brackets and italics were supplied by The New York Times for the purpose of transition.

ARTICLE I

Introduction

Before entering on the execution of his office as President of the United States, Richard M. Nixon has twice taken, as required in Article II, Section 1, Clause 7 of the Constitution, the following oath:

> I do solemnly swear that I will faithfully execute the Office of the President of the United States, and will to the best of my ability, preserve, protect and defend the Constitution of the United States.

Under the Constitution, the Executive power is vested in the President. In Article II, Section 3, the Constitution requires that the President "shall take care that the laws be faithfully executed."

On June 17, 1972, and prior thereto, agents of the Committee for the Re-Election of the President committed unlawful entry into the headquarters of the Democratic National Committee in Washington, D. C., for the purpose of securing political intelligence.

For more than two years, Richard M. Nixon continuously denied any personal or White House responsibility for the burglaries; he continuously denied any direction of or participation in a plan to cover up and conceal the identities of those who authorized the burglaries and the existence and scope of other unlawful and covert activities committed in the President's interest and on his behalf.

On July 27, 1974, the Committee on the Judiciary decided that since June 17, 1972, Richard M. Nixon, using the power of his high office, engaged, personally and through his subordinates and agents, in a course of conduct or plan designed to delay, impede and obstruct the investigation of the unlawful entry into the headquarters of the Democratic National Committee; cover-up; conceal; and protect those responsible and to conceal the existence and scope of the unlawful and covert activities.

This report is based on the evidence available to the Committee at the time of its decision. It contains clear and convincing evidence that the President caused action—not only by his own subordinates but by agencies of the United States, including the Department of Justice, the Federal Bureau of Investigation, and the Central Intelligence Agency—to cover up the Watergate break-in. This concealment required perjury, destruction of evidence, obstruction of justice—all of which are crimes. It included false and misleading public statements as part of a deliberate, continued, continued deception of the American people.

On August 5, 1974, the President submitted to the Committee on the Judiciary three additional edited White House transcripts of Presidential conversations, which only confirms the clear and convincing evidence, that from the beginning, the President, knowingly directed the cover-up of the Watergate burglary.

The evidence on which the Committee based its decision on Article I is summarized in the following sections.

Adoption of a Political Intelligence Plan Including the Use of Electronic Surveillance

I

Introduction

On or about May 27 and June 17, 1972, agents of CRP broke into the Democratic National Committee (DNC) headquarters at the Watergate for the purpose of obtaining political intelligence for use in the President's campaign.

II

Prior Covert Activities

Beginning in May, 1969, the White House conducted covert intelligence gathering, not for reasons of national security, but for political purposes. In May, 1969, President Nixon ordered the FBI to engage in electronic surveillance of at least seventeen persons, including four newsmen and three White House subordinates whose jobs were unrelated to national security. Taps were maintained on the telephones of two employees of the National Security Council after they had left the government to work for a Democratic presidential candidate, although a review over a reasonable period would have shown neither was discussing classified materials. One tap remained for 18 months after Assistant FBI Director William Sullivan had specifically recommended its termination.

Written summaries of the results of this surveillance were originally sent to the President, Haldeman, Kissinger and Ehrlichman; later, at the President's direction, they were sent only to Haldeman. It is undisputed that information forwarded by FBI Director Hoover to President Nixon was used by Haldeman in January, 1970, to take steps to deal with a proposed magazine article critical of the President's Vietnam policy.

At the President's direction, the F.B.I. records of surveillance were kept outside of normal F.B.I. files. In July, 1971, the President ordered that the records be moved from F.B.I. headquarters. In August, 1971, Assistant Attorney General Robert Mardian handed the records to an official at the Oval Office in the White House whom, in an F.B.I. interview, he declined to name. Subsequently, Ehrlichman placed the surveillance records in his safe. On April 30, 1973, President Nixon ordered that the F.B.I. records be removed from Ehrlichman's safe and placed among the President's papers.

During the same period, White House personnel also engaged directly in illegal surveillance for political purposes. In 1969, Counsel to the President John Ehrlichman hired Anthony Ulasewicz, a retired police detective, to conduct investigations under the supervision of John Caulfield, a subordinate to Ehrlichman. In June, 1969, Caulfield, at Ehrlichman's direction initiated a wiretap on the residence telephone of newspaper columnist Joseph Kraft. Ehrlichman discussed this wiretap with the President. During the next three years, Caulfield and Ulasewicz, under Ehrlichman's or Dean's direction, conducted a number of covert inquiries concerning political opponents of the President.

Following the publication of the Pentagon Papers in June, 1971, the President created a special investigations unit which engaged in covert and unlawful activities. This organization (dubbed "the Plumbers" by its members) was based in the White House, under the immediate supervision of John Ehrlichman. Howard Hunt and Gordon Liddy worked in the unit. The Plumbers acquired from the F.B.I. information about the Pentagon Papers investigation, twice requested the C.I.A. to prepare psychological profiles of Daniel Ellsberg, and formulated a plan to acquire derogatory information about Ellsberg to leak to the press for political purposes. In August, 1971, after obtaining Ehrlichman's approval for a covert operation, provided it was not traceable, Plumbers co-directors Egil Krogh and David Young authorized Hunt and Liddy to undertake an operation to gain access to Ellsberg's psychiatric records. On September 3, 1971, a team consisting of Bernard Barker, Felipe DeDiego and Eugenio Martinez (all of whom subsequently participated in one of the Watergate break-ins), acting under the direction and immediate supervision of Hunt and Liddy, illegally broke into the office of Dr. Lewis Fielding, Ellsberg's psychiatrist.

The President's closest personal staff, particularly Ehrlichman and Colson, authorized Hunt to perform other covert activities for political purposes.

III

Development of Political Intelligence Capability

Preparations began in the White House to develop a political intelligence capability.

On August 10, 1971, Chief of Staff Haldeman gave instruction that Gordon Strachan, Patrick Buchanan, Dwight Chapin and Ron Walker should develop recommendations for "political intelligence and covert activities" in connection with the President's re-election campaign in 1972. At around the same time, White House staff assistant John Caulfield submitted to Counsel to the President John Dean a political intelligence proposal. It was called Operation Sandwedge, which was to include electronic surveillance operations and "black bag" capability.

By November, 1974, Sandwedge had been rejected, Dean was told by Mitchell and Ehrlichman to find someone other than Caulfield to manage the campaign intelligence operation. Dean suggested Liddy. In explaining this to the President on March 21, 1973, Dean told the President that Liddy was a lawyer with an intelligence background with the FBI. Dean knew that Liddy had done some "extremely sensitive things for the White House while he had been at the White House, and he had apparently done them well in going into Ellsberg's doctor's office," to which the President replied, "Oh, yeah." Krogh had recommended Liddy as "a hell of a good man." Thereafter, Liddy was transferred from the White House to CRP to put together an intelligence operation.

From [the] evidence it is clear that Haldeman and Mitchell had decided to set up a political intelligence gathering unit for the purpose of securing political intelligence on potential opponents of President Nixon.

IV

Liddy's Proposals

In late January, 1972, after consultation with Howard Hunt, his associate in the Plumbers unit. CRP Counsel Liddy proposed a $1 million intelligence program to Mitchell, Magruder and Dean at

a meeting in Attorney General Mitchell's office. The proposal included mugging, kidnapping, prostitutes, and electronic surveillance. At the close of the meeting, Mitchell directed Liddy to prepare a revised and more realistic proposal. In February, 1972, Liddy returned to Attorney General Mitchell's office with a $500,000 intelligence program, which he presented to Mitchell, Magruder and Dean. The plan specifically envisioned electronic surveillance of the DNC headquarters. Counsel to the President Dean reported this meeting to Haldeman. Dean expressed his opposition to a political intelligence operation that included illegal activities like burglary and wiretapping of the DNC. Although Haldeman told Dean he agreed that the White House should have nothing to do with such activities, Haldeman did not order that the proposal be abandoned.

Sometime in February or March, 1972, Liddy and Hunt met with Special Counsel to the President Charles Colson at the White House. Colson was aware that Liddy and Hunt had taken part in the Plumbers operations, including the Fielding break-in. During this meeting, Colson called Magruder, the CRP chief of staff, and told him to resolve whatever it was Hunt and Liddy wanted to do and to be sure he had an opportunity to listen to their plans. Magruder has testified that Colson told him to "get off the stick" and get Liddy's plans approved, and that information was needed, particularly about Democratic National Committee Chairman Lawrence O'Brien.

V

Adoption of the Plan

On March 30, 1972, in Key Biscayne, Florida, the Liddy Plan was reviewed in a meeting among Mitchell, Magruder and Fred La Rue. They considered the proposal for electronic surveillance and, according to Magruder, approved its revised budget of either $250,000 or $300,000.

In a Political Matters Memorandum dated March 31, 1972, Strachan told Haldeman that Magruder reported CRP now had a "sophisticated political intelligence gathering system including a budget of [$]300 [,000]." A talking paper which Strachan had prepared for a meeting between Haldeman and Mitchell on April 4, 1972, included a question on the "adequacy of the political intelligence system."

Strachan has testified that three days after the June 17, 1972, Watergate break-in, Haldeman ordered him to destroy both the March 31, 1972, Political Matters Memorandum and the April 4, 1972, talking paper.

Although Liddy's involvement in the break-in was known by the President, Mitchell, and other high CRP and White House officials shortly after the break-in, Liddy was not discharged as counsel to FCRP until eleven days afterward.

This, and evidence of cover-up activity after the break-in discussed in the following sections, along with the direct evidence regarding Haldeman's and Mitchell's planning activities prior to the break-in, support the conclusion that the Watergate break-in was pursuant to a program of unlawful electronic surveillance approved in advance by Mitchell, in which Haldeman concurred, and aimed at political opponents of the President for the political benefit of the President.

The Implementation of the Political Intelligence Plan

Prior to June, 1972, with the approval of John Mitchell, FCRP Treasurer Hugh Sloan disbursed approximately $199,000 in cash to Liddy.

The first break-in at the Democratic National Committee (DNC) occurred on or about May 27, 1972. During the first or second week in June, 1972, Deputy Campaign Director Magruder received transcripts, on paper labeled "Gemstone," of conversations intercepted at the DNC Headquarters. There is evidence that these transcripts were shown to Mitchell.

The White House received reports obtained from the break-in and bugging. Magruder forwarded the information to Strachan in Haldeman's office.

In his March 13, 1973 meeting with Dean, the President described the Watergate operation as "a dry hole, huh?" Dean responded, "That's right." Later in the same conversation, Dean said he thought there were "some people who saw the fruits of it," but added that that was "another story." Dean was talking about the criminal conspiracy to enter the DNC offices.

After the burglars first broke into and bugged the DNC headquarters, they began getting information, which was in turn relayed to Haldeman's office. At one point Haldeman gave instructions to change their political surveillance capabilities from Muskie to McGovern; he sent the instructions to Liddy through Strachan.

Liddy started to make arrangements for the electronic surveillance of the McGovern operation. In a conversation on the morning of March 21, 1973, John Dean reported to the President:

DEAN. . . . The information was coming over here to Strachan. Some of it was given to Haldeman, uh, there is no doubt about it. Uh—

PRESIDENT. Did he know what it was coming from?

DEAN: I don't really know if he would.

PRESIDENT. Not necessarily.

DEAN. Not necessarily. That's not necessarily. Uh—

PRESIDENT. Strachan knew what it was from.

DEAN. Strachan knew what it was from. No doubt about it, and whether Strachan—I have never come to press these people on these points because it,

PRESIDENT. Yeah.

DEAN. It hurts them to, to give up that next inch, so I had to piece things together. All right, so Strachan was aware of receiving information, reporting to Bob. At one point Bob even gave instructions to change their capabilities from Muskie to McGovern, and had passed this back through Strachan to Magruder and, apparently to Liddy. And Liddy was starting to make arrangements to go in and bug the, uh, uh, McGovern operation. They had done prelim—

PRESIDENT. They had never bugged Muskie, though, did they?

DEAN. No, they hadn't but they had a, they had, uh, they'd

PRESIDENT. (Unintelligible)

DEAN. infiltrated it by a, a, they had

PRESIDENT. A secretary.

DEAN. a secretary and a chauffeur. Nothing illegal about that.

On April 14, 1973, Haldeman told the President that Strachan, at some time, had stopped reading the DNC wiretap reports, which had been made available to him.

On April 14, 1973, the President asked Haldeman what he would say if Magruder testified that the DNC wiretap reports had come to Haldeman's office. Haldeman responded, "This doesn't ever have to come out."

Thus the Liddy Plan was implemented under Mitchell's direction with Haldeman's concurrence to provide political intelligence information for the President's benefit in his re-election campaign.

President Nixon's Response to the Arrests

I

Initial Response

At 2:00 a.m. on June 17, 1972, five of Liddy's men, including CRP Security Director McCord, made the second entry into the DNC offices. They were found there and arrested. They had on their persons fifteen $100 bills. In their hotel room police found additional $100 bills, a check drawn by Hunt, and a notebook that contained Hunt's White House telephone number. Hunt and Liddy were elsewhere, in the Watergate Hotel. Upon discovering the arrests of the others, they left. Hunt went to his office in the Executive Office Building (EOB), placed a briefcase containing electronic equipment in his safe and removed from the safe $10,000 in cash that Liddy had previously given to him to be used in case of need. Hunt gave the money that morning to Douglas Caddy, a Washington attorney.

At the time of the break-in, the President was in Key Biscayne with Haldeman and Presidential Press Secretary Ronald Ziegler.

John Mitchell, Robert Mardian, Jeb Magruder and Fred LaRue, all top officials in CRP, were in Los Angeles working on the President's re-election campaign. On the morning of June 17, 1972, Liddy telephoned Magruder in California and asked him to call back on a secure phone. At the time, Magruder was eating breakfast with LaRue. Before going to a pay telephone to return Liddy's long distance call, Magruder remarked to LaRue, "I think last night is when they were going into the DNC." Magruder then called Liddy who informed him of the break-in and the arrests of the burglars, including McCord, the CRP Security Director. Magruder immediately relayed Liddy's report to LaRue, who informed Mitchell.

When LaRue told Mitchell that McCord, the CRP Security Director, was one of the five persons arrested, Mitchell asked LaRue to get more information. Mardian was ordered to return to Washington. Mitchell's aides prepared a press release falsely stating that the arrested men had not been operating on behalf of or with the consent of CRP.

On June 17, 1972, Mitchell also directed Liddy to contact Attorney General Kleindienst. Liddy met with Kleindienst at the Burning Tree Country Club near Washington, D.C., and told him that some of the people arrested were White House or CRP employees. Liddy told Kleindienst that Mitchell wanted a report on the break-in. Kleindienst refused to discuss the matter and ordered Liddy off the premises.

On the afternoon of June 17, the Secret Service contacted John Ehrlichman, who was in Washington, to inform him that the District of Columbia police had found the White House telephone number of Howard Hunt in the burglars' hotel room. Ehrlichman knew of Hunt's participation in the burglary of Ellsberg's psychiatrist's office and of other covert operations Hunt had performed for the White House.

Upon learning that evidence now linked Hunt with those arrested inside the DNC offices, Ehrlichman immediately called Colson, whom he knew to have been Hunt's sponsor at the White House. Colson knew of Hunt's previous covert activities undertaken with Ehrlichman's authorization.

On the afternoon of the Watergate break-in, Ehrlichman and Colson talked about how to handle records of Hunt's employment at the White House.

The next day, June 18, 1972, Ehrlichman placed a call to Key Biscayne to

Haldeman. He reported McCord's and Hunt's involvement in the break-in and the problems it created for CRP and the White House. It is not known what information Haldeman passed on to the President.

After this telephone conversation, Haldeman called Magruder in California and discussed the arrests. Haldeman directed Magruder to go to Washington to meet with Dean, Strachan and Sloan in order to determine exactly what had happened and the source of the money found on the arrested persons.

On June 18, 1972, the President also called Colson from Key Biscayne. He told Colson he had been so angry about the involvement of McCord in the Watergate break-in that he had thrown an ash tray across the room.

On June 18, President Nixon put John Ehrlichman in charge of the Watergate matter; Ehrlichman assigned Dean to work on it. On June 19, Dean met with Liddy, who told Dean that the break-in was a CRP operation. Dean reported this conversation to Ehrlichman.

On June 19, 1972, Ehrlichman, Colson and Dean met. Their discussion of the break-in concerned the fact that White House records did not reflect any determination of Hunt's status as a consultant; they also discussed the contents of Hunt's safe in the EOB. Ehrlichman and Colson directed Dean to take possession of the contents of Hunt's safe. Ehrlichman ordered that Hunt's safe in the EOB be drilled open. This was done and its contents were delivered to Dean.

Late on June 19, 1972, Magruder, Mitchell, Mardian and LaRue, who had returned to Washingtoin, met in Mitchell's apartment. Dean later joined the meeting. They discussed the break-in and the need for a statement from CRP denying any responsibility for the burglary. Magruder was directed at that meeting to destroy documents related to the political surveillance operation.

II

June 19, 1972—June 29, 1972

On June 19, 1972, at about noon, the President telephoned Colson. They talked for approximately one hour about the break-in. Colson told the President that Administration officials in Washington were holding a meeting to determine how they should react. Later on June 19, 1972, the President and Haldeman returned from Key Biscayne.

The next morning, June 20, 1972, at 9:00 a.m., Haldeman met in Ehrlichman's office—which was located one floor above, the Oval Office—with Ehrlichman and Mitchell, both of whom knew that the DNC break-in was a CRP operation carried out under the direction of Liddy. Dean, who also knew that the DNC break-in was a CRP operation, and Attorney General Kleindienst joined this meeting. The previous day, Kleindienst had requested that Gray arrange for a briefing on the FBI investigation, because Kleindienst had to brief the President that day or the next. At the meeting, on the morning of June 20, Kleindienst, Haldeman, Ehrlichman, Mitchell and Dean discussed the Watergate break-in.

On that same morning at 9:00 a.m. the President arrived in his Oval Office. While this meeting on Watergate took place one floor above among the President's chief of staff, his chief domestic adviser, his counsel, his Attorney General, and his campaign director, the President remained alone in the Oval Office.

The President met with Ehrlichman from 10:25 until 11:20 a.m. The President did not discuss Watergate with Ehrlichman, even though the President had given Ehrlichman the highest level responsibility for investigation of the Watergate matter.

Starting at 11:26 A.M., during a meeting which lasted one hour and 19 minutes, the President did discuss Watergate with Haldeman. Haldeman had been fully briefed and, according to Strachan, that day instructed Strachan to destroy documents related to the Liddy Plan and other compromising documents. A portion of the notes taken by Haldeman during the meeting read:

> be sure EOB office is thoroly ckd re bugs at all times—etc. what is our counter attack? PR offensive to top this . . . hit the opposition w/ their activities Pt out libertarians have created public callousness. Do they justify this less than stealing Pentagon papers, Anderson file etc. we shld be on the attack for diversion.

In July, 1973, the tape recording of this June 20, 1972 meeting between the President and Haldeman was subpoenaed by the Special Prosecutor. On November 26, 1973, when the President's lawyer finally produced the recording, it contained an eighteen and one-half minute erasure. The erasure obliterated that portion of the conversation which, according to Haldeman's notes, referred to Watergate. The obliteration was, in fact, caused by repeated manual erasures.

Although the President had six other conversations with Haldeman and Colson that day, the President did not meet with his Attorney General Kleindienst, his FBI Director Gray or his Campaign Director Mitchell.

That evening, the President telephoned Mitchell. They discussed the break-in. On July 23, 1973, the tape of that telephone call was subpoenaed by the Special Prosecutor. On October 30, 1973, the President responded that the conversation had not been recorded. The President did provide a dictabelt recording of his recollections of that day, which included the following account of his conversation with Mitchell:

> Paragraph. I also talked to John Mitchell in—late in the day and tried to cheer him up a bit. He is terribly chagrined that, uh, the activities of anybody attached to his committee should, uh, have, uh, been handled in such a manner, and he said that he only regretted that he had not policed all the people more effectively on a in his own organization (42 second silence) (unintelligible)

The President issued no order to discharge Gordon Liddy, Counsel to FCRP.

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Mitchell knew that Liddy was responsible for the burglary—he had authorized the Liddy Plan and had been told by Mardian and LaRue that Liddy had planned and participated in the break-in. Haldeman knew—he had approved Liddy's transfer to CRP for intelligence-gathering purposes, and on June 20 had directed Strachan to destroy documents that contained discussions about the fruits of Liddy's activities. Dean knew—Liddy told him the whole story on June 19. Ehrlichman knew—Dean had told him on June 19 of Liddy's confession because as Ehrlichman later said: "Well, the only reason to tell me not for me as me but because I was one of the two conduits that he [Dean] had to the Boss," Colson knew—Colson had telephoned Magruder prior to March 30 in the presence of Liddy and Hunt and urged Magruder to see to it that Liddy's political intelligence gathering proposal was considered. Colson also knew of Hunt's role in the break-in.

On June 22, 1972, the President held a news conference. He was asked if he had ordered any sort of investigation to determine the truth of the charges "that the people who bugged [DNC] headquarters had a direct link to the White House." The President replied:

> This kind of activity, as Mr. Ziegler indicated, has no place whatever in our electoral process, or in our governmental process. And, as Mr. Ziegler has stated, the White House has had no involvement whatever in this particular incident.

By June 21, 1972, the decision had been made to prevent further Watergate disclosures and the President's closest subordinates and agents were beginning to carry out this decision. The President had placed Ehrlichman in charge. Ehrlichman had assigned Dean to monitor the FBI investigation. Ehrlichman called Gray and told him that Dean was conducting an inquiry into the Watergate matter for the White House. He instructed Gray to work closely with Dean.

The identification of Hunt as a suspect in the Watergate burglary created a risk that a direct link to the White House might be established. After discussions between Colson and White House Staff Secretary Bruce Kehrli, Ehrlichman and Colson decided that White House records should state that Hunt's status as a White House consultant had been terminated as of April 1, 1972. On or about June 21, 1972, Colson's office forwarded to Kehrli a memorandum which was dated March 30, 1972 and which expressed a desire to assist Hunt on an annuity problem "and then totally drop him as a consultant so that 1701 [CRP] can pick him up and use him." Within a week after June 19, 1972. Kehrli circled the reference to dropping Hunt as a consultant and wrote at the bottom of the memorandum: "OK—Drop as of April 1, 1972. BAK." Kehrli was also told by Colson to remove Hunt's name from the White House phone directory; on Kehrli's instructions, the name was removed.

The money found on those arrested created for the President another risk of disclosure and another danger to his re-election campaign. The risk was that it could be traced back to the Campaign Committee—exposing the Committee's responsibility for the burglary and also exposing illegal corporate campaign contributions.

Because of this risk, Haldeman, on June 18, 1972, the day after the break-in, directed Magruder to return from California to Washington, and talk to Sloan, Dean and Strachan about the source of the money. Liddy, who was also aware of the risk, shredded the $100 bills in his possession immediately after the break-in.

The money was part of the sum of five campaign contribution checks totalling $114,000. Four of the five checks were drawn on a Mexican bank by Manuel Ogarrio, a Mexican attorney. The fifth check was signed by Kenneth Dahlberg, a Minnesota businessman. FCRP Treasurer Hugh Sloan had given the checks to Gordon Liddy sometime in April to convert into cash. Liddy in turn had given the checks to Bernard Barker, one of those later arrested at Watergate. Barker had deposited the checks in his Florida bank account. Barker gave the cash to Liddy, who transmitted it to Sloan. Later, when Sloan gave Liddy cash, he apparently gave him some of the same bills which Liddy had obtained for FCRP.

It is standard practice for banks to record the serial numbers of cash paid out in large transactions. Thus, the FBI probably could trace the $100 bills back to the bank that supplied the cash and to the five checks deposited in the bank account of Bernard Barker. Dahlberg and Ogarrio could tell the FBI that the checks bearing their names were delivered to the President's re-election campaign: Dahlberg had in fact handed his check personally to Stans. Ogarrio could also tell the FBI that he had covered his checks by charging a fee to Gulf Resources & Chemical Corporation.

The risk that the CRP link would be

uncovered became imminent on June 21 and 22, 1972, when Gray informed Dean that the $100 bills had already been traced by the FBI to Barker's bank account in Florida. Haldeman immediately reported to the President.

At the time that the Committee on the Judiciary voted on Article I, it was undisputed that on June 23, 1972 the President directed Haldeman and Ehrlichman to meet with Helms and Walters, to express White House concern that the FBI investigation might expose unrelated covert CIA operations or the activities of the White House Special Investigations Unit, and to ask that Walters meet with Gray to communicate these concerns to him.

On the afternoon of June 23, 1972, Ehrlichman and Haldeman met with Helms and Walters. Helms assured Haldeman that there was no CIA involvement in the Watergate break-in, and told him that he had given a similar assurance to acting FBI Director Gray. In reply, Haldeman said that the FBI investigation was leading to important people; and that it was the President's wish, because an FBI investigation in Mexico might uncover CIA activities or assets, that Walters suggest to Gray that it was not desirable to pursue the inquiry, especially into Mexico.

While the meeting among Haldeman, Ehrlichman, Helms and Walters was going on, Dean telephoned Gray and told him to expect a call from Walters. After the meeting, Walters told Gray that the FBI investigation should not be pursued into Mexico or beyond the five persons already in custody. Gray agreed.

On June 23, 1972, Walters determined that no CIA sources would be jeopardized by an FBI investigation in Mexico.

On June 28, 1972, Dean asked Walters whether the CIA could stop the FBI investigation at the five suspects already in custody. Walters said he could not think of a way the CIA could help the White House.

III
Kalmbach Fund-Raising Assignment

On June 28, 1972, Ehrlichman and Haldeman agreed that Dean should direct Kalmbach, the President's personal attorney and a long-time high-level fund raiser for the President, to handle the raising of money for the Watergate defendants.

IV
Mitchell's Resignation As CRP Director

On July 1, 1972, Mitchell resigned as director of President's re-election campaign organization. Mitchell wrote to the President that he could no longer remain as campaign manager "and still meet the one obligation which must come first; the happiness and welfare of my wife and daughter. They have patiently put up with my long absences for some four years, and the moment has come when I must devote more time to them." As the President had suggested on the previous day, the story was put in "human terms."

However the story was put, all the prior circumstances since June 17, 1972, provided substantial proof that President Nixon decided shortly after learning of the Watergate break-in that his subordinates should take action designed to delay, impede, and obstruct the investigation of the Watergate break-in, to cover up, conceal and protect those responsible, and to conceal the existence and scope of other unlawful covert activities.

On August 5, 1974, President Nixon publicly released and delivered to the Committee on the Judiciary after the Committee had concluded its vote, edited transcripts of three of his conversations of June 23, 1972, with H. R. Haldeman. At their morning meeting, the President directed Haldeman to direct the CIA to impede the FBI investigation, which had begun to trace money in the possession of the burglars to CRP.

H. Now, on the invesigation, you know the Democratic break-in thing, we're back in the problem area because the FBI is not under control, because Gray doesn't exactly know how to control it and they have—their investigation is now leading into some productive areas — because they've been able to trace the money —not through the money itself—but through the bank sources — the banker. And, and it goes in some directions we don't want it to go. Ah, also there have been some things — like an informant came in off the street to the FBI in Miami who was a photographer or has a friend who is a photographer who developed some films through this guy Barker and the films had pictures of Democratic National Committee letterhead documents and things. So it's things like that that are filtering in. Mitchell came up with yesterday, and John Dean analyzed very carefully last night and concludes, concurs now with Mitchell's recommendation that the only way to solve this, and we're set up beautifully to do it, ah, in that and that—the only network that paid any attention to it last night was NBC —they did a massive story on the Cuban thing.

P. That's right.

H. That the way to handle this now is for us to have Walters call Pat Gray and just say, "Stay to hell out of this—this is ah, business here we don't want you to go any further on it." That's not an unusual development, and ah, that would take care of it.

P. What about Pat Gray—you mean Pat Gray doesn't want to?

H. Pat does want to. He doesn't know how to, and he doesn't have . . . any basis for doing it. Given this, he will then have the basis. He'll call Mark Felt in . . .

P. Yeah.

H. He'll call him and say, "We've got the signal from across the river to put the hold on this." And that will fit rather well because the FBI agents who are working the case, at this point, feel that's what it is . . .

H. And you seem to think the things to do is get them to stop?

P. Right, fine.

The President asked Haldeman if Mitchell knew in advance about the Watergate burglaries. Haldeman said he thought so. The President then asked, "Is it Liddy?" Since Haldeman had not mentioned Liddy and since the President had said he did not learn of the Fielding break-in (in which Liddy was involved) until March 17 of the following year, the question clearly indicates that the President must have known about Liddy before the conversation of June 23, 1972.

The President told Haldeman what to say to the CIA officials. He said to tell them that it involved Hunt and that it would be detrimental for them to go further.

In the early afternoon, the President repeated his instructions to Haldeman to have the CIA limit the investigation because Hunt knew too much.

At 2:20 P.M. Haldeman reported to the President that Gray had suspicions that the break-in might be a CIA operation; that Walters "was very happy to be helpful" in limiting the FBI investigations; and that Walters would call Gray about it.

The President, on June 23, 1973, thus accepted Mitchell's recommendation, delivered by Haldeman, that the FBI investigation into Watergate be limited by a false claim of CIA involvement.

The President directed Haldeman to set this part of the coverup in motion, on the President's behalf.

P . . . I'm not going to get that involved. I'm [unintelligible].

H No, sir, we don't want you to.

P You call them in (WHT, June 23, 1972, 10:04-11:39 A.M., 7)

Containment—July 1, 1972, to Election

I
Presidential Plan for Containment

From late June, 1972, until after the Presidential election in November, President Nixon through his close subordinates engaged in a plan of containment and concealment which prevented disclosures that might have resulted in the indictment of high CRP and White House officials; that might have exposed Hunt and Liddy's prior illegal covert activities for the White House; and that might have put the outcome of the November election in jeopardy. Two of the President's men, John Dean, Counsel to the President, a subordinate, and Herbert Kalmbach, personal attorney to the President, an agent, who had been assigned to carry out the cover-up, carried out their assignment. They did so with the full support of the power and authority of the President of the United States.

Tape recordings of Presidential conversations in the possession of the Committee establish that implementation of the plan prior to the election had the full approval of the President.

On June 30, 1972, the President told Haldeman and Mitchell that there was a risk of further Watergate disclosures and that his desire was to "cut the loss." Haldeman said, "As of now there is no problem there"; but, "As, as of any moment in the future, there is, there is at least a potential problem." On September 15, 1972, after Dean had said that he could conceive of all kinds of unfortunate complications (Dean's term was "you can spin out horribles"), the President told him and Haldeman. "You really can't just sit and worry yourself about it all the time (thinking the worst may happen) . . . you just try to button it up as well as you can and hope for the best." On the morning of March 21, 1973, Dean told the President regarding his investigation after the break-in, "I was under pretty clear instructions [laughs] not to really to investigate this, that this was something that just could have been disastrous on the election if it had—all hell had broken loose, and I worked on a theory of containment." The President replied, "Sure." During the same conversation, Dean said of the cover-up, "We were able to hold it for a long time." The President's reply was "Yeah, I know." Dean said that some bad judgments, some necessary judgments had been made before the election, but that at the time, in view of the election, there was no way.

The President said, "We're all in on it." The President told Dean. "[Y]ou had the right plan, let me say, I have no doubtes about the right plan before the election. And you handled it just right. You contained it. Now after the election we've got to have another plan, because we can't have, for four years, we can't have this thing—you're going to be eaten away. We can't do it." On the evening of March 21, 1973, the President told Colson that Dean was only doing what he had to do, what anyone would have done under the cricumstances. And on March 22, 1973, the

DEAN: I don't really know if he would.

PRESIDENT. Not necessarily.

DEAN. Not necessarily. That's not necessarily. Uh—

PRESIDENT. Strachan knew what it was from.

DEAN. Strachan knew what it was from. No doubt about it, and whether Strachan—I have never come to press these people on these points because it,

PRESIDENT. Yeah.

DEAN. It hurts them to, to give up that next inch, so I had to piece things together. All right, so Strachan was aware of receiving information, reporting to Bob. At one point Bob even gave instructions to change their capabilities from Muskie to McGovern, and had passed this back through Strachan to Magruder and, apparently to Liddy. And Liddy was starting to make arrangements to go in and bug the, uh, uh, McGovern operation. They had done prelim—

PRESIDENT. They had never bugged Muskie, though, did they?

DEAN. No, they hadn't but they had a, they had, uh, they'd

PRESIDENT. (Unintelligible)

DEAN. infiltrated it by a, a, they had

PRESIDENT. A secretary.

DEAN. a secretary and a chauffeur. Nothing illegal about that.

On April 14, 1973, Haldeman told the President that Strachan, at some time, had stopped reading the DNC wiretap reports, which had been made available to him.

On April 14, 1973, the President asked Haldeman what he would say if Magruder testified that the DNC wiretap reports had come to Haldeman's office. Haldeman responded, "This doesn't ever have to come out."

Thus the Liddy Plan was implemented under Mitchell's direction with Haldeman's concurrence to provide political intelligence information for the President's benefit in his re-election campaign.

President Nixon's Response to the Arrests

I

Initial Response

At 2:00 a.m. on June 17, 1972, five

III

Gray's Warning

On the morning of July 6, 1972, Gray met with Walters. The two men discussed the danger to the President from the efforts by his White House staff to suppress the FBI investigation and interfere with the CIA. They discussed the need to raise the matter with the President. After Walters left, Gray called Clark MacGregor, the new chairman of CRP, who was with the Presidential party in California.

Thirty-seven minutes after Gray's conversation with MacGregor, Gray received a telephone call from the President. The President did not raise the subject of Watergate, nor the serious allegation Gray had just made to MacGregor. Gray then warned the President that both he and General Walters thought people on the President's staff were trying to "mortally wound" the President by manipulation of the FBI and CIA; Gray told the President that he had just spoken to MacGregor and "asked him to speak to you about this." In response to Gray's warnings the President said only: "Pat, you just continue to conduct your aggressive and thorough investigation." The President asked no questions about what facts Gray had to support his serious charges; the President asked for no names. There is no evidence that the President pursued the matter.

IV

Presidential Statement of August 29, 1972

On August 29, 1972, the President held a news conference. He discussed various pending investigative proceedings in connection with Watergate—including those of the FBI, the Department of Justice, the House Banking and Currency Committee and the GAO—in suggesting that the appointment of a special prosecutor would serve no useful purpose. He said:

> In addition to that, within our own staff, under my direction, Counsel to the President, Mr. Dean has conducted a complete investigation of all leads which might involve any present members of the White House Staff or anybody in the Government. I can say categorically that his investigation indicates that no one in the White House Staff, no one in this Administration, presently employed, was involved in this very bizarre incident.

In fact, Dean had conducted no investigation. He had been acting to narrow and frustrate investigation by the FBI. He had reached no conclusion that no one in the White House had been involved in Watergate. He had made no report of such an investigation.

The President's statements on August 29 themselves were designed to delay, impede and obstruct the investigation of the Watergate break-in; to cover-up, conceal, and protect those responsible and to conceal the existence and scope of other unlawful covert activities.

V

September 15, 1972 Meeting

On September 15, 1972, Liddy, Hunt and the five persons arrested in the DNC Watergate offices on June 17 were indicted for burglary, unlawful entry for the purpose of intercepting oral and wire communications, and conspiracy, all felonies.

On that same day, John Dean was summoned to see the President.

Prior to Dean's arrival at the September 15, 1972 meeting, Haldeman told the President that Dean was "one of the quiet guys that gets a lot done," the type of person who "enables other people to gain ground while he's making sure that you don't fall through the holes."

[*After Dean arrived, the President said to him:*]

> Well, the whole thing is a can of worms. As you know, a lot of this stuff went on. And, uh, and, uh, and the people who worked [unintelligible] awfully embarrassing. And, uh, and, the, uh, but the, but the way you, you've handled it, it seems to me, has been very skillful, because you—putting your fingers in the dikes every time that leaks have sprung here and sprung there. [Unintelligible] having people straighten the [unintelligible]. The Grand Jury is dismissed now?

Dean spoke of problems that might lie ahead,r emarking that some bitterness and internal dissension existed in CRP. The President stated:

> PRESIDENT: They should just, uh, just behave and, and, recognize this, this is, again, this is war. We're getting a few shots and it'll be over. And, we'll give them a few shots. It'll be over. Don't worry [Unintelligible] I wouldn't want to be on the other side right now. Would you?

In a discussion on ways to get even with those who had made an issue of Watergate, the President said, "I want the most, I want the most comprehensive notes on all those that have tried to do us in. Because they didn't have to do it. . . . I mean if . . . they had a very close election everybody on the other side would understand this game. But now they are doing this quite deliberately and they are asking for it and they are going to get it."

Dean then turned to the Patman (House Banking and Currency Committee) hearings. He identified the hearings as another potential problem "now that the indictments are down." He was uncertain of success in "turning that off."

After the September 15, 1972 meeting, and a consultation with Haldeman, Dean took the necessary steps to implement the President's decision to stop the [*House Banking and Currency Committee*] hearings.

All of this was part of the President's plan to delay, impede, and obstruct the investigation of the Watergate break-in, to cover up, conceal and protect those responsible, and to conceal the existence and scope of other unlawful covert activities. Through the election the plan worked, but then it faced new threats, one of which was Hunt's demands for money. Although a program of payments had commenced shortly after the break-in, Hunt's demands escalated as his trial approached.

Payments

I

Payments Prior to Election

Before the Watergate break-in, Gordon Liddy had given Howard Hunt $10,000 to use in case of need. Hunt had placed the money in a safe in his EOB office. Immediately after the arrests at the Watergate, Hunt went to his office and withdrew the money. In the early morning hours following the break-in, Hunt delivered the money on behalf of those arrested to Douglas Caddy, an attorney who had agreed to represent the Watergate defendants.

On June 20 or 21, 1972, Liddy told LaRue and Mardian that promise of bail money, support and legal assistance had been made to the defendants, and that Hunt felt it was CRP's obligation to provide bail money to get the five men out of jail. Liddy also told LaRue and Mardian of his and Hunt's prior involvement in the Fielding break-in, and of Hunt's interview with Dita Beard, in the ITT matter.

Mardian and LaRue reported to Mitchell on Liddy's request for money. They also transmitted to Mitchell Liddy's statement that he, Hunt and two of those arrested had also participated in the Fielding break-in. Mitchell told Mardian that no bail money would be forthcoming.

Between June 26 and 28, 1972, after discussions with Mitchell and Ehrlichman, Dean met twice with CIA Deputy Director Walters, to ask that the CIA provide bail and salaries for the arrested men. Walters rejected this request.

On June 28, 1972, Haldeman and Ehrlichman directed Dean to contact Herbert Kalmbach, President Nixon's personal attorney and political fundraiser, to ask Kalmbach to raise funds for the Watergate deefndants. Kalmbach flew to Washington that night; the following morning he met with Dean and LaRue to discuss procedures for making payments. Kalmbach theratfer transferred to Anthony Ulasewicz campaign donations he had received in cash from CRP officials, Stans and LaRue, and from a private contributor. Kalmbach had told the private contributor that he could not reveal the use intended for the contribution.

Between July 7, 1972 and September 19, 1972, Kalmbach directed Ulasewicz

to make payments totalling $187,500 for the Watergate defendants. Ulasewicz made the deliveries by sealing cash in unmarked envelopes and leaving the envelopes at various drops such as airport lockers. In communicating with each other, Ulasewicz, Kalmbach, LaRue and the recipients of the payments used aliases. Soon Kalmbach became concerned about the covert assignment. On July 26, 1972, he met with Ehrlichman, who assured him that they, while the money payments were necessary and legally proper, they had to be kept secret.

In September, 1972, Kalmbach told Dean and LaRue that he could "do no more." Kalmbach transferred the remainder of the funds to LaRue, met with Dean and LaRue in Dean's office to report on the total payments, and then put his notes of the payments in Dean's ash tray and burned them.

II
Payments for Hunt Prior to March 21, 1973

From the outset, Hunt made demands for others and for himself. During the summer and fall of 1972, prior to the November election, Hunt received payments amounting to over $200,000 for other defendants and for himself.

In late November, 1972, Dean reported to Haldeman the need for additional funds to pay the defendants. At that time, Haldeman had control of a cash fund of $328,000, the remainder of $350,000 in campaign funds which he had ordered placed under his control in February, 1972. After Dean informed Haldeman of CRP's need for money for the Watergate defendants, Haldeman approved the transfer of the fund. In late November, 1972, Butterfield picked up the cash and delivered it to Strachan. On Haldeman's orders, in December Strachan delivered between $40,000 and $70,000 to LaRue, who handled the cash with rubber gloves and refused to furnish Strachan with a receipt. Shortly thereafter, LaRue delivered $40,000 in cash to Hunt's attorney. In January, 1973, Hunt made additional demands for money. At Haldeman's direction, Strachan delivered the remainder of the funds to LaRue.

Prior to March 21, 1973, LaRue disbursed $132,000 from the fund for the defendants, including $100,000 to Hunt's attorney, William Bittman.

On February 28, 1973, the President acknowledged to Dean his knowledge of Kalmbach's role in providing money to Hunt. Dean told the President that the Senate Select Committee had subpoenaed Kalmbach's records, but that Kalmbach was "hunkered down" and "ready to handle it." The President replied that "it'll be hard for him, he—, 'cause it'll, it'll get out about Hunt." The only connection between Kalmbach and Hunt was the clandestine payments.

On either March 16 or 19, 1973, Hunt told Paul O'Brien, an attorney for CRP, that he required $130,000 before being sentenced. Hunt said he had done "seamy things" for the White House and that if he were not paid he might have to reconsider his options. O'Brien conveyed Hunt's message to Dean. Dean told O'Brien that both of them were being used as conduits in an obstruction of justice, that he, Dean, was tired of being caught in the middle, and that he had no intention of being so used. Dean added that he was out of the money business. At 3:30 p.m. on March 20, 1973, Dean and Ehrlichman discussed Hunt's demand for money and the possibility that Hunt would reveal the activities of the Plumbers, and tell some seamy things about Ehrlichman, if the money were not paid. Ehrlichman then left Dean in order to see the President. From 1:26 to 5:30 p.m. the President and Ehrlichman met.

On the evening of March 20, 1973, the President telephoned Dean. Dean told the President he had spoken with Ehrlichman that afternoon, before Ehrlichman met with the President. Dean said, "I think that one thing that we have to continue to do, and particularly right now, is to examine the broadest, broadest implications of this whole thing and, you know, maybe about 30 minutes of just my recitation to you of facts so that you operate from the same facts that everybody else has." The President agreed to meet with Dean the following morning.

III
March 21, 1973, Morning Meeting

On the morning of March 21, 1973, Dean met with the President for almost two hours. Dean told the President about payments to the Watergate burglars. He said that the payments had been made for purposes of "containment," that this activity constituted an obstruction of justice, and that, in addition to Dean, the President's Chief of Staff Haldeman, Domestic Advisor Ehrlichman, and Campaign Director Mitchell were all involved.

The President did not express either surprise or shock. He did not condemn the payments or the involvement of his closest aides. He did not direct that the activity be stopped. He did not report it to the proper investigative agencies. He showed concern about criminal liability of the White House personnel. He indicated familiarity with the payment scheme, and an awareness of some details—such as the use of a Cuban Committee.

DEAN. Uh, Liddy said, said that, you know, if they are got counsel instantly and said that, you know, "We'll, we'll ride this thing out." All right, then they started making demands. "We've got to have attorneys' fees. Uh, we don't have any money ourselves, and if—you are asking us to take this through the election." All right, so arrangements were made through Mitchell, uh, initiating it, in discussions that—I was present—that these guys had to be taken care of. Their attorneys' fees had to be done. Kalmbach was brought in. Uh, Kalmbach raised some cash. Uh, they were ov—, uh, you know.

PRESIDENT. They uut that under the cover of a Cuban Committee or [unintelligible] trip to Chicago.

DEAN. Yeah, they, they had a Cuban Committee and they had—some of it was given to Hunt's lawyer, who in turn passed it out. This, you know, when Hunt's wife was flying to Chicago with ten thousand, she was actually, I understand after the fact now, was going to pass that money to, uh, one of the Cubans—to meet him in Chicago and pass it to somebody there.

PRESIDENT. [Unintelligible]. Maybe —Well whether it's maybe too late to do anything about it, but I would certainly keep that, [laughs) that cover for whatvr it's worth.

DEAN. I'll—

PRESIDENT. Keep the Committee.

DEAN. Af—,after, well, that, that, that's

PRESIDENT. [Unintelligible]

DEAN. the most troublesome postthing, uh, because (1) Bob is involved in that, John is involved in that, I am involved in that; Mitchell is involved in that. And that's an obstruction of justice.

PRESIDENT. In other words the fact that, uh, that you're, you're, you're taking care of witnesses.

DEAN. That's right. Uh,

PRESIDENT. How was Bob involved?

DEAN. well, th—, they ran out of money over there. Bob had three nundred and fifty thousand dollars in a safe over here that was really set aside for polling purposes. Uh, and there was no other source of money, so they came over here and said, "You all have got to give us some money."

PRESIDENT Right.

DEAN. I had to go to Bob and say, "Bob, you know, you've got to have some—they need some money over there." He said, "What for?" And so I had to tell him what it was for 'cause he wasn't about to just send money over there willy-nilly. And, uh, John was involved in those discussions, and we decided, you know, that, you know, that there was no price too high to pay to let this thing blow up in front of the election.

PRESIDENT. I think you should handle that one pretty fast.

DEAN. Oh, I think—

PRESIDENT. That issue, I mean.

DEAN. I think we can.

PRESIDENT. So that the three-fifty went back to him. All it did was—

DEAN. That's right. I think we can too.

PRESIDENT. Who else [unintelligible]?

DEAN. But, now, here, here's what's happening right now.

PRESIDENT. Yeah.

Dean then turned to the crisis precipitated by Hunt's demands. Dean explained that these demands, and possibly others, could amount to a million dollars over the next two years. The President said that $1 million could be gotten and said it could be obtained in cash.

The problem was exactly how to avoid disclosure of the source of the money and its use. The President considered various possibilities.

DEAN. . . . .Now, where, where are the soft spots on this? Well, first of, all, there's the, there's the problem of continued blackmail

PRESIDENT. Right.

DEAN. which will not only go on now, it'll go on when these people are in prison, and it will compound the obstruction of justice situation. It'll cost money. It's dangerous. Nobody, nothing—people around here are not pros at this sort of thing. This is the sort of thing Mafia people can do: washing moneay, getting clean money, and things like that, uh—we're—We just don't know about those things,

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because we're not used to, you know —we are not criminals and not used to dealing in that business. It's, uh, it's, uh—

PRESIDENT. That's right.

DEAN. It's a tough thing to know how to do.

PRESIDENT. Maybe we can't even do that.

* * *

PRESIDEN. Let me say, there shouldn't be a lot of people running around getting money. We should set up a little—

DEAN. Well, he's got one person person doing it who I am not sure is—

PRESIDENT. Who is that?

DEAN. He's got Fred LaRue, uh, doing it. Now Fred started out going out trying to

PRESIDENT. No.

DEAN. solicit money from all kinds of people. Now I learned about that, and I said,

PRESIDENT. No.

DEAN. "My God."

PRESIDENT. No.

DEAN. "It's just awful. Don't do it?"

DEAN. "It's just awful. Don't do it."

PRESIDENT. Yeah.

DEAN. Uh, people are going to ask what the money is for. He's working He's apparently talked to Tom Pappas.

PRESIDENT. I know.

DEAN. And Pappas has, uh, agreed to come up with a sizable amount, I

gather, from, from

PRESIDENT. Yeah.

DEAN. Mitchell.

PRESIDENT. Yeah. Well, what do you need, then? You need, uh, you don't need a million right away, but you need a million. Is that right?

DEAN. That's right.

Use of 'Cuban Committee'

PRESIDENT. You need a million in cash, don't you? If you want to put that through, would you put that through, uh—this is thinking out loud here for a moment—would you put that through the Cuban Committee?

DEAN. Um, no.

PRESIDENT. Or would you just do this through a [unintelligible] that it's going to be, uh, well, it's cash money, and so forth. How, if that ever comes out, are you going to handle it? Is the Cuban Committee an obstruction of justice, if they want to help?

DEAN. Well, they've got a pr—, they've got priests, and they—

PRESIDENT. Would you like to put, I mean, would that, would that give a little bit of a cover, for example?

DEAN. That would give some for the Cubans and possibly Hunt.

PRESIDENT. Yeah.

DEAN. Uh, then you've got Liddy, and McCord is not, not accepting any money. So, he's, he is not a bought man right now.

PRESIDENT. Okay.

This discussion primarily concerned payments over the long term. There remained the immediate demand by Hunt for approximately $120,000. The President said that Hunt's demands should be met. At the very least, he reasoned, the payment would buy time.

PRESIDENT. Well, your, your major, your major guy to keep under control is Hunt.

DEAN. That's right.

PRESIDENT. I think. Because he knows.

DEAN. He knows so much.

PRESIDENT. About a lot of other things.

DEAN. He knows so much. Right. Uh, he could sink Chuck Colson. Apparently, apparently, he is quite distressed with Colson. He thinks Colson has abandoned him. Uh. Colson was to meet with him when he was out there, after, now he had left the White House. He met with him through his lawyer. Hunt raised the question: he wanted money. Colson's lawyer told him that Colson wasn't doing anything with money, and Hunt took offense with that immediately, that, uh, uh, that Colson had abandoned him. Uh—

PRESIDENT. Don't you, just looking at the immediate problem, don't you have to have—handle Hunt's financial situation.

DEAN. I, I think that's,

PRESIDENT. Damn soon?

DEAN. that is, uh, I talked to Mitchell about that last night,

PRESIDENT. Mitchell.

DEAN. and, and, uh, I told—

PRESIDENT. Might as well. May have the rule you've got to keep the cap on the bottle that much,

DEAN. That's right; that's right.

PRESIDENT. in order to have any op[illegible]s.

DEAN. That's right.

PRESIDENT. Either that or let it all blow right now.

DEAN. Well that. you know, that's the, that's the question. Uh—

PRESIDENT. Now, go ahead. The others. You've got Hunt;

* * *

PRESIDENT. But at the moment, don't you agree that you'd better get the Hunt thing? I mean, that's worth it, at the moment.

DEAN. That, that's worth buying time on, right.

PRESIDENT. And that's buying time on, I agree.

The President instructed Dean to summon Haldeman, Ehrlichman, and Mitchell to meet for a discussion of a strategy to carve matters away from the President. The President then called Haldeman into the meeting. When Haldeman entered the Oval Office, the President repeated his authorization of immediate payment to Hunt. The President said, "His price is pretty high, but at least, uh, we should buy the time on that, uh, as I, as I pointed out to John." The President instructed Dean and Haldeman to lie about the arrangements for payment to the defendants.

Hunt's Demand Considered

PRESIDENT. As far as what happened up to this time, our cover there is just going to be the Cuban Committee did this for them up through the election.

DEAN. Well, yeah. We can put that together. That isn't, of course, quite the way it happened, but, uh—

PRESIDENT. I know, but it'sthe way it's going to have to happen.

The President then returned to Hunt's demand:

PRESIDENT. That's why your, for your immediate thing you've got no choice with Hunt but the hundred and twenty or whatever it is. Right?

DEAN. That's right.

President. Would you agree that that's a buy time thing, you better damn well get that done, but fast?

DEAN. I think he ought to be given some signal, anyway, to, to—

PRESIDENT. Yes.

DEAN. Yeah—You know.

PRESIDENT. Well for Christ's sakes get it in a, in a way that, uh—Who's, who's going to talk to him? Colson? He's the one who's supposed to know him.

DEAN. Well, Colson doesn't have any money though. That's the thing. That's been our, one of the real problems. They have, uh, been unable to raise any money. A million dollars in cash, or, or the like has been a very difficult problem as we discussed before.

After discussing how Hunt could incriminate Mitchell, Ehrlichman and Krogh, the President again returned to Hunt's demand:

PRESIDENT. That's right. Try to look around the track. We have no choice on Hunt but to try to keep him—

DEAN. Right now, we have no choice.

IV
March 21, 1973
Payments for Hunt

On March 21, 1973, Dean told LaRue by telephone that he was out of the money business and to talk to Mitchell. LaRue telephoned Mitchell, who authorized the payment to Hunt. Late that evening, LaRue arranged the delivery of $75,000 to Bittman.

President Nixon, knowing that Hunt had made threats to brake his silence in order to secure money, encouraged the payment to Hunt and took no steps to stop the payment from being made.

On the next day, March 22, 1973, Mitchell told Haldeman, Ehrlichman and Dean that Hunt was not a "problem any longer." Later that day, Ehrlichman told Krogh that Hunt was stable and would not disclose matters. That afternoon, the President met for more than 90 minutes with Mitchell, Haldeman, Ehrlichman and Dean. Hunt's demand for money was never discussed and the President did not attempt to determine whether anything had been done to deal with the problem that had occupied so much of his time the previous day.

On March 27, 1973, the President and Haldeman talked about payments to Hunt. "Hunt is at the Grand Jury today." Haldeman said. 'We don't know how far he is going to go. The danger area for him is on the money, that he was given money. He is reported by O'Brien, who has been talking to his lawyer, [illegible] today as he was yesterday but to still be on the brink, or at least shaky. What's made him shaky is that he's seen McCord bouncing out there and probably walking out scot free."

On April 16, 1973, the President and Dean again discussed the Hunt demand. Dean said that Mitchell had told him, Haldeman and Ehrlichman, on March 22, 1973, that the problem with Hunt had been solved. The President expressed his satisfaction it had been solved "at the Mitchell level." He also said, "I am planning to assume some culpability on that [unintelligible]."

On April 8, 1973, Dean, and on April 13, 1973, Magruder, began meeting with the prosecutors. On the afternoon of April 17, 1973, Haldeman pointed out to the President that one problem was that people would say the President should have told Dean on March 21, 1973, not that the blackmail was too costly, but that it was wrong.

In mid-April, 1973, the President tried to diminish the significance of his March 21 conversation with Dean. He tried to make the payments appear innocent and within the law. On April 14, 1973, the President instructed Haldeman and Ehrlichman to agree on the story that payments were made, not "to obstruct justice," but to "help" the defendants.

This evidence clearly establishes that pursuant to the President's plan of concealment, surreptitious payments of substantial sums of money were made to the Watergate defendants for the purpose of obtaining their silence and influencing their testimony. The evidence also clearly establishes that when the President learned that Hunt was going to talk unless paid a substantial sum of money, and that Mitchell and LaRue were in a position to do something about Hunt's demand he approved of the payment to Hunt rather than taking steps to stop it from being made.

Favored Treatment of Defendants and Prospective Defendants

I
Discussions of Clemency for Hunt

On January 3, 1973, Colson, Dean and Ehrlichman discussed the need to reassure Hunt about the amount of time he would have to spend in jail. Subsequently, on April 14, 1973, Ehrlichman reported his conversation with Colson to the President. "[Colson] said. 'What can I tell [Hunt] about clemency.' And I said 'Under no circumstances should this ever be raised with the President.'"

On January 3, 1973, Colson said he wanted to speak to the President regarding Hunt. Dean testified that Colson told him on January 5, 1973, that he had spoken with the President about clemency for Hunt. The President told Haldeman and Ehrlichman on April 14, 1973, that he had had a conversation with Colson about clemency for Hunt.

II
President's Recollection of Clemency Discussions

On February 28, March 21 and April 14, 1973, the President spoke of his recollection of a discussion of clemency

for Hunt. On February 28, 1973, speaking to Dean about the Watergate defendants' expectations of clemency, the President asked, "What the hell do they expect, though? Do they expect that they will get clemency within a reasonable time?" Dean said that he thought they did. The President asked whether clemency could be granted "in six months." Dean replied that it could not because, "This thing may become so political."

On March 21, 1973, after Hunt had increased his demands for money, Dean told the President that Caulfield had spoken about commutation with McCord. Dean added, "as you know Colson has talked to, indirectly to Hunt about commutation."

After Haldeman joined the meeting, the President said, "You know Colson has gone around on this clemency thing with Hunt and the rest." Dean added, "Hunt is now talking in terms of being out by Christmas."

On April 14, 1973, the President acknowledged that, contrary to Ehrlichman's direction, Colson had in fact raised with him the question of clemency in a tangential way. The President said: "As I remember a conversation this day was about five thirty or six o'clock that Colson only dropped it in sort of parenthetically, said I had a little problem today, talking about Hunt, and said I sought to reassure him, you know, and so forth. And I said, Well. Told me about Hunt's wife. I said it was a terrible thing and I said obviously we will do just, we will take that into consideration. That was the total of the conversation."

In the conversations on March 21 the President acknowledged his predicament on the issue of clemency for Hunt; the President feared that any action that seemed to Hunt a repudiation of assurance of clemency would lead Hunt to "blow the whistle." On the other hand, the President was aware that clemency for Hunt by Christmas 1973, would be politically impossible because it would require direct and public action by the President.

Although the President knew Hunt was relying on a belief he would get a pardon, the President did not authorize or intimate to anyone to tell Hunt that a pardon would not be possible.

III
Mitchell, Magruder and Dean

The President considered clemency not only for the seven Watergate burglars, but also for three of his closest associates, Mitchell, Magruder and Dean, who were involved in the cover-up.

By the middle of April, 1973, the President knew that the cover-up was threatened by Magruder and Dean, who were talking to the prosecutors. On April 14, 1973, the President directed Haldeman and Ehrlichman to imply to Magruder, and also to Mitchell who had been implicated by Magruder, the President's assurances of clemency. The President carefully explained how he wanted Haldeman and Ehrlichman to handle these assurances.

On the evening of April 14, 1973, the President telephoned Ehrlichman. They discussed how Ehrlichman might divert Dean from implicating Haldeman and Ehrlichman. Ehrlichman said he would see Dean the next day. The President told Ehrlichman to remind Dean indirectly that only one man, the President, had the power to pardon him, and keep him from disbarment as a lawyer, if things should go wrong.

IV
April 16, 1973, Meeting

On April 16, 1973, after Dean begun meeting with the prosecutors, the President and Dean discussed potential charges of obstruction of justice against members of the President's White House staff. The President tried to make the Hunt clemency assurance the responsibility solely of Mitchell. Dean, however, corrected him.

Deception and Concealment

I
False Representations About Official Investigations

In his public statements, as part of the continuing cover-up the President repeatedly said that he had ordered, and even personally undertaken, thorough investigations of the Watergate matter, and that those investigations determined that no one from the White House was involved. The President said he had ordered three investigations by his immediate staff: two in August, 1972, and March, 1973, by Dean; and one in April, 1973, by Ehrlichman. He said his intention was to get to the bottom of the matter, and get the truth out. However, clear and convincing evidence indicates that this was not the case.

A. The August 1972 Dean Investigation

On August 29, 1972, at a news conference, President Nixon said that in addition to investigations into Watergate by the Department of Justice, the FBI, the GAO and the Banking and Currency Committee, John Dean had conducted an investigation under the President.

At the time President Nixon made those statements he knew that Dean had not made or reported any such investigation.

According to White House records, the President had not met or spoken with Dean since before the break-in. Dean testified that he first heard of his "complete" investigation in the President's announcement. No independent evidence exists that such an investigation was ever completed or undertaken.

On September 15, 1972, more than two weeks after the August 29, 1972 press conference, the President and Dean first discussed Watergate. Before Dean entered the room, Haldeman told the President it had been "a good move . . . bringing Dean in"; that Dean, while "he'll never again gain any ground for us . . . enables other people to gain ground while he's making sure that you don't fall through the holes."

When Dean joined the meeting, the President referred to the Watergate matter as a can of worms," and congratulated Dean for "putting your fingers in the dikes every time that leaks have sprung there." The President also said, "So you just try to button it up as well as youc an and hope for the best."

In his March 21, 1973, morning meeting with Dean the President confirmed that(in the summerof 1972, Dean was directed to help with the cover-up, not to conduct a "complete investigation."

DEAN. . . . Now, [sighs], what, what has happened post-June 17? Well, it was, I was under pretty clear instructions [laughs] not to reallly to investigate this, that this was something that just could have been disastrous on the election if it had—all hell had broken loose, and I work on a theory of containment.

PRESIDENT. Sure.

DEAN, to try to hold it right where it was.

PRESIDENT. Right.

Later in the conversation, the President said "you had the right plan let me say, I have no doubts about the right plan before the election. And you handled it just right. You contained it."

B. The March 1973 Dean Report

In a public statement on August 15, 1973, President Nixon said: "On March 23 [1973], I sent Mr. Dean to Camp David, where he was instructed to write a complete report on all he knew of the entire Watergate matter."

The "report" that President Nixon had, in fact, requested Dean to make in March, 1973, was one intended to mislead official investigators and to conceal the President's complicity in the cover-up. In a March 20, 1973, telephone conversation, the President told Dean to "make it very incomplete."

P But you could say, "I have this and this is that." Fine. See what I am getting at is that, if apart from a statement to the Committee or anything else, if you could just make a statement to me that we can use. You know, for internal purposes and to answer questions, etc.

D As we did when you, back in August, made the statement that—

P That's right.

D And all the things —

P You've got to have something where it doesn't appear that I am doing this in, you know, just in a—saying to hell with the Congress and to hell with the people, we are not going to tell you anything because of executive privilege. That, they don't understand. But if you say. "No, we are wiling to cooperate," and you've made a complete statement, but make it very incomplete. See, that is what I mean. I don't want a, too much in chapter and verse as you did in your letter. I just want just a general—

D An all around statement.

P That's right. Try just something general. Like 'I have checked into this matter: I can categorically, based on the other thing. Mr. Colson did not do this; Mr. So and So did not do this. Mr. Blank ddi not do this." Right down the line, taking the most glaring things. If there are any further questions, please let me know. See?

D Uh. huh. I think we can do that.

On the afternoon of March 21, 1973, after Dean had discussed with the President the involvement of White House staff in perjury, payments to the defendants "promises" of executive clemency for Hunt and the potential criminal liability of Haldeman, Ehrlichman, Colson, Dean, Magruder, Mitchell, Strachan, Krogh and Chapin, the President met with Ehrlichman, Haldeman and Dean. The President repeated his instructions about the "report."

PRESIDENT. . . . Uh, if you as the White House Conusel, John, uh, on direction—uh, I ask for a, a written report, which I think, uh, that—which is very general, understand. Understand, [laughs] I don't want to get all that God damned specific. I'm thinking now in far more general terms, having in mind the fact that the problem with a specific report is that, uh, this proves this one and that one that one, and you just porve something that you didn't do at all. But if you make it rather general in terms of my—your investigation indicates that this mand did not do it, this man did not do it, this man did do that. . . .

C. The Ehrlichman Report

At a press conference on September 5, 1973, President Nixon said that when he realized that John Dean would not be able to complete his report at Camp David, he assigned John Ehrlichman to conduct a "thorough investigation" to get all the facts out.

The "report" Ehrlichman had been asked to prepare in April, 1973, was part of a "scenario" designed to prevent disclosure of the President's complicity in the cover-up and to explain the President's lack of response to Dean's information of March 21, 1973. The President also wanted the "report" to give him credit for disclosing facts about to be revealed by potential defendants (La Rue, Dean, Magruder) to the United States attorneys and the grand jury, in spite of his own attempts to prevent those disclosures. Since Dean had told the President on March 21, 1973, of Ehrlichman's complicity in an obstruction of justice, and of his potential criminal liability for the break-in at the office of Ellsberg's psychiatrist, the fact that the President appointed Ehrlichman to make an "investigation" is, in itself, evidence of the President's direction of, and complicity in, the cover-up.

By mid-April, 1973, Magruder and Dean were meeting with United States attorneys. On April 14, 1973 the President met with Haldeman and Ehrlichman at 8:55 a.m. Ehrlichman told the President that Colson had reported that, since there was no longer any point in remaining silent, Hunt hed decided to testify; and that Hunt's testimony would lead to the indictment of Magruder and Mitchell. Ehrlichman suggested that the President could put pressure on Mitchell to accept full responsibiilty for the Watergate affair by telling iMtchell that Ehrlichman's "report," which was never prepared, already showed his guilt.

E I'm essentially convinced that Mitchell will understand this thing.

P Right.

E And that if he goes in it redounds to the Administration's advantage. If he doesn't then we're—

P How does it redound to our advantage?

E That you have a report from me based on three week's work; that when you got it, you immediately acted to call Mitchell in as the provable wrongdoer, and you say, "My God. I've got a report here. And it's clear from this report that you are guilty as hell. Now, John, for (expletive deleted) sake go on in there and do what you should. And let's get this thing cleared up and get it off the country's back, and move on." And—

H Plus the other side of this is that that's the only way to beat it now.

The President's hope was that this scheme to "nail" iMtchell, the "big fish," the "big enchilada," would "take a lot of the fire out of this thing on the cover-up" and that, as Ehrlichman told the President, the prosecutors "would certainly be diverted."

'Making a Record'

At 2:24 p.m. on April 14, the President met with Haldeman and Ehrlichman. Ehrlichman said that he saw no purpose in seeing Magruder. Haldeman added that "Magruder is already going to do what John is going to tell him to do. . . ." The President reminded Haldeman and Ehrlichman, however, that, "Our purpose, as I understood it—what I mean Bob, was for making a record."

Two days later, on April 16, 1973, after the President had learned the substance of Dean's disclosure to the prosecutors the President directed Ehrlichman to prepare "a scenario with regard to the President's role. . . ." "Otherwise," Ehrlichman said, "the Justice Department will, of course, crack this whole thing."

From 10:00 to 10:40 A.M. on April 16, the President met with Dean. The President asked Dean to think about how to handle things "[so] that the President is in front. . . ." Dean agreed to give the President some notes. The President said, "The record. Here's what I've done. Here's what Ive done, and what you think the President ought to do and when—you see what I mean?"

In another meeting with Ehrlichman and Haldeman at 10:50 A.M., the President asked how the "scenario" had worked out. Haldeman replied:

H Well, it works out very good. You became aware sometime ago that this thing did not parse out the way it was supposed to and that there were some discrepancies between what you had been told by Dean in the report that there was nobody in the White House involved, which may still be true.

P Incidentally, I don't think it will gain us anything by dumping on the Dean Report as such.

E No.

P What I mean is I would say I was not satisfied that the Dean Report was complete and also I thought it was my obligation to go beyond that to people other than the White House.

E Ron has an interesting point. Remember you had John Dean go to Camp David to write it up. He came down and said, "I can't."

P Right.

E That is the tip off and right then you started to move.

P That's right. He said he could

The New York Times

Richard M. Nixon bidding farewell to his staff on Aug. 9, 1974. Behind him are David Eisenhower and his wife, Julie.

not write it.

H Then you realized that there was more to this than you had been led to believe. (unintelligible)

P How do I get credit for getting Magruder to the stand?

E Well it is very simple. You took Dean off of the case right then.

H Two weeks ago, the end of March.

P That's right.

E The end of March. Remember that letter you signed to me?

P Uh, huh.

E 30th of March.

P I signed it. Yes.

E. Yes, sir, and it says Dean is off of it. I want you to get into it. Find out what the facts are. Be prepared to—

Ehrlichman suggested that the President say that after Dean was taken off, "we started digging into it," "[y]ou began to move," and that it all "culminated last week." The "culmination" was to be when Mitchell, Magruder and Strachan were "brought in."

No Proof of Letter

Ehrlichman later testified that he had not conducted an investigation. He delivered to the SSC some notes of interviews but nothing that could constitute a report. No letter from the President saying "Dean is off of it," as suggested in the "scenario" to the President on April 16, 1973, has ever been produced. There is no evidence that any such letter existed.

Ehrlichman never mentioned his assignment to Acting FBI Director Gray. Although they spoke at least twice in early April, Ehrlichman did not discuss his inquiry with Attorney General Kleindienst until April 14, 1973. On April 14, 1973, when Ehrlichman did speak with Kleindienst, he said he had very little to add to what Magruder had already given the United States Attorney. He said that Magruder had implicated people up and down in CRP. When Kleindienst asked whom Magruder had implicated besides Mitchell, Ehrlichman answered Dean, LaRue, Mardian and Porter. He did not mention Colson or Strachan.

II
Perjury by White House and CRP Officials

To continue the cover-up, White House and CRP officials lied under oath.

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Some witnesses told untrue stories. Others untruthfully said they could not recall certain facts.

The first distinct phase in which the President, his White House staff and CRP officials, including Porter and Mitchell, Strachan, and Magruder, made false and misleading statements to further the cover-up was from June, 1972, to March, 1973. It is uncontested that on March 13 the President was informed of Strachan's perjury and on March 21 of Magruder's and Porter's perjury.

The second phase of false statements to further the cover-up began near the end of March, 1973, with the recon vening of the Watergate Grand Jury.

Some of this testimony was given at the direction of the President. On March 21, 1973, the President told Dean and Haldeman "[j]ust be damned sure you say I don't . . . remember; I can't recall, I can't give any honest, an answer to that that I can recall. But that's it."

There is no evidence that when the President learned of perjury, false statements or failure to recall, or other false statements, on the part of his staff, he condemned such conduct, instructed that it be stopped, dismissed the responsible members of his staff, or reported his discoveries to an appropriate authority. The evidence before the Committee shows, on the contrary, that the President directed this conduct, condoned it, approved it, rewarded it, and in some instances specifically instructed witnesses on how to mislead investigators.

1. Strachan

From the time of the break-in, Strachan, who was Haldeman's liaison with CRP could link Haldeman with approval of the Liddy Plan. On March 13, 1973, Dean informed the President that Strachan had falsely denied White House involvement soon after the break-in, and that Strachan planned to stonewall again.

2. Magruder and Porter

An explanation was necessary for CRP's payment of $250,000 to Liddy. Magruder invented the story that the Liddy Plan contemplated only legitimate intelligence activities. He enlisted his assistant Porter to corroborate this untruthful testimony. Magruder worked on his false story with Dean and discussed it with Mitchell. Magruder and Porter lied to the FBI in July 1972, and committed perjury before the Grand Jury in August 1972, and at the trial of the Watergate defendants in January 1973.

Whether or not the President knew of Magruder's perjury before March 21, 1973, there is no doubt that on that date Dean told the President that Magruder and Porter had committed perjury.

The President did not act on this information, did not pursue it, did not convey it to the Department of Justice.

III
Statements To Cover Up the Cover-up

In late March, 1973, the President was told by his assistants that the cover-up was threatened from various directions. On March 21, 1973, there was Hunt's immediate demand, which the President believed could be satisfied in cash. But there was also Hunt's expectation of clemency, which Dean advised the President would be politically impossible to fulfill; the President agreed. On April 14, 1973, the President, Haldeman and Ehrlichman discussed their anxiety that Hunt had changed his mind and would talk to the prosecutors about payments and offers of clemency. Another threat to the cover-up was McCord's letter to Judge Sirica and the decision to reconvene the Grand Jury. A third threat was posed by potential disclosures on the part of key subordinates involved in the Watergate cover-up.

Faced with a disintegrating situation, the President, after March 21, 1973, assumed an operational role in the detailed management of the cover-up. He knew of the previous untruthful testimony of his aides and of his own false public statements.

1. Magruder

On March 23, 1973, Judge Sirica read in open court a letter from James McCord charging that witnesses had committed perjury in his trial, and that more people than the seven original defendants were involved in Watergate. In meetings with Haldeman and Ehrlichman, the President developed a strategy to implicate Mitchel land to conceal the complicity of the President and his closest White House aides. The President reasoned that, in exchange for a promise of immunity, Magruder would limit his disclosure to his own complicity and Mitchell's.

On April 13, 1973 Magruder started talking to the prosecutors. Haldeman's principal assistant, Lawrence Higby, called Magruder and confronted him with reports that he had implicated Haldeman in the Watergate break-in. Higby recorded the conversation. He told Magruder that it was not in Magruder's long or short range interest to blame the White House. Higby said he could not believe Magruder would implicate Haldeman, who "has brought you here." Magruder said that Strachan had not specifically told him that Haldeman wanted the Liddy Plan approved. On the morning of April 14, 1973, Haldeman reported this conversation to the President. Haldeman said that Higby had handled it skillfully and that the recording made by Higby "beats the socks off" Magruder if he ever "gets off the reservation." The President had known as early as March 21, 1973, that he could not count on Magruder. On April 14, 1973, the President concurred when Ehrlichman described Magruder as an "emotional fellow ready to crack." The President instructed Ehrlichman to meet with Magruder for the purpose of making a record. Later that day, Haldeman said in the presence of the President, that Magruder should be asked to repeat what he told Higby and that Ehrlichman should say, "Good."

2. Strachan

If Magruder were to admit having committed perjury and were to cooperate fully with the United States Attorney, Strachan's prior knowledge of the DNC bugging would be revealed, and this would implicate Haldeman. At an afternoon meeting on April 14, 1973, the President and Haldeman discussed what Strachan's strategy before the Grand Jury should be.

On the night of April 14, 1973, the President telephoned Haldeman. He told Haldeman that before Strachan appeared before the Grand Jury he should be told what Magruder had told the United States Attorneys. The President asked Haldeman if Strachan were smart enough to testify in a way that did not indicate that he knew what Magruder had said. The President also said that Strachan has to be prepared and that Ehrlichman should speak to Strachan and "put him through a little wringer." The President said Ehrlichman should be the one to do it because he was conducting an investigation for the President. On the afternoon of April 16, 1973, Ehrlichman told the President that Strachan had stonewalled, that although the prosecutors "reallly worked him over" and "[d]espite considerable fencing, he refused to discuss the matter and was excused by the prosecutors."

3. Haldeman

On April 25, 1973, the President directed Haldeman to listen to the taped conversation of the March 21, 1973 morning meeting among the President, Dean and Haldeman.

Haldeman subsequently testified before the SSC about the meeting of March 21, 1973, specifically citing the following statement:

(a) That the President said, "[T]here is no problem in raising a million dollars, we can do that, but it would be wrong."

(b) That "there was a reference to his [Dean's] feeling that Magruder had known about the Watergate planning and break-in ahead of it, in other words, that he was aware of what had gone on at Watergate. I don't believe that there was any reference to Magruder committing perjury."

On August 22, 1973, the President said that Haldeman's testimony regarding the President's statements during the conversation was accurate.

4. Ehrlichman

On April 17, 1973, the President met with Haldeman and Ehrlichman and Secretary of State Rogers. After a brief discussion of Haldeman's and Ehrlichman's future, the President spoke of his former personal attorney. Herbert Kalmbach, saying that it was "terribly important that poor Kalmbach get through this thing." The President asked if Dean had called Kalmbach about fundraising. Haldeman replied that Dean had. Ehr-

lichman said that Dean had told Kalmbach what the money was to be used for. The President suggested that Ehrlichman testify otherwise.

5. Colson

On April 14, 1973, Ehrlichman reported to the President about his conversation with Magruder, in which Magruder had told Ehrlichman what he was telling the prosecutors. The President, concerned that Colson would be called before the Grand Jury, instructed Ehrlichman to warn Colson about what Magruder had told the prosecutors.

III
April 30, 1973 Statement

On April 30, 1973, the President addressed the nation about the Watergate investigation.

I was determined that we should get to the bottom of the matter, and that the truth should be fully brought out—no matter who was involved.

This statement, like the President's statement on August 29, 1972, that "we are doing everything we can to investigate this incident and not cover up," was false. The evidence set forth in this section compelled the Committee to conclude that both before and after March 21, 1973, the cover-up was sustained by false public statements by the President assuring that the White House or CRP were not involved, as well as by false statements and testimony by the President's close subordinates, which the President condoned and encouraged and in some instances directed, coached and personally helped to fabricate.

The President's Interference With The Department of Justice Investigation In March and April 1973

I
The New Plan After March 21, 1973

On the morning of March 21, 1973 Counsel to the President John Dean told the President that there was a "cancer" close to the Presidency, which, Dean said, was growing daily. Dean warned that the White House was being blackmailed; and that even people who had not yet committed perjury would soon have to perjure themselves to protect other people. Dean said there was no assurance that the problems could be contained. He spoke of the adoption of the Liddy Plan. He said that in February, 1972, Liddy and Hunt had gone to Colson; that Colson had called Magruder and told him either to "fish or cut bait"; that Colson had "had a damn good idea" what Liddy and Hunt were talking about. Dean said Colson would deny it and probably get away with it unless Hunt talked. The President acknowledged the problem of crinimal liability in the White House.

Dean said that when the Liddy Plan had gotten under way Strachan had started pushing Magruder for information. Magruder had taken that as a signal, and had told Mitchell that the White House was anxiously pushing the plan. Dean said that Haldeman had once instructed Liddy to change his "capability" from Muskie to McGovern.

Dean said that in June, 1972, when he had called Liddy to find out what happened, Liddy had told him that no one in the White House was involved. Liddy said he had been pushed without mercy by Magruder to get more information. Dean said that Magruder had said, "The White House is not happy with what we're getting."

Dean then spoke of the cover-up. Dean said that Magruder and Porter had prepared with him a false story about the purpose of the money spent on the Liddy Plan, and then perjured themselves before the Grand Jury. Dean said he had worked on a theory of "containment" and the President responded, "Sure." Dean said that Colson had told the FBI he had no knoledge concerning the break-in; and that Strachan had been coached before his FBI interview. Dean said Liddy had gone to Attorney General Kleindienst and asked him "to get my men out of jail," but that "this has never comeup."

Payments for Defendants

Dean spoke about payments to the defendants, who had made demands. He said that arrangements had been made through Mitchell to take care of the demands; that Kalmbach had been used and had raised so cash. The President interrupted by asking if that had been put under the cover of a Cuban Committee. He instructed Dean to keep "that cover for whatever it's worth." Dean said Haldeman, Ehrlichman, Mitchell and Dean were involved in the payments and "that's an obstruction of justice," but that they had all decided that there was no price too high to pay to keep the thing from blowing up before the election. When, after the election, they had still needed money, Dean said, Haldeman had released his $350,000 fund with full knowledge of the purpose for which it was to be used.

Dean spoke of clemency. He said that Colson had talked indirectly to Hunt about commutation and that these "promises" and "commitments" were problems. Dean reviewed other potential problems, "soft spots." One was the "continued blackmail," particularly by Hunt, who was now demanding $120,000. Dean said Hunt had threatened to put Ehrlichman in jail for his involvement in the Ellsberg break-in, and that Hunt "could sink Chuck Colson." The President said that the major guy to keep under control was Hunt because he knew about a lot of other things. Another potential problem was the number of people who knew. Dean said that the Cubans Hunt used in the Watergate were the same Cubans used in the Ellsberg break-in. Dean said that the lawyers for the defendants knew, and that some wives knew. Dean said that Krogh had been forced to commit perjury and that he had been haunted by it, and that Kalmbach might find himself in a perjury situation.

After Dean had said all this, the President suggested that it could come down to a criminal case against Haldeman, Dean, Mitchell and Ehrlichman. The President considered steps "to contain it again."

At that point Dean said he was not comfortable. The President said, "You used to feel comfortable." Dean said that they had been able "to hold it for a long time," and the President replied, "Yeah, I know." The President raised the possibility of asking for another grand jury. Dean said some people would have to go to jail and he was bothered about the obstruction of justice. The President said he thought that "could be cut off at the pass." He explained that sometimes "it's well to give them something and then they don't want the bigger fish."

The President and Dean continued to explore ways of avoiding criminal liability for anyone at the White House. Dean told the President that he had been a conduit for information on taking care of people who are guilty of crimes. The President said, "You mean the blackmail," and Dean said, "Right."

When Dean said that before the election there had been some bad judgments, some necessary judgments, but that, faced with the election, there was no way, the President agreed.

When the President and Dean returned to the subject of potential criminal liability—and talked about Ehrlichman's risk, Dean said, "I don't have a plan of how to solve it but we should think in terms of how to cut our losses." The President instructed (1) to stabilize Hunt for the short term; and (2) to get Mitchell down to meet with Haldeman, Ehrlichman and Dean, to discuss the most dangerous problems for the President, e.g., criminal liability of his close subordinates.

Dean told the President that the Grand Jury would reconvene during the next week, and that a lot of these people could be indicted. The President said that if they indicted Bob and the rest "you'd never recover from that" and it would be "better to fight it out instead."

After Haldeman had entered the room, the President instructed him to call Mitchell to Washington to discuss with Haldeman, Ehrlichman and Dean ways of avoiding criminal liability for members of the White House staff. The President was concerned because, as he said, "Bob, let's face it, too many people know."

The President directed that Colson be kept out of the strategy meeting.

At the very beginning of Dean's account, on March 21, 1973, of what he knew of the Watergate break-in and cover-up, when Dean said, "I have the impression that you don't know everything I know," the President interrupted him with the words, "That's right." If the President did not already know what Dean was about to tell him, the reply was inexplicable.

There was a discussion of a new grand jury. The President said a grand jury would give a reason not to have to go before the Senate Select Committee (SSC) and it would look like the President was cooperating. Dean said the problem was that there was no control. At the end of the conversation, the President said it was necessary to have a new plan.

As the President continued to discuss alternatives out of an impossible situation, the President directed Haldeman to have Mitchell come to the White House by the next day. Haldeman said the erosion was now going to the President, and "that is the thing we've got to turn off, at whatever the cost. We've got to figure out where to turn it off at the lowest cost we can, but at whatever costs it takes."

On the afternoon of March 21, 1973, the President again met with Haldeman, Ehrlichman and Dean to continue to discuss Watergate strategy. When the President again suggested the option of various witnesses going before the grand jury without immunity, Ehrlichman replied that such a course of action could lead to very drastic results, ". . . there are awful opportunities for indictment, and, uh So, uh, . . . you end up with people in and out of the White House indicted for various offenses."

On the following day, March 22, 1973, Mitchell came to Washington. The President, Mitchell, Haldeman, Ehrlichman and Dean met and discussed how to avoid criminal liability, how "to protect our people if we can." The President decided on a strategy of continued concealment which Ehrlichman called a "modified limited hang out."

In the course of that meeting the President telephoned Attorney General Kleindienst. He called not to give the Attorney General the information he had received as to the potential criminal liability of his associates, but to instruct Kleindienst to contact Senator Howard Baker, the ranking minority member of the SSC. He asked Kleindienst to be "our Baker handholder," to "baby-sit him, starting in like, like in about ten minutes."

II
Substance of the New Plan

During the rest of March and throughout April the President assumed active command of the cover-up. He, himself, acted time and time again to protect his principal assistants who were the subjects of criminal and congressional Watergate investigations. On March 26, 1973, Watergate Grand Jury proceedings were reopened. In April Magruder and Dean began talking to the prosecutors. During the same period, other political associates and White House subordinates were called before the SSC. The President realized that some disclosures were unavoidable but he tried to monitor, control and distribute information so that these investigations would not result in criminal liability for Haldeman and Ehrlichman, or other members of his personal staff.

III
McCord Letter

On March 23, 1973, Judge Sirica read in open court a letter written by James McCord. The letter charged that political pressures to plead guilty and remain silent had been applied to the defendants in the Watergate trial; that perjury had occurred during the trials and that others involved in the Watergate operation were not identified by those testifying. On the afternoon of March 23, 1973, the President telephoned Acting FBI Director Gray and told him that he knew the beating Gray was taking during his confirmation hearings and he believed it to be unfair. He reminded Gray that he had told him to conduct a "thorough and aggressive investigation." He did not tell Gray any of the facts that he knew about the responsibility for the Watergate burglary and its subsequent cover-up nor did he tell his FBI Director what Dean had told him on March 21, 1973.

On the morning of March 26, 1973, the Los Angeles Times published a story that McCord had told investigators for the Senate Select Committee that Dean and Magruder had prior knowledge of the Watergate break-in. On this morning Haldeman called Dean and asked him his reaction to an announcement that the President was requesting that Dean appear before the Grand Jury without immunity. Dean replied that he would have no problem appearing before the Grand Jury but told Haldeman that his testimony regarding the Liddy Plan meetings would conflict with Magruder's and that there were other areas of concern, including payments to the defendants, the $350,000 White House fund, the Hunt threat, and Colson's talk about helping Hunt. Following this telephone call, the President met with Haldeman. The President then decided to drop his plan to announce that Dean would appear before the Grand Jury. Later that day, Ronald Ziegler, at the instruction of the President, announced publicly that the President had "absolute and total confidence in Dean."

On March 27, 1973, the day after the Watergate Grand Jury was reconvened, the President met for two hours with Haldeman, Ehrlichman, and Ziegler. The President directed Ehrlichman to tell Kleindienst that no White House personnel had prior knowledge of the break-in, but that a serious question had been raised about Mitchell.

IV
Instructions to Ehrlichman Regarding Dean's Role

During a telephone conservation with Ehrlichman on the night of April 14, 1973, the President told Ehrlichman to attempt to persuade Dean, who the President knew was talking with the prosecutors, to continue to play an active role in the formulation of White House strategy regarding Watergate.

April 15, 1973 Meetings With Kleindienst and Petersen

From approximately 1:00 to 5:00 A.M. on the morning of April 15, 1973, the Watergate prosecutors met with Attorney General Kleindienst to apprise him of the new information they had received from Dean and Magruder. Later that day, the Attorney General met with the President in the President's EOB office from 1:12 to 2:22 P.M. Kleindienst reported to the President on the evidence then in the possession of the prosecutors against Mitchell, Dean, Haldeman, Ehrlichman, Magruder, Colson and others. Kleindienst has testified that the President appeared dumb founded and upset when he was told that Administration officials were implicated in the Watergate matter. The President did not tell Kleindienst that he had previously received this information from John Dean.

Later that day, from 4:00 to 5:00 p.m., Petersen and Kleindienst met with the President in the President's EOB office. Petersen reported on the information the prosecutors had received from Dean and Magruder.

Petersen recommended that Haldeman and Ehrlichman be relieved of their responsibilities and that the President request their resignations. The President demurred. The President did not disclose to Petersen the factual information that Dean had discussed with the President on March 21, 1973. He did not tell Petersen that Dean had confessed to obstructing justice and had charged Haldeman and Ehrlichman with complicity in that crime.

On April 15, 1973, after receiving Petersen's report, the President met twice with Haldeman and Ehrlichman in his EOB office that evening. At the second meeting, the President discussed with Haldeman and Ehrlichman information he had received from the Attorney General and Assistant Attorney General Petersen that afternoon.

VI
April 16, 1973, Meeting With Petersen

On April 16, 1973, from 1:39 to 3:25 p.m., the President met with Henry Petersen. The President promised to treat as confidential any information disclosed to him by Petersen. The President emphasized that ". . . you're talking only to me . . . and there's not going to be anybody else on the White House staff. In other words, I am acting counsel and everything else." The President suggested that the only exception might be Dick Moore. When Petersen expressed some reservation about information being disclosed to Moore, the President said, ". . . let's just . . . better keep it with me then."

At this meeting Petersen supplied the President with a memorandum the President had requested on the previous day summarizing the existing evidence that implicated Haldeman, Ehrlichman and Strachan.

Later in this meeting on April 16, the President and Petersen discussed the possibility that if Strachan's and Dean's testimony established that Haldeman was informed of the Liddy Plan after the second planning meeting, Haldeman might be considered responsible for the break-in for his alleged failure to issue an order to stop the surveillance operation. When Petersen told the President that the question of Haldeman's liability depended on who had authority to act with respect to budget proposals for the Liddy Plan, the President said:

P Haldeman (inaudible)

HP He did not have any authority?

P No, sir . . . none, none—all Mitchell—campaign funds. He had no authority whatever. I wouldn't let him (inaudible).

What the President said was at least misleading. The White House Political Matters Memoranda establish that Haldeman did possess and exercise authority over the use of campaign funds.

At the opening of a meeting with Ehrlichman and Ziegler that began two minutes after Petersen's departure, (Book IV, 1254) the President informed Ehrlichman that Petersen had told him that Gray had denied personally receiving documents from Hunt's safe. The President and Ehrlichman then discussed Ehrlichman's recollections of the facts related to this incident. The President told Ehrlichman that he had discussed with Petersen the June 19, 1972 incidents in which Ehrlichman was alleged to have issued instructions to Hunt to leave the country and to Dean to "deep six" certain materials. The President next reported to Ehrlichman that Petersen had told him that Magruder had not yet gotten a deal; and that Dean and his lawyers were threatening to try the Administration and the President if Dean did not get immunity. The President relayed to Ehrlichman Petersen's views about Haldeman's vulnerability with respect to criminal liability.

VII
April 16, 1973, Telephone Conversation With Petersen

On April 16, 1973 from 8:58 to 9:14 p.m. the President spoke by telephone with Petersen. He asked Petersen if there were any developments he "should know about," and he reassured Petersen that ". . . of course, as you know, anything you tell me, as I think I told you earlier, will not be passed on . . . [b]ecause I know the rules of the Grand Jury."

Petersen then reported additional details regarding Ehrlichman's involvement: that Liddy had admitted to Dean on June 19, 1972 that he had been present at the Watergate break-in and Dean had then reported to Ehrlichman and that Colson and Dean were together with Ehrlichman when Ehrlichman advised Hunt to get out of town.

With respect to payments to the Watergate defendants. Petersen reported that he had been informed that Mitchell had requested that Dean approach Kalmbach to raise funds, and Dean had contacted Haldeman and Haldeman had authorized the use of Kalmbach. Petersen told the President that Kalmbach would be called before the Grand Jury regarding the details of the fund-raising operation. They also discussed the prosecutors' interest in the details of the transfer from Haldeman to LaRue of the $350,000 White House fund that was used for payments to the defendants.

On the following morning, April 17, 1973, the President met with Haldeman. Early in the meeting, the President passed on the disclosures Dean had made to the prosecutors regarding Dean's meeting with Liddy on June 19, 1972. The President also told Haldeman that the money issue was critical: "Another thing, if you could get John and yourself to sit down and do some hard thinking about what kind of strategy you are going to have with the money. You know what I mean."

At 12:35 p.m. on April 17, 1973, the President met with Haldeman, Ehrlichman and Ziegler. (Book IV, 1347) At this meeting, he again relayed information relating to the Watergate investigation.

Later in the meeting, the President

discussed with Haldeman and Ehrlichman the man Petersen had identified as critical to the issue of Haldeman's liability, Gordon Strachan. The President said, "Strachan has got to be worked out," and then proceeded to discuss with Haldeman the facts about which Strachan could testify. At this point, the President told Haldeman that Petersen believed that Strachan had received material clearly identifiable as telephone tap information. After a brief discussion of the issue, the President closed this discussion by saying, ". . . I want you to know what he's [Petersen] told me."

VIII
April 17, 1973, Meeting With Petersen

Shortly after his meeting with Haldeman, Ehrlichman and Ziegler, the President met with Petersen from 2:46 to 3:49 p.m. The President opened the discussion by asking if there were anything new that he should know; he also cautioned Petersen that he did not want to be told anything out of the Grand Jury, unless Petersen thought the President needed to know it. Later in the meeting, they discussed the status of Haldeman and Ehrlichman, if Magruder were indicted. Petersen suggested the government might name everybody but Haldeman and Ehrlichman as unindicted co-conspirators in order "to give you time and room to maneuver with respect to the two of them."

One minute after the end of this meeting with Petersen, the President met again with Haldeman, Ehrlichman and Ziegler. The President relayed the information that Petersen had talked to Gray and that Gray admitted receiving and destroying the Hunt files. The President then told Haldeman and Ehrlichman about his conversation with Petersen regarding the possibility of their being named as unindicted co-conspirators in an indictment of Magruder.

IX
Immunity for Dean

During the course of the Grand Jury investigation the President tried to persuade Petersen to refuse to grant immunity to Dean.

X
Other Contacts With Petersen Prior to April 27, 1973

From April 18, 1973 through April 30, 1973, the date of Haldeman's and Ehrlichman's resignations, the President continued his series of meetings and telephone calls with Petersen.

At many of the meetings with Petersen during this period the President continued to seek information on the progress of the Watergate investigation and on the evidence that was being accumulated against Haldeman and Ehrlichman. During this period, the President also met frequently with Haldeman and Ehrlichman.

XI
April 27, 1973, Meetings With Petersen

On April 27, 1973, the President met twice with Petersen. They discussed the Grand Jury investigation and the President's concern about rumors that Dean was implicating the President in the Watergate matter. Petersen assured the President that he had told the prosecutors that they had no mandate to investigate the President.

XII
Conclusion

After March 21, 1973, the President acted to avoid the indictment of Haldeman. Ehrlichman and others at the White House by concealing what he knew about their involvement in Watergate and the cover-up, by personally misleading Attorney General Kleindienst and Assistant Attorney General Petersen, by personally obtaining information from Petersen in order to convey that information to subjects of investigation, by personally planning false and misleading explanations for Haldeman and Ehrlichman, by personally urging Petersen not to grant immunity to Dean in order to make it more difficult for the Department of Justice to build a case against Haldeman and Ehrlichman, by personally directing the coaching of witnesses corruptly using information in preparing a defense strategy, and by personally instructing witnesses to give untrue testimony.

The President's Interference With the Senate Select Committee on Presidential Campaign Activities

President Nixon's attempts to cover up the facts of Watergate included an effort to narrow and divert the SSC's investigation. The President directed the preparation of an "incomplete" Dean report to mislead the committee and narrow its inquiry. He attempted to extend executive privilege to former aides and attempted to invoke the doctrine to prevent their testimony. After hearings began, false testimony was given to prevent the truth from emerging, testimony that the President himself confirmed.

April 30, 1973 to the Present

I
Pledge of Cooperation

On April 30, 1973, the President accepted the resignations of Haldeman, Ehrlichman and Kleindienst. He requested and received the resignation of Dean. In his public statement announcing these resignations, the President described Haldeman and Ehrlichman as

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two of the finest public servants it had been his privilege to know. The President told the American people that he wanted them to know beyond a shadow of a doubt that during his term as President, justice would be pursued fairly, fully and impartially, no matter who was involved. The President pledged to the American people that he would do everything in his power to insure that the guilty were brought to justice. The President said that he had given Attorney General designate Elliot Richardson absolute authority to make all decisions bearing upon the prosecution of the Watergate case, and related matters. On May 9, 1973, the President reiterated that both his nominee for Attorney General and the Special Prosecutor that Richardson would appoint, in this case, would have the total cooperation of the executive branch of this government.

In spite of these statements, on May 25, 1973, just before Richardson was sworn in as Attorney General, the President mentioned privately to Richardson that the waiver of executive privilege extended to testimony but not to documents. This reservation had not been raised nor alluded to in any way during the Senate Judiciary Committee hearings on Richardson's nomination.

II
Refusal To Provide Documents

Beginning in April, 1973, documents necessary to the Watergate and related investigations were transferred to rooms in the EOB to which all investigators were denied access. On April 30, 1973, the day he resigned, Ehrlichman instructed David Young to make sure that all papers involving the Plumbers were put in the President's files, where all investigators would be denied access to them. Ehrlichman told Young that, before he left, Ehrlichman himself would be putting some papers in the President's files. Other White House aides including Haldeman, Dean, Strachan, and Buchanan had their records transferred to the President's files as well.

On June 11 and June 21, 1973, the Special Prosecutor wrote to J. Fred Buzhardt, the President's Counsel, requesting an inventory of the files of Haldeman, Ehrlichman, Mitchell, LaRue, Liddy, Colson, Chapin, Strachan, Dean, Hunt, Krogh and Young, and other files related to the Watergate investigation. Buzhardt informed Cox that the President would review the request and would decide upon it and other requests from the Special Prosecutor. After many weeks, Cox was told that the President had denied his request for an inventory. Those documents which were turned over to Cox were not delivered until after a long delay. Certain White House logs and diaries requested by Cox on June 13, 1973, were not delivered for more than five months. The White House file on ITT, originally requested on June 21, 1973, was not produced until August.

On August 23, 1973, Cox requested from the White House certain records concerning the Pentagon Papers and the Fielding break-in. On October 4, 1973, Cox repeated the request. On August 27, 1973, Cox requested White House records on the electronic surveillance of Joseph Kraft. None of these documents was produced while Cox was Special Prosecutor.

In September, 1973, prior to his appearance before the Senate Select Committee and the Watergate Grand Jury, Special Assistant to the President Patrick Buchanan was instructed by White House counsel not to take certain documents from the White House, but to transfer them to the President's files, to which all investigators have been denied access.

III
Concealment of the Taping System

Evidence bearing on the truth or falsity of allegations of criminal misconduct may be contained in recordings of conversations between the President and his staff. The President attempted to conceal the existence of these recordings and, once their existence became known, refused to make them available to the Special Prosecutor. The President discharged Cox for insisting on the right to obtain them through judicial process.

IV
The Discharge of Special Prosecutor Cox

On July 23, 1973, when the President refused Cox's request for tapes, the Special Prosecutor issued a subpoena for recordings of nine Presidential conversations. On August 29, 1973, Judge Sirica ordered the production of these recordings for in camera review. On October 12, 1973, the United States Court of Appeals dismissed the President's appeal and upheld Judge Sirica's order.

Rather than comply with the court

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IMPEACHMENT OF RICHARD M. NIXON PRESIDENT OF THE UNITED STATES

REPORT

OF THE

COMMITTEE ON THE JUDICIARY HOUSE OF REPRESENTATIVES

PETER W. RODINO, JR., *Chairman*

AUGUST 20, 1974.—Referred to the House Calendar and ordered to be printed

order, the President set in motion a chain of events that culminated one week later in the discharge of Cox. On October 17, 1973, at the President's direction, Attorney General Richardson relayed to Cox a White House proposal whereby, in lieu of the in camera inspection of the recordings required by the Court's decision, Senator John Stennis would verify White House transcripts of the tapes. Richardson told Cox that the question of other tapes and documents would be left open for later discussions. The next day, Cox replied that the President's proposal was not, in essence, unacceptable. The President, through Special Counsel Charles Alan Wright, ordered Cox, as an added condition of the proposal, to refrain from going to court for additional tapes and presidential documents. Richardson wrote the President that while he had thought the initial proposal reasonable, he did not endorse the new condition.

On the evening of October 19, 1973, the President issued a statement ordering Cox to agree to the proposal and to desist from issuing subpoenas for tapes and documents. On October 20, 1973, Cox said that his responsibilities as Special Prosecutor compelled him to refuse to obey that order. The President then instructed Richardson to discharge Cox. Richardson refused and resigned. When the President gave the same instruction to Deputy Attorney General Ruckelshaus, Ruckelshaus also refused and resigned. The President then directed Solicitor General Robert Bork to fire Cox, and Bork did so. Later that night, White House Press Secretary Ziegler announced that the office of Special Prosecutor had been abolished.

There is evidence that the President's decision to discharge Cox was made several months before October 20, 1973.

On June 27, 1973, the Special Prosecutor formally requested that the President furnish a detailed narrative statement covering the conversations and incidents described by Dean before the Senate Select Committee. Cox noted that the President had been named as someone with information about the involvement of a number of persons in a major conspiracy to obstruct justice. He suggested that the President attach copies of all relevant transcripts and other papers or memoranda to his narrative.

On July 3, 1973, General Alexander Haig, who had replaced Haldeman as the President's Chief of Staff, called Richardson, in connection with a news story that Cox was investigating expenditures at the Western White House at San Clemente, and told Richardson that it could not be part of the Special Prosecutor's responsibility to investigate the President and that the President might discharge Cox. On July 23, 1973, Haig again complained about various activities of the Special Prosecutor. Haig said that the President wanted a "tight line drawn with no further mistakes," and that "if Cox does not agree, we will get rid of Cox."

On July 15, 1973, Buzhardt, responding to Cox's request of June 27, 1973, said that, at an appropriate time, the President intended publicly to address the subjects, being considered by the SSC, including Dean's testimony. In his public statement of August 15, 1973, the President said that the record before the SSC was lengthy, the facts complicated, the evidence confusing and that he had on May 22, 1973 issued a detailed statement addressing the charges that had been made against the President and that he would not deal with the various charges in detail.

In an affidavit submitted to the House Judiciary Committee, Richardson has said that, when he met with the President in late September or early October 1973, "[a]fter we finished our discussion about Mr. Agnew, and as we were walking toward the door, the President said in substance, 'Now that we have disposed of that matter, we can go ahead and get rid of Cox.'"

After the President discharged Cox, resolutions called for the President's impeachment were introduced in the House. Bills calling for the creation of an independent investigatory agency were introduced in the House and Senate. Under tremendous public pressure the President surrendered to the court some subpoenaed tapes and offered explanations for the absence of others. The President then authorized the appointment of another Special Prosecutor.

V

Refusal to Cooperate with Special Prosecutor Jaworski

On October 26, 1973, the President announced he had decided that Acting Attorney General Bork would appoint a new Special Prosecutor. The President stated that the Special Prosecutor would have independence. He would have total cooperation from the executive branch. The President added that it was time for those who were guilty to be prosecuted, and for those who were innocent to be cleared. On November 1, 1973, Acting Attorney General Robert Bork named Leon Jaworski Special Prosecutor.

On February 14, 1974, Jaworski wrote to Chairman Eastland of the Senate Judiciary Committee that, on February 4, Special Counsel to the President James St. Clair had informed Jaworski that the President would not comply with the Special Prosecutor's outstanding requests. Jaworski also said that St. Clair had informed him that the President refused to reconsider his decision to terminate cooperation with the Watergate investigation and would not produce any tape recordings of Presidential conversations related to the Watergate break-in and cover-up. The President had also refused to cooperate with the investigation of political contributions by dairy interests or the investigation of the Plumbers.

VI

Tapes Litigation

On April 16, 1974, Jaworski, joined by defendants Colson and Mardian, moved that a trial subpoena be issued in *United States* v. *Mitchell* directing the President to produce tapes and documents relating to specific conversations between the President and the defendants and potential witnesses. On April 18, 1974, Judge Sirica granted the motion. Judge Sirica denied the President's motion to quash the subpoena. The President appealed to the Court of Appeals. Because of the public importance of the issues presented and the

need for their prompt resolution, the Supreme Court of the United States granted the Special Prosecutor's petition for certiorari before judgment. On July 24, 1974, the Court ordered the President to turn over the subpoenaed tapes and documents to Judge Sirica for an in camera inspection.

VII
Altered and Missing Evidence

A. 18½ Minute Gap on June 20, 1972 Tape

The erased meeting between the President and Haldeman occurred approximately one hour after Haldeman had been briefed on Watergate by Ehrlichman, Mitchell, and Dean, all of whom knew of the White House and CRP involvement. Kleindienst, who arrived 55 minutes after that briefing meeting had begun, had been told by Liddy that those involved in the break-in were White House CRP employees. Haldeman's notes show that Buzhardt has acknowledged that the only erased portion of the tape was the conversation dealing with Watergate. It is a fair inference that the erased conversation of June 20, 1972, contained evidence showing what the President knew of the involvement of his closest advisors shortly after the Watergate break-in.

There is no record that the tape in question was ever taken out of the tape vault until the weekend of September 28, 1973, when it was delivered by the President's Special Assistant Stephen Bull to the President's personal secretary Rose Mary Woods. From October 1, 1973, when the Uher 5000 tape recorder was delivered to Miss Woods, until November 13-14, 1973, when the 18½ minute gap was discovered, the Uher 5000 tape recorder and the June 20, 1972 EOB tape were in the possession of Miss Woods, where the President also had access to them.

On November 21, 1973, the Court and the Special Prosecutor were informed of the gap. Judge Sirica appointed an advisory panel of experts nominated jointly by the President's Counsel and the Special Prosecutor to examine various tape recordings, including the June 20, 1972 EOB tape, and to report on their findings. The panel unanimously concluded that: (i) the erasing and rerecording which produced the buzz on the tape were done on the original tape; (ii) the Uher 5000 recorder machine used by Rose Mary Woods probably produced the buzz; (iii) the erasures and buzz recordings were done in at least five to nine separate and contiguous segments and required hand operation of the controls of the Uher 5000 recorder; and (iv) the manually erased portion of the tape originally contained speech, which, because of the manual erasures and rerecordings, could not be covered.

B. April 15, 1973 Tape and Dictabelt

The President said that, because the tape on the recorder in the White House taping system at his Executive Office Building office ran out, the April 15, 1973 tape never existed. He has also said that the dictabelt of his recollections of the day (referred to by Buzhardt in his June 16, 1973 letter to Cox) could not be located.

On April 18, 1973, the President told Petersen, with reference to the substance of his April 15, 1973 meeting with Dean, that he had it on tape.

C. June 20, 1972 Dictabelt and March 21, 1973 Cassette Gaps

In addition to the erased June 20, 1972 tape and the missing April 15, 1973 tape and dictabelt, both of which were in the sole personal custody of the President, other dictabelts contain gaps. There is a 42-second gap in the dictabelt on which the President dictated his recollections of a June 20, 1972 conversation with Mitchell. There is a 57-second gap in a cassette on which the President dictated his recollections of his March 21, 1973 conversation with Dean.

D. Other Unrecorded Conversations

After the Supreme Court's decision in United States v. Nixon, the President informed Judge Sirica that some of the subpoenaed conversations were not available. Specifically, the President stated that six subpoenaed telephone conversations were placed from or received in the residence portion of the White House on a telephone not connected to the recording system; that the tape ran out after the first fourteen minutes of the telephone conversation between the President and Colson from 7:53 to 8:24 p.m. on March 21, 1973; and that he had been unable to find tape recordings covering three subpoenaed meetings.

E. Inaccuracies in Presidential Transcripts

The House Judiciary Committee has been able to compare eight of the edited White House transcripts with the transcripts prepared by its staff from the tapes which the President has turned over to the Committee and from tapes in the possession of Judge Sirica. The comparison shows significant omissions, misattributions of statements, additions, paraphrases, and other signs of editorial intervention in all eight transcripts. Presidential remarks are often entirely omitted from the White House version, or significantly reworded, or attributed to another speaker.

F. Ehrlichman's Notes

On June 24, 1974, the Committee issued a subpoena for copies of certain of John Ehrlichman's notes, which were impounded in the White House. On July 12, 1974, the President said he would furnish those copies of Ehrlichman's notes which the President previously had turned over to Ehrlichman and the Special Prosecutor pursuant to a subpoena authorized by Judge Gesell and only after Judge Gesell had denied the President's motion to quash that subpoena.

On Monday, July 15, 1974, Mr. St. Clair, the President's counsel, delivered a package of materials to Mr. Doar, Special Counsel to the House Judiciary Committee. Mr. St. Clair also submitted a letter to Chairman Rodino dated July 12, 1974, in which it was stated that the materials furnished were "those parts of John Ehrlichman's notes . . . that were furnished to Mr. Ehrlichman pursuant to his subpoena."

At about the same time, Mr. St. Clair apparently had requested that the Office of the Special Prosecutor deliver to him a copy of the set of Ehrlichman notes of his meetings with the President that had been filed with the Court in response to the Ehrlichman subpoena, and furnished to the Special Prosecutor contemporaneously. Because of a misunderstanding on the part of the Special Prosecutor's office as to St. Clair's request, the Special Prosecutor delivered the set of notes to Doar rather than St. Clair, together with a forwarding letter to Doar, a copy of which was sent to St. Clair. Upon receipt of the letter, St. Clair requested Doar to return the notes, but later modified that request to seek a copy of what had been delivered to Doar.

A comparison of the Ehrlichman notes furnished to the Judiciary Committee by the President with the Ehrlichman notes received by the Judiciary Committee from the Special Prosecutor shows that substantial relevant portions were deleted by masking all or a portion of pages in the version supplied to the Committee. Notes covering eleven meetings between the President and Ehrlichman were not included in the materials furnished by the President to the Committee in response to its subpoena. The omissions were as follows: one meeting on June 19, 1971; three meetings on June 23, 1971; one meeting on June 29, 1971; two meeting on July 1, 1971; one meeting on July 2, 1971; one meeting on July 6, 1971; one meeting on August 12, 1971 and one meeting on January 5, 1972. The Special Prosecutor's submission contains Ehrlichman's notes as to each of those meetings. The notes cover some forty-two pages.

The first page of the Special Prosecutor's material contains an Ehrlichman handwritten identification and explanation of the eleven "shorthand symbols" employed by Ehrlichman in making his notes. Neither that page nor that explanatory material is included in the President's submission to the Judiciary Committee in response to the Committee's subpoena.

The Ehrlichman notes, as delivered by the Special Prosecutor but omitted in the submission by the President, contain information relating to the President's dealings with Mr. Ehrlichman and other close aides, cabinet officers and other officers of government directly and through aides. The materials contain precise directions to be carried out by Ehrlichman and others. Among deletions in the President's submission to the committee were references to the Ellsberg case pending before Judge Matthew Byrne and accounts of efforts, directed by the President, to discredit Ellsberg in the media while the case was pending.

Conclusion

After the Committee on the Judiciary had debated whether or not it should recommend Article I to the House of Representatives, 27 of the 38 Members of the Committee found that the evidence before it could only lead to one conclusion: that Richard M. Nixon, using the powers of his high office, engaged, personally and through his subordinates and agents, in a course of conduct or plan designed to delay, impede, and obstruct the investigation of the unlawful entry, on June 17, 1972, into the headquarters of the Democratic National Committee; to cover up, conceal and protect those responsible; and to conceal the existence and scope of other unlawful covert activities.

This finding is the only one that can explain the President's involvement in a pattern of undisputed acts that occurred after the break-in and that cannot otherwise be rationally explained.

1. The President's decision on June 20, 1972, not to meet with his Attorney General, his chief of staff, his counsel, his campaign director, and his assistant John Ehrlichman, whom he had put in charge of the investigation—when the subject of their meeting was the Watergate matter.

2. The erasure of that portion of the recording of the President's conversation with Haldeman, on June 20, 1972, which dealt with Watergate—when the President stated that the tapes had been under his "sole and personal control."

3. The President's public denial on June 22, 1972, of the involvement of members of the Committee for the Reelection of the President or of the White House staff in the Watergate burglary, in spite of having discussed Watergate, on or before June 22, 1972, with Haldeman, Colson, and Mitchell—all persons aware of that involvement.

4. The President's directive to Haldeman on June 23, 1972 to have the CIA request the FBI to curtail its Watergate investigation.

5. The President's refusal, on July 6, 1972, to inquire and inform himself what Patrick Gray, Acting Director of the FBI,

meant by his warning that some of the President's aides were "trying to mortally wound" him.

6. The President's discussion with Ehrlichman on July 8, 1972, of clemency for the Watergate burglars, more than two months before the return of any indictments.

7. The President's public statement on August 29, 1972, a statement later shown to be untrue, that an investigation by John Dean "indicates that no one in the White House staff, no one in the Administration, presently employed, was involved in this very bizarre incident."

8. The President's statement to Dean on September 15, 1972, the day that the Watergate indictments were returned without naming high CRP and White House officials, that Dean had handled his work skillfully, "putting your fingers in the dike every time that leaks have sprung here and sprung there," and that "you just try to button it up as well as you can and hope for the best."

9. The President's discussion with Colson in January, 1973 of clemency for Hunt.

10. The President's discussion with Dean on February 28, 1973, of Kalmbach's upcoming testimony before the Senate Select Committee, in which the President said that it would be hard for Kalmbach because "it'll get out about Hunt," and the deletion of that phrase from the edited White House transcript.

11. The President's appointment in March, 1973, of Jeb Stuart Magruder to a high government position when Magruder had previously perjured himself before the Watergate Grand Jury in order to conceal CRP involvement.

12. The President's inaction in response to Dean's report of March 13, 1973, that Mitchel and Haldeman knew about Liddy's operation at CRP, that Sloan has a compulsion to "cleanse his soul by confession," that Stans and Kalmbach were trying to get him to "settle down," and that Strachan had lied about his prior knowledge of Watergate out of personal loyalty; and the President's reply to Dean that Strachan was the problem "in Bob's case."

13. The President's discussion on March 13, 1973, of a plan to limit future Watergate investigations by making Colson a White House "consultant without doing any consulting," in order to bring him under the doctrine of executive privilege.

14. The omission of the discussion related to Watergate from the edited White House transcript, submitted to the Committee on the Judiciary, of the President's March 17, 1973, conversation with Dean, especially in light of the fact that the President had listened to the conversation on June 4, 1973.

15. The President's instruction to Dean on the evening of March 20, 1973, to make his report on Watergate "very incomplete," and his subsequent public statements mispresenting the nature of that instruction.

16. The President's instruction to Haldeman on the morning of March 21, 1973, that Hunt's price was pretty high, but that they should buy the time on it.

17. The President's March 21st statement to Dean that he had "handled it just right," and "contained it;" and the deletion of the above comments from the edited White House transcripts.

18. The President's instruction to Dean on March 21, 1973, to state falsely that payments to the Watergate defendants had been made through a Cuban Committee.

19. The President's refusal to inform officials of the Department of Justice that on March 21, 1973, Dean had confessed to obstruction of justice and had said that Haldeman, Ehrlichman, and Mitchell were also involved in that crime.

20. The President's approval on March 22, 1973, of a shift in his position on executive privilege "in order to get on with the cover up plan," and the discrepancy, in that phrase, in the edited White House transcript.

21. The President's instruction to Ronald Ziegler on March 26, 1973, to state publicly that the President had "absolute and total confidence" in Dean.

22. The President's action, in April, 1973, in conveying to Haldeman, Ehrlichman, Colson and Kalmbach information furnished to the President by Assistant Attorney General Petersen after the President had assured Petersen that he would not do so.

23. The President's discussions, in April, 1973, of the manner in which witnesses should give false and misleading statements.

24. The President's directions, in April, 1973, with respect to offering assurances of clemency to Mitchell, Magruder and Dean.

25. The President's lack of full disclosure and misleading statements to Assistant Attorney General Henry Petersen between April 15 and April 27, 1973, when Petersen reported directly to the President about the Watergate investigation.

26. The President's instruction to Ehrlichman on April 17, 1973, to give false testimony concerning Kalmbach's knowledge of the purpose of the payments to the Watergate defendants.

27. The President's decision to give Haldeman on April 25 and 26, 1973, access to tape recordings of Presidential conversations, after Assistant Attorney General Petersen had repeatedly warned the President that Haldeman was a suspect in the Watergate investigation.

28. The President's refusal to disclose the existence of the White House taping system.

29. The President's statement to Richardson on May 25, 1973, that his waiver of executive privilege, announced publicly on May 22, 1973, did not extend to documents.

30. The refusal of the President to cooperate with Special Prosecutor Cox; the President's instruction to Special Prosecutor Cox not to seek additional evidence in the courts and his firing of Cox when Cox refused to comply with that directive.

31. The submission by the President to the Committee on April 30, 1974, and the simultaneous release to the public of transcripts of 43 Presidential conversations and statements, which are characterized by omissions of words and passages, misattributions of statements, additions, paraphrases, distortions, nonsequiturs, deletions of sections as "Material Unrelated to Presidential Action," and other signs of editorial intervention; the President's authorization of his counsel to characterize these transcripts as "accurate;" and the President's public statement that the transcripts contained "the whole story" of the Watergate matter.

32. The President's refusal in April, May, and June 1974, to comply with the subpoenas of the Committee issued in connection with its impeachment inquiry.

In addition to this evidence, there was before the Committee the following evidence:

1. Beginning immediately after June 17, 1972, the involvement of each of the President's top aides and political associates, Haldeman, Mitchell, Ehrlichman, Colson, Dean, LaRue, Mardian, Magruder, in the Watergate coverup.

2. The clandestine payment by Kalmbach and LaRue of more than $400,000 to the Watergate defendants.

3. The attempts by Ehrlichman and Dean to interfere with the FBI investi-

4. The perjury of Magruder, Porter, Mitchell, Krogh, Strachan, Haldeman and Ehrlichman.

Finally, there was before the Committee a record of public statements by the President between June 22, 1972, and June 9, 1974, deliberately contrived to deceive the courts, the Department of Justice, the Congress and the American people.

President Nixon's course of conduct following the Watergate break-in, as described in Article I, caused action not only by his subordinates but by the agencies of the United States, including the Department of Justice, the FBI, and the CIA. It required perjury, destruction of evidence, obstruction of justice, all crimes. But, most important, it required deliberate, contrived, and continuing deception of the American people.

President Nixon's actions resulted in manifest injury to the confidence of the nation and great prejudice to the cause of law and justice, and was subversive of constitutional government. His actions were contrary to his trust as President and unmindful of the solemn duties of his high office. It was this serious violation of Richard M. Nixon's constitutional obligations as President, and not the fact that violations of Federal criminal statutes occurred, that lies at the heart of Article I.

The Committee finds, based upon clear and convincing evidence, that this conduct, detailed in the foregoing pages of this report, constitutes "high crimes and misdemeanors" as that term is used in Article II, Section 4 of the Constitution. Therefore, the Committee recommends that the House of Representatives exercise its constitutional power to impeach Richard M. Nixon.

On August 5, 1974, nine days after the Committee had voted on Article I, President Nixon released to the public and submitted to the Committee on the Judiciary three additional edited White House transcripts of Presidential conversations that took place on June 23, 1972, six days following the DNC break-in. Judge Sirica had that day released to the Special Prosecutor transcripts of those conversations pursuant to the mandate of the United States Supreme Court. The Committee had subpoenaed the tape recordings of those conversations, but the President had refused to honor the subpoena.

These transcripts conclusively confirm the finding that the Committee had already made, on the basis of clear and convincing evidence, that from shortly after the break-in on June 17, 1972,

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Richard M. Nixon, acting personally and through his subordinates and agents, made it his plan to and did direct his subordinates to engage in a course of conduct designed to delay, impede and obstruct investigation of the unlawful entry of the headquarters of the Democratic National Committee; to cover up, conceal and protect those responsible; and to conceal the existence and scope of other unlawful covert activities.

ARTICLE II

Introduction

Article II charges that Richard M. Nixon, in violation of his constitutional duty to take care that the laws be faithfully executed and his oath of office as President, seriously abused powers that only a President possesses. He engaged in conduct that violated the constitutional rights of citizens, that interfered with investigations by federal authorities and congressional committees, and that contravened the laws governing agencies of the executive branch of the federal government. This

conduct, undertaken for his own personal political advantage and not in furtherance of any valid national policy objective, is seriously incompatible with our system of constitutional government.

Five instances of abuse of the powers of the office of President are specifically listed in Article II. Each involves repeated misuse of the powers of the office, and each focuses on improprieties by the President that served no valid national policy objective.

Richard M. Nixon violated the constitutional rights of citizens by directing or authorizing his subordinates to interfere with the impartial and nonpolitical administration of the internal revenue laws. He violated the constitutional rights of citizens by directing or authorizing unlawful electronic surveillance and investigations of citizens and the use of information obtained from the surveillance for his own political advantage. He violated the constitutional rights of citizens by permitting a secret investigative unit within the office of the President to engage in unlawful and covert activities for his political purposes. Once these and other unlawful and improper activities on his behalf were suspected, and after he knew or had reason to know that his close subordinates were interfering with lawful investigations into them, he failed to perform his duty to see that the criminal laws were enforced against these subordinates. And he used his executive power to interfere with the lawful operations of agencies of the executive branch, including the Department of Justice and the Central Intelligence Agency, in order to assist in these activities, as well as to conceal the truth about his misconduct and that of his subordinates and agents.

Paragraph (1)

The Committee finds clear and convincing evidence that a course of conduct was carried out by Richard M. Nixon's close subordinates, with his knowledge, approval, and encouragement, to violate the constitutional rights of citizens—their right to privacy with respect to the use of confidential information acquired by the Internal Revenue Service; their right to have the tax laws of the United States applied with an even hand; and their right to engage in political activity in opposition to the President.

I
Wallace Investigation

The first instance of which the Committee has evidence involves Governor George Wallace. In early 1970 Haldeman learned, apparently from an IRS sensitive case report, about an investigation of George Wallace and his brother Gerald, Haldeman directed Clark Mollenhoff, special counsel to the President, to obtain a report of the IRS investigation.

Material contained in the report was later transmitted to columnist Jack Anderson. Portions of it adverse to George Wallace were published nationally on April 13, 1970.

II
Information and Audits

In the fall of 1971, John Dean's assistant, John Caulfield, sought and obtained information from the IRS on the financial status and charitable contributions of Lawrence Goldberg in order to assess Goldberg's suitability for a position at the Committee to Reelect the President.

III
O'Brien Investigation

During the spring or summer of 1972, John Ehrlichman learned from an IRS sensitive case report that an investigation of Howard Hughes' business interests was under way. The report reflected a connection between the Hughes matters being investigated and the personal finances of Democratic National Committee Chairman Lawrence O'Brien. Ehrlichman sought and obtained information about O'Brien's tax returns from Assistant to the Commissioner Roger Barth. Ehrlichman also told Treasury Secretary Shultz that the Internal Revenue Service should interview O'Brien. The IRS policy then in effect was that audits and interviews, absent statute of limitations and other compelling considerations, would not be conducted during an election year with respect to candidates or others in politically sensitive positions. Since the 1972 election campaign was in progress, the IRS would not have interviewed O'Brien until after election day, November 7, but because of Ehrlichman's demands the IRS had a conference with O'Brien in mid-August.

IV
McGovern Supporters

On September 11, 1972, Dean, at the direction of Ehrlichman, gave to IRS Commissioner Walters a list, which had been compiled by CRP campaign aide Murray Chotiner, of the names of 575 members of George McGovern's staff and contributors to his campaign. Dean asked that the IRS investigate or develop information about the people on the list.

Two days later, Walters and Shultz discussed the list and agreed to do nothing about Dean's request.

On September 15, 1972, the President and Haldeman met and discussed the activities of John Dean. Dean was about to join the meeting.

After Dean joined the meeting, the President, Haldeman and Dean discussed using federal agencies to attack the President's political opponents.

V
IRS Sources

On March 13, 1973, the President, Haldeman and Dean discussed the President's "project to take the offensive" with respect to the Senate Watergate hearings. The President mentioned the difficulty of obtaining information about contributions to the McGovern campaign. The President asked Dean, "Do you need any IRS [unintelligible] stuff?" Dean answered:

> [T]here is no need at this hour for anything from IRS, and we have a couple of sources over there that I can go to. I don't have to fool around with Johnnie Walters or anybody, we can get right in and get what we need.

Paragraph (2)

The Committee finds clear and convincing evidence that Richard M. Nixon violated his constitutional oath and his constitutional duty to take care that the laws be faithfully executed by directing or authorizing executive agencies and personnel to institute or continue unlawful electronic surveillance and investigations, in violation or disregard of the constitutional rights of citizens. The surveillance and investigations served no lawful purpose of his office; they had no national security objective, although he falsely used a national security pretext to attempt to justify them. Information obtained from this surveillance was used by his subordinates, with his authorization or permission, for his political advantage; and the FBI records of electronic surveillance were concealed at his direction.

I
The FBI Wiretaps

In the spring of 1969, the President authorized the FBI to install wiretaps on the home telephones of a number of government employees and newsmen.

The President's orders were transmitted to the FBI by Colonel Alexander Haig. Haig told FBI officials that the directive to install wiretaps came on the highest authority, instructed the FBI not to maintain regular records of the wiretaps in the indices kept by the FBI for all of its other wiretaps and assured the Bureau that these surveillances would be necessary for only a few days.

One of the five NSC employees whose telephones were tapped was Morton Halperin.

On September 19, 1969, Halperin resigned from the staff of the NSC. At the beginning of 1970, he became a consultant to Senator Edmund Muskie. Although Halperin, for more than a year, had no access to national security information, the tap was not removed until February 10, 1971. Between May 12, 1969 and May 11, 1970, the President received 14 summary letter reports regarding the Halperin wiretap. The summaries included reports on the political activities of Senator Muskie.

On February 28, 1973, in a conversation with John Dean, the President revealed that he was aware that there had been wiretaps on Muskie aides. While discussing the wiretap program, he asked Dean, "Didn't Muskie do anything bad on there?" The word "there" referred to the taps.

The President's program to use the FBI to tap White House employees and newsmen ended February 10, 1971, when FBI Director Hoover, who was about to testify before a subcommittee of the House Appropriations Committee, insisted that all the remaining taps be terminated. From May, 1969, until February, 1971, the President caused the FBI to tap the telephones of at least 17 persons. None was reported to have made unauthorized disclosures.

In his public statement of May 22, 1973, the President said of the wiretaps:

> They produced important leads that made it possible to tighten the security of highly sensitive materials. I authorized this entire program. Each individual tap was undertaken in accordance with procedures legal at the time and in accord with longstanding precedent.

Evidence before the Committee shows, on the contrary, that some of the taps were not legal, that they did not concern national security, but that they were installed for political purposes.

II
Joseph Kraft Wiretap and Surveillance

In June, 1969, John Ehrlichman directed his assistant, John Caulfield, to use private employees to install a wiretap at the home of a newspaper columnist, Joseph Kraft.

The President discussed the Kraft tap with Ehrlichman. From November 5 to December 12, 1969, at the direction at Attorney General Mitchell, the FBI conducted spot physical surveillance of Kraft in Washington.

III
Daniel Schorr F.B.I. Investigation

The FBI conducted an extensive investigation of Schorr, interviewing 25 people in seven hours, including Schorr's friends and employers, and members of his family. When press reports revealed that the investigation had taken place, the President's aides fabricated and released to the press the explanation that Schorr was being considered for an

appointment as an assistant to the chairman of the Council on Environmental Quality. The President knew that Schorr had never been considered for any government position. The President approved the cover story.

IV
The Donald Nixon Surveillance and Wiretap

In late 1970, the Secret Service installed a wiretap on Donald Nixon's home telephone. The President said that the wiretap was installed to monitor conversations in which persons might try to cause his brother to exert "improper influence," particularly if such persons were in a foreign country. The Secret Service has no legal jurisdiction to wiretap for such purposes.

V
The Huston Plan

On June 5, 1970, the President appointed an ad hoc committee of the Directors of the F.B.I. CIA, National Security Agency, and Defense Intelligence Agency to study domestic intelligence operations.

During the first week of July, 1970, Tom Charles Huston, a White House staff assistant, submitted the ad hoc committee's report and wrote a memorandum to Haldeman recommending that the President adopt its proposals. Surreptitious entries, electronic surveillance and covert mail covers were among the proposals in the report.

On July 14, 1970, Haldeman wrote to Huston, in a memorandum: "The recommendations you have proposed as a result of the review have been approved by the President."

F.B.I. Director Hoover and Attorney General Mitchell opposed the decision. Mitchell informed the President and Haldeman of his opposition. On July 27 or 28, 1970, on Haldeman's instructions, Huston recalled the decision memorandum.

VI
Concealment of Records of the 1969-1971 F.B.I. Wiretaps

The F.B.I. was expressly ordered by Haig not to maintain records of the wiretaps initiated under the President's 1969 authorization.

Mardian on July 11, 1971 was contacted by either Haldeman or Ehrlichman, who instructed him to fly to San Clemente to discuss the matter with the President. The President directed Mardian to obtain the logs and files, to deliver them to the White House, and check with Kissinger, Haig and Haldeman to make sure all reports sent to them were accounted for.

In early August, Mardian delivered the wiretap files to someone in the Oval Office of the White House.

The President directed Ehrlichman to take possession of the files. The concealment of the logs, together with the decision not to have the 1969-71 wiretaps indexed, were among the factors ultimately leading to the dismissal of the Ellsberg case in the spring of 1973.

The White House continued to deny the existence of the wiretaps until May, 1973. On April 5, 1973, Ehrlichman, on behalf of the President, asked Judge Byrne if he were interested in the position of Dirctor of the FBI.

Paragraph (3)

The Committee finds clear and convincing evidence that Richard M. Nixon established a secret investigative unit in the White House to engage in covert activities. This unit engaged in unlawful activities that violated the constitutional rights of citizens, including the fourth amendment right of Dr. Lewis Fielding and the right of Daniel Ellsberg to a fair trial. The unit used the resources of the CIA unlawfully to assist in its operations and used campaign contributions to partially finance its unlawful activities. Although Richard M. Nixon later asserted that the activities of the unit were undertaken for national security purposes, the Committee finds that its unlawful activities served no such objective. Richard M. Nixon, without regard for law, permitted the unit to engage in these unlawful activities, and by so doing violated his constitutional oath and his duty to take care that the laws be faithfully executed.

I
The Creation and Purposes of the Special Investigations Unit

The creation of the special investigations unit (the Plumbers) referred to in paragraph (3) of Article II resulted from the publication of the Pentagon Papers, portions of which first appeared in The New York Times on June 13, 1971. The President viewed the publication of the Pentagon Papers primarily as a political opportunity rather than a threat to national security.

II
Staffing the Plumbers

Around June 25, 1971, the President directed Colson, Haldeman and Ehrlichman to try to find a person, preferably from the White House staff, to assume responsibility for all aspects of the Pentagon Papers disclosure, including coordination of the ongoing investigations by other Federal agencies and the handling of the prospective congressional investigations.

Hunt was hired, effective July 6, 1971, to work on the Pentagon Papers project. On July 12, the President received a report on the status of the investigation of the Pentagon Papers. The President was not satisfied with the progress and insisted upon an early designation of a man to be in charge of the White House effort. Ehrlichman summoned David Young and Egil Krogh to San Clemente, and on July 17, 1971, he assigned them to be cochairmen of a unit to coordinate the Ellsberg-Pentagon Papers investigations.

III
Activities of the Plumbers

A. Publicly Discrediting Ellsberg

After the establishment of the unit headed by Krogh and Young, the President assigned Colson the task of publicly disseminating derogatory material collected by the Plumbers.

B. Use of the CIA for Technical Assistance and Psychological Profile

The President authorized enlisting the aid of the CIA in the activities of the Plumbers. Hunt began receiving assistance from the CIA on July 22, 1971 when he met with Cushman and requested alias identification and disguise materials. Although this assistance was beyond the statutory jurisdiction of the CIA, the materials were provided to Hunt the next day.

In addition to this type of assistance, Young also requested a psychological profile of Ellsberg from the CIA. The profile [was] the only one known to have ever been prepared by the CIA on an American civilian. The Plumbers were not satisfied with the profile.

C. The Fielding Break-in

Krogh recommended that Hunt and Liddy be sent to California to complete the Ellsberg investigation. The President told Ehrlichman that Krogh should do whatever he considered necessary. Ehrlichman passed this instruction on to Krogh. Ehrlichman has testified that the President approved the recommendation that the unit become operational and approved a trip by Hunt and Liddy to California to get "some facts which Krogh felt he badly needed."

In April, 1973, the President reaffirmed the fact that he had authorized operations against Dr. Fielding. In a telephone conversation on April 18, 1973, Henry Petersen advised the President that the Justice Department had learned of the Fielding break-in. Ehrlichman told Colson that the President had informed Petersen that the President approved the Ellsberg operation in advance after consultation with Hoover and that Petersen was to stay out of it.

On August 11, 1971, Krogh and Young submitted a memorandum to Ehrlichman informing him of the delivery of the CIA psychological profile and of their dissatisfaction with it. The memorandum also said:

> In this connection we would recommend that a covert operation be undertaken to examine all the files still held by Ellsberg's psychoanalyst covering the two-year period in which he was undergoing analysis.

Ehrlichman initialed the line "approve" and wrote, "if done under your assurance that it is not traceable."

The break-in of Dr. Fielding's office was executed on September 3, 1971, by a team under the immediate and close direction of Hunt and Liddy.

The break-in violated Dr. Fielding's right under the Fourth Amendment of the Constitution to be secure in his person, house, papers and effects, against unreasonable searches and seizures.

Hunt and Liddy reported the results of the operation against Dr. Fielding's office to Krogh and Young on the afternoon of September 7, 1971. Ehrlichman's logs show that at 10:45 on the morning of September 8, 1971, Krogh and Young met with Ehrlichman. Ehrlichman has testified that he discussed the break-in with Krogh and Young. At 3:26 on the afternoon of September 8, Ehrlichman met with the President. On September 10, 1971, Ehrlichman met with the President from 3:08 to 3:51 P.M., and then met with Krogh and Young at 4:00 P.M. The President called Colson immediately following his meeting with Ehrlichman on September 10.

D. Financing

Part of the financing for the Fielding break-in was arranged by Colson. Colson solicited the Associated Milk Producers, Inc. to make a $5,000 contribution.

E. Other Activities

The Plumbers were instructed to investigate the source of the July 23, 1971 disclosure in a newspaper article of the American negotiating position in the SALT talks.

On December 13 and 14, 1971, articles by Jack Anderson appeared in The Washington Post disclosing the American position in the India-Pakistan War. Krogh refused to authorize wiretaps in connection with this investigation and for that reason was removed from the unit.

IV
Concealment of the Plumbers' Activities

Following the Watergate break-in the President initiated a policy of preventing federal investigations from uncovering the Plumbers' activities.

On the morning of March 21, Dean and the President discussed Hunt's blackmail threat. Dean told the President that Hunt threatened to bring Ehrlichman to his knees and to put Ehrlichman and Krogh in jail for the seamy things Hunt did at their direction,

including the Fielding break-in.

Dean told the President of Krogh's perjury in denying that he knew anything about Hunt and Liddy's travels. Dean said that Krogh was willing to take responsibility for authorizing the break-in. The President asked what would happen if they did not meet Hunt's demands and Hunt "blew the whistle."

DEAN. Krogh, Krogh could go down in smoke. Uh—

PRESIDENT. Because Krogh, uh —Where could anybody—but on the other hand, Krogh just says he, uh, uh, Krogh says this is a national security matter. Is that what he says? Yeah, he said that.

DEAN. Yeah, but that won't sell, ultimately, in a criminal situation. It may be mitigating on sentences but it won't, uh, the main matter—

HALDEMAN. Well, then that—

PRESIDENT. That's right. Try to look around the track. We have no choice on Hunt but to try to keep him—

In April, the President actively participated in an effort to conceal the break-in under a national security tent. The President told Petersen that such action was perfectly proper because Hunt was conducting an investigation in the national security area for the White House.

On April 18, 1973, Henry Petersen called the President and advised him that the Justice Department had learned that Hunt and Liddy burglarized the office of Ellsberg's psychiatrist. The President told Petersen to stay out of it because it was national security and Petersen's mandate was Watergate.

On May 11, 1973, Judge Byrne dismissed the criminal charges against Ellsberg and his co-defendant because of governmental misconduct, including the Fielding break-in.

Paragraph (4)

The premise of Paragraph (4) is that the President, when he has actual knowledge or reason to know of activities by his close subordinates, conducted for his benefit and on his behalf, to obstruct investigations into wrongful and criminal conduct within his administration, is constitutionally obligated to take all necessary steps to stop these activities.

I

Electronic Surveillance and the Fielding Break-in—Obstruction of the Ellsberg Trial

The Committee found clear and convincing evidence that the President failed to act, contrary to his constitutional duty to take care that the laws be faithfully executed, with respect to activities by his close subordinates, for his benefit and on his behalf, which interfered with the Ellsberg trial.

II

Obstruction of Watergate Inquiries

The Watergate break-in and cover-up involved the President's closest subordinates. It is clear that both the break-in and the cover-up were carried out for the President's benefit. On numerous occasions the President was told of their unlawful attempts and actions to impede and frustrate investigations aimed at uncovering the facts of the Watergate matter. The President repeatedly failed to remedy or prevent unlawful acts of obstruction by these subordinates.

III

Obstruction of Inquiries Into Campaign Financing Practices and Use of Campaign Funds

The President learned in June and September, 1972, and in February, March and April, 1973, that the Committee for the Re-Election of the President had engaged in unlawful campaign financing practices and his aides were endeavoring to obstruct lawful investigations into these practices and the use of campaign funds.

The President took no action to inform authorities of his subordinates' conduct.

IV

Kleindienst Confirmation Hearings

During the hearings before the Senate Committee on the Judiciary on Richard Kleindienst's nomination to be Attorney General in 1972, both Kleindienst and former Attorney General John Mitchell gave false testimony regarding the President's involvement in the ITT antitrust cases. Clearly, Kleindienst and Mitchell were protecting the President. The President followed Kleindienst's confirmation hearings closely, but took no steps to correct the false testimony and continued to endorse Kleindienst's appointment.

Paragraph (5)

This Paragraph is based upon a fundamental constitutional principle governing the President's conduct in exercising his control over the agencies and institutions of the executive branch and discharging his responsibilities with respect to them. The principle is that he is accountable, through impeachment, for violating his constitutional duties by knowingly and repeatedly abusing the executive power, systematically and over a considerable period of time, in a manner that demonstrates a disregard of the rule of law, to direct agencies to engage in activities that are contrary to law or in derogation of their purposes and functions. In Paragraph (5) the principle is applied to the President's interference with and abuse of the Federal Bureau of Investigation, the Criminal Division of the Department of Justice, the Watergate Special Prosecution Force, the Central Intelligence Agency, and their officers and agents.

Among the important incidents supportive of Paragraph (5) (previously discussed in other portions of this report) are the following:

1. The President interfered with both the C.I.A. and the F.B.I. by directing his principal aides, Haldeman and Ehrlichman (and, through them, Dean), to have the C.I.A. delay or prevent F.B.I. investigation of the source of the funds recovered from those apprehended at the Watergate break-in.

2. The President improperly used his office to interfere with the Department of Justice investigation of the Watergate break-in and cover-up by obtaining information from Assistant Attorney General Henry Petersen, which the President passed on to targets of the investigation, and by making false or misleading representations to Petersen.

3. The President interfered with the Office of the Watergate Special Prosecution Force by withholding and concealing evidence, and by discharging Special Prosecutor Cox.

4. The President interfered with the proper functioning of the C.I.A. by authorizing his subordinates to request C.I.A. assistance for Howard Hunt and for the activities of the secret investigative unit in the office of the President (the Plumbers).

5. The President interfered with the proper functioning of the F.B.I. by directing it to undertake unlawful surveillance of newsmen and White House personnel for his own political purposes, and by ordering that normal indices of the records of this surveillance not be maintained and later that the records be concealed at the White House.

6. The President interfered with the Department of Justice when he instructed Petersen not to investigate the Fielding break-in.

Conclusion

In recommending Article II to the House, the Committee finds clear and convincing evidence that Richard M. Nixon, contrary to his trust as President and unmindful of the solemn duties of his high office, has repeatedly used his power as President to violate the Constitution and the law of the land.

In so doing, he has failed in the obligation that every citizen has to live under the law. But he has done more, for it is the duty of the President not merely to live by the law but to see that law faithfully applied. Richard M. Nixon has repeatedly and willfully failed to perform that duty. He has failed to perform it by authorizing and directing actions that violated or disregarded the rights of citizens and that corrupted and attempted to corrupt the lawful functioning of executive agencies. He has failed to perform it by condoning and ratifying, rather than acting to stop, actions by his subordinates that interfered with lawful investigations and impeded the enforcement of the laws.

The conduct of Richard M. Nixon has constituted a repeated and continuing abuse of the powers of the Presidency in disregard of the fundamental principle of the rule of law in our system of government. This abuse of the powers of the President was carried out by Richard M. Nixon, acting personally and through his subordinates, for his own political advantage, not for any legitimate governmental purpose and without due consideration for the national good.

In asserting the supremacy of the rule of law among the principles of our government, the Committee is enunciating no new standard of Presidential conduct. The possibility that Presidents have violated this standard in the past does not diminish its current—and future—applicability. Repeated abuse of power by one who holds the highest public office requires prompt and decisive remedial action, for it is in the nature of abuses of power that if they go unchecked they will become overbearing, depriving the people and their representatives of the strength of will or the wherewithal to resist.

In considering this Article the Committee has relied on evidence of acts directly attributable to Richard M. Nixon himself. He has repeatedly attempted to conceal his accountability for these acts and attempted to deceive and mislead the American people about his own responsibility. He governed behind closed doors, directing the operation of the executive branch through close subordinates, and sought to conceal his knowledge of what they did illegally on his behalf. Although the Committee finds it unnecessary in this case to take any position on whether the President should be held accountable, through exercise of the power of impeachment, for the actions of his immediate subordinates, undertaken on

his behalf, when his personal authorization and knowledge of them cannot be proved, it is appropriate to call attention to the dangers inherent in the performance of the highest public office in the land in an air of secrecy and concealment.

The abuse of a President's powers poses a serious threat to the lawful and proper functioning of the government and the people's confidence in it. For just such Presidential misconduct the impeachment power was included in the Constitution.

The Committee has concluded that, to perform its constitutional duty, it must approve this Article of Impeachment and recommend it to the House. If we had been unwilling to carry out the principle that all those who govern, including ourselves, are accountable to the law and the Constitution, we would have failed in our responsibility as representatives of the people, elected under the Constitution. If we had not been prepared to apply the principle of Presidential accountability embodied in the impeachment clause of the Constitution, but had instead condoned the conduct of Richard M. Nixon, then another President, perhaps with a different political philosophy, might have used this illegitimate power for further encroachments on the rights of citizens and further usurpations of the power of other branches of our government. By adopting this Article, the Committee seeks to prevent the recurrence of any such abuse of Presidential power.

ARTICLE III

Introduction

On February 25, 1974, Special Counsel to the Committee wrote to the President's counsel requesting tape recordings of designated presidential conversations and related documents. Some of these items had previously been provided by the President to the Special Prosecutor; others had not. In response to this request, the President agreed to produce only those materials he had previously given to the Special Prosecutor.

By subsequent letters and, ultimately, by service of eight subpoenas upon the President, the Committee sought:

(1) tape recordings, notes and other writing relating to 147 specified conversations;

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(2) a list of the President's meetings and telephone conversations known as "daily diaries," for five special periods in 1971, 1972 and 1973;

(3) papers and memoranda relating to the Watergate break-in and its aftermath and to the activities of the White House special investigative unit (the Plumbers), prepared by, sent to, received by or at any time contained in the files of seven named former members of the President's staff; and

(4) copies of the President's daily news summaries, for a 3½ month period in 1972, that contain his handwritten notes pertaining to the hearings before the Senate Judiciary Committee on Richard Kleindienst's nomination to be Attorney General and matters involving ITT antitrust litigation.

The President was informed that the materials demanded by these eight subpoenas were necessary for the Committee's inquiry into the Watergate matter, domestic surveillance, the relationship between a governmental milk price support decision and campaign contributions by certain dairy cooperatives, the conduct of ITT antitrust litigation and alleged perjured testimony by administration officials during the Kleindienst confirmation hearings, and the alleged misuse of the Internal Revenue Service.

In response to these subpoenas the President produced:

(1) edited transcripts of all or part of 33 subpoenaed conversations and 6 conversations that had not been subpoenaed, all but one of which related to the Watergate matter;

(2) edited copies of notes made by John Ehrlichman during meetings with the President, which had been previously furnished to Ehrlichman and the Special Prosecutor in connection with the trial United States v. Ehrlichman, and

(3) copies of certain White House news summaries, containing no handwritten notes by the President.

The Committee did not receive a single tape recording of any of the 147 subpoenaed conversations. Not, apart from the edited notes of Ehrlichman and the copies of news summaries, did the Committee receive any of the other papers or things sought by its subpoenas.

Shortly after the President's response, the Committee informed the President that his submissions were not considered compliance with its subpoenas and that his refusal to comply might be regarded as a ground for impeachment.

The refusal of the President to comply with the subpoenas was an interference by him with the efforts of the Committee and the House of Representatives to fulfill their constitutional responsibilities. It was, as Article III states, an effort to interpose "the powers of the presidency against the lawful subpoenas of the House of Representatives, thereby assuming to himself functions and judgments necessary to this exercise of the sole power of impeachment vested by the Constitution in the House of Representatives."

Significance of Refusal

The Committee has been able to conduct an investigation and determine that grounds for impeachment exist—even in the face of the President's refusal to comply. But this does not mean that the refusal was without practical import. The Committee had enough evidence to recommend the adoption of two other articles, but it does not and did not have at the time it deliberated and voted —despite the President's contentions to the contrary—the "full story." Had it received the evidence sought by the subpoenas, the Committee might have recommended articles structured differently or possibly ones covering other matters.

The President's statement on August 5, 1974, that he would transmit to the Senate certain material subpoenaed by the Committee, did not lessen the need for Article III. The President said on August 5 that he would supply to the Senate for an impeachment trial, those portions of recordings of 64 conversations that Judge Sirica decides should be produced for the Special Prosecutor for use in the Watergate criminal trial. This assurance did not remove the interference with the exercise of their responsibilities by the Committee and the House charged in Article III.

Rather than removing the need for Article III, the events of August 5 underscore its importance. On that day, the President not only made the statement concerning transmittal of materials to the Senate, but also released edited transcripts of three conversations that took place on June 23, 1972 between himself and Haldeman. These conversations were requested by the Committee by letter dated April 19, 1974 and subpoenaed on May 15, 1974. The President, by letter dated May 22, 1974, refused to comply with the subpoena stating that "the Committee has the full story of Watergate, insofar as it relates to Presidential knowledge and Presidential actions."

There is no question that the three June 23, 1972 conversations bear significantly upon presidential knowledge and presidential actions. There is also no question that, prior to sending his May 22, 1974 letter defying the Committee's subpoena, the President listened to recordings of two of these conversations. Both of these facts were admitted in his August 5 statement. Yet the President did not make the June 23 conversations available until after the Committee had completed its deliberations, and then only as a consequence of the Supreme Court decision in United States v. Nixon directing that the conversations be produced for the Watergate criminal trial. The President's defiance of the Committee forced it to deliberate and make judgments on a record that the President now acknowledges was "incomplete." His actions demonstrate the need to insure that a standard be established barring such conduct in impeachment inquiries. That is the function of Article III.

[In a section entitled "The Committee's Subpoenas and the President's Response," the judiciary panel describes in detail its efforts to obtain evidence on the Watergate, ITT, domestic surveillance, dairy, and IRS issues. The report continues.]

Justification of the Committee's Subpoenas

A. Watergate

The 98 conversations sought by the Committee may be divided into two periods: those that occurred on or prior to March 21, 1973, and those that took place after that date. The justifications for each group will be examined separately. But it should first be emphasized that apart from one conversation that occurred on April 4, 1972 (among the President, Haldeman and Mitchell) the President has never claimed to the Committee that any of the 98 subpoenaed conversations is unrelated to the Watergate break-in and its aftermath.

(1) Pre-March 21, 1973

The President repeatedly stated publicly that it was not until March 21, 1973 that facts were brought to his attention respecting the break-in and Watergate cover-up. To investigate this contention the Committee by subpoena sought recordings and other materials relating to 33 specified conversations that took place on or prior to March 21, 1973. In response, the President produced only edited transcripts of three conversations: a meeting on April 4, 1972, between the President, Haldeman and Mitchell; a telephone call on March 20, 1973, between the President and Dean; and a meeting on March 17, 1973, between the President and Dean (for which the President produced a 4-page edited portion of a 45-minute conversation). The President refused to produce any materials with respect to the other 30 subpoenaed conversations on or before March 21.

Among the other subpoenaed conversations that occurred prior to March 21, 1973 were four discussions between the President and Colson in January and February, 1973. They are relevant to whether or not assurances of executive clemency to Howard Hunt were authorized by the President and to determine the President's knowledge of actions by White House and CRP personnel respecting the Watergate matter. The President's own statements, as reflected in the tape recording of the morning meeting with Dean of March 21, 1973 and the edited transcript of a conversation of April 14, 1973, and Colson's testimony before the Committee, demonstrate that discussions took place in January and February, 1973, between the President and Colson concerning these matters.

Additional conversations on or before March 21 that were subpoenaed are dis-

cussions in February, 1973, between the President and Haldeman concerning the possible appointment of Magruder to a government position at a time when Haldeman knew that Magruder had committed perjury, and between the President, Haldeman and Ehrlichman concerning the assignment of Dean to work directly with the President on Watergate.

Finally, the Committee subpoenaed recordings of meetings and calls between the President and Dean in February and March, 1973 in the course of which there were discussions of the Watergate matter; between the President and Haldeman and the President and Ehrlichman on March 20, the day Ehrlichman learned from Dean of Hunt's demands for $120,000, and between the President and Ehrlichman on the morning of March 21 immediately before the President's meeting with Dean at which Hunt's demand and the Watergate cover-up were discussed. These conversations bear directly upon the knowledge or lack of knowledge of, or action or inaction by, the President or any of his senior administration officials with respect to the investigation of the Watergate break-in.

(2) Post-March 21, 1973

The Committee sought 65 conversations in the period subsequent to March 21. Fifty-one of these conversations involved the President and his aides, Haldeman, Ehrlichman, Colson and Dean, and the attorneys for Haldeman and Ehrlichman. The other 14 conversations took place between the President and Justice Department officials, Henry Petersen and Richard Kleindienst. The bulk of the edited transcripts produced by the President—some 30 in number—are of Presidential conversations during this post-March 21 period.

Among the conversations subpoenaed in the post-March 21 period were six conversations on April 25 and 26 between the President and Haldeman; one of these lasted almost six hours. Although the President had repeatedly been informed by Henry Petersen that Haldeman was a prime subject of the Department of Justice's investigation, Haldeman, on April 25 and 26, at the President's direction, listened to the March 21 tape, made notes and reported to him. Subsequently, on June 4, 1973, the President told Ronald Ziegler and Alexander Haig that, while the March 21 conversation was a problem, Haldeman could handle it. The President also spoke to Haldeman twice by telephone on June 4. The Committee subpoenaed these telephone conversations.

Subsequently, in July, 1973, Haldeman testified about the March 21 meeting before the Senate Select Committee on Presidenial Campaign Activities. Two months after that testimony, the President (who had stated publicly that Haldeman testified accurately) was required to furnish the tape recording of the March 21 conversation to the Special Prosecutor. Haldeman was thereafter indicted for perjury respecting his testimony about that conversation.

The remaining group of post-March 21 conversations cover 14 discussions between the President and Kleindienst, and the President and Petersen. The edited transcripts produced by the President respecting a number of these conversations clearly indicate that they bear upon the extent to which the President informed the Justice Department officials of facts within his knowledge, including facts conveyed to him by Dean and others concerning the Watergate break-in and subsequent events. They are also relevant to determining the information that the President learned from Petersen and Kleindienst, and (when considered together with the President's conversations with Haldeman and Ehrlichman) the uses to which the President put that information. In sum, the 14 conversations were subpoenaed to help ascertain whether the President was seeking to discover the truth or to cover-up for himself and his closest aides.

B. IRS

The subpoena issued on June 24, 1974 in connection with the Committee's investigation of alleged abuse of the IRS sought recordings and documents related to two conversations: one between the President and Haldeman on September 15, 1972, from 4:43 to 5:27 P.M., and another among the President, Dean and Haldeman on that same day from 6:00 to 6:13 P.M. The Committee had at that time a tape of a portion of a conversation on September 15 between the President and Haldeman from approximately 5:17 to 5:27 P.M. and among the President, Dean and Haldeman from 5:27 to 6:00 P.M. Segments of the taped conversation that the Committee possesses, an affidavit by Special Prosecutor Jaworski seeking the portion of the conversation from 6:00 to 6:13 P.M. on the ground that it relates to alleged abuse of the IRS, the decision of Judge Sirica (after listening to the conversation) ordering that it be turned over to the Special Prosecutor, and the testimony of John Dean before the Committee, all demonstrate that the two conversations sought by the Committee in its June 24 subpoena bear on the President's actions in connection with the use of the Internal Revenue Service to harass or obtain information about political enemies.

C. Domestic Surveillance

Five of the ten subpoenaed conversations in the domestic surveillance area relate to the issue of the President's knowledge of the break-in by the Plumbers into the office of Dr. Fielding.

The Committee also subpoenaed five conversations between the President and Colson that took place between June 23 and September 10, 1971. It was Colson who had arranged for the delivery of funds that were used to finance the break-in of Dr. Fielding's office.

Finally, with respect to domestic surveillance, the Committee subpoenaed documents from the files of Haldeman, Ehrlichman, Colson, Krogh and Young relating to the origin and activities of the White House Plumbers unit. These documents were necessary for a thorough investigation by the Committee of domestic surveillance activities.

D. Dairy

On March 12, 1971, the Secretary of Agriculture announced his decision not to raise milk price supports. On March 25, 1971, that decision was reversed. The 18 conversations sought by the Committee's subpoena of June 24, 1974, all occurred during the six-day period from March 19 to March 25, 1971.

The failure of the President to produce the recordings of these conversations—or even a listing of Presidential meetings and telephone calls between March 19 and March 25, 1971—seriously frustrated this area of the Committee's inquiry. Because of the President's defiance of its subpoenas, the Committee was unable to make a determination as to the President's knowledge or lack of knowledge of, or involvement or lack of involvement in, alleged bribery in connection with the increase of milk price supports in March, 1971.

E. ITT and Kleindienst Confirmation Hearings

The 19 conversations for which recordings and related materials were subpoenaed by the Committee for this phase of its inquiry took place between March 6 and April 5, 1972, while the Kleindienst confirmation hearings were in progress. It is undisputed that Kleindienst failed to fully and completely answer questions at the hearings; he has pleaded guilty to such a charge in the United States District Court for the District of Columbia. A major issue for the Committee was the President's knowledge of his conduct. The recordings which the Committee sought but did not obtain would have shed light on this question, for the conversations involve the President and Haldeman, Ehrlichman, Colson and Mitchell, all of whom played roles in connection with Kleindienst's confirmation hearings.

Untrustworthiness of Edited Transcripts Produced by the President

In response to the Committee's eight subpoenas for recordings and materials related to 147 conversations, the President has produced edited transcripts of 33 conversations. Upon examination, it was found that in numerous instances the transcripts were untrustworthy.

The Claim of Executive Privilege

Throughout our history this power of inquiry has been recognized as essential to the impeachment power.

Before the current inquiry, sixty-nine Federal officials had been the subject of impeachment investigations. With the possible exception of one minor official who invoked the privilege against self-incrimination, not one of them challenged the power of the committee conducting the impeachment investigation to compel the production of evidence it deemed necessary.

It is against this historical background that President Nixon refused to comply with the Committee's subpoenas. He invoked a claim of "executive privilege" and said it was based on two grounds: (1) the need to preserve the separation of powers, and (2) the need to protect the confidentiality of Presidential conversations. In his letter of June 9, 1974 to Chairman Rodino, the President wrote that his refusal to comply with further Committee subpoenas was based in part on his study to "preserv[e] the principle of the separation of powers—and of the executive as a co-equal branch." And in his May 22, 1974 letter, the President wrote that providing recorded conversations in response to the Committee's subpoenas would constitute "such a massive invasion into the confidentiality of Presidential conversations that the institution of the Presidency itself would be fatally compromised."

A similar claim of executive privilege was advanced by the President in the criminal proceedings arising out of the Watergate cover-up. On October 12, 1973, the Court of Appeals for the District of District of Columbia in Nixon v. Sirica rejected that claim; the President decided not to seek Supreme Court review of that decision. On July 24, 1974, the Supreme Court in United States v. Nixon also rejected this claim. The Court unanimously held: (1) if the President invokes executive privilege as a bar to producing evidence in a criminal prosecution, it is ultimately for the courts and not the President to determine the application of that privilege; and (2) the generalized assertion would not prevail when weighed against the "legitimate needs of the judicial process."

Both of these holdings confirm the rejection by this Committee of the claim of executive privilege interposed by the President to its subpoenas.

[The committee next discusses at length the merits of Mr. Nixon's claims of executive privilege and the

The New York Times/George Tames

John M. Doar, left, special counsel, talking with James D. St. Clair, attorney for the President, outside the offices of the House Judiciary Committee. Next to Mr. Doar is Albert E. Jenner Jr., counsel to the minority.

reasons why it felt it was inappropriate to seek enforcement by the courts of its subpoenas. The report on Article III concluded as follows.]

Conclusion

The undisputed facts, historic precedent, and applicable legal principles support the Committee's recommendation of Article III. There can be no question that in refusing to comply with limited, narrowly drawn subpoenas—issued only after the Committee was satisfied that there was other evidence pointing to the existence of impeachable offenses—the President interfered with the exercise of the House's function as the "Grand Inquest of the Nation." Unless the defiance of the Committee's subpoenas under these circumstances is considered grounds for impeachment, it is difficult to conceive of any President acknowledging that he is obligated to supply the relevant evidence necessary for Congress to exercise its constitutional responsibility in an impeachment proceeding. If this were to occur, the impeachment power would be drained of its vitality. Article III, therefore, seeks to preserve the integrity of the impeachment process itself and the ability of Congress to act as the ultimate safeguard against improper presidential conduct.

MINORITY VIEWS

OF MESSRS. HUTCHINSON, SMITH, SANDMAN, WIGGINS, DENNIS, MAYNE, LOTT, MOORHEAD, MARAZITI AND LATTA

Preliminary Statement

A. General

It is true, as President Gerald R. Ford said in his inaugural remarks, that "our long national nightmare is over," at least in the sense that anxiety over the impact of a raging Watergate controversy on the ability of the country's Chief Executive to govern effectively, or even to remain in office, abruptly ended upon the resignation of Richard Nixon from the Presidency. That resignation also rendered moot, in our view, the sole question to which this Committee's impeachment inquiry was addressed, namely, whether sufficient grounds exist for the House of Representatives to exercise its constitutional power to impeach Mr. Nixon. We see no need for the Members of the House to take any action whatsoever with respect to the filing of this Committee Report, other than to read it and the individual and minority views included herein.

It is perhaps less urgent, but it is surely no less necessary, that we record our views respecting the more significant questions of law and fact which we perceive to be posed by the record compiled by the Committee in the course of its Impeachment Inquiry. This remains important, not because whatever we in the minority or our colleagues who constituted the Committee's majority on these issues now say about them will affect the tenure in office of any particular President, but because we have an obligation, both to our contemporaries and to posterity, not to perpetuate, unchallenged, certain theories of the evidence, and of law, which are propounded by the majority but which we believe to be erroneous.

It is essential that, as the emotional and intellectual tensions of the pre-resignation period subside, neither Members of the Committee nor other Americans so relax their efforts to analyze and understand the evidence accumulated by the Committee that they become indiscriminate in their approach to the various allegations of misconduct which we examined. Our gratitude for his having by his resignation spared the Nation additional agony should not obscure for history our judgment that Richard Nixon, as President, committed certain acts for which he should have been impeached and removed from office. Likewise, having effectively admitted guilt of one impeachable offense—obstruction of justice in connection with the Watergate investigation—Richard Nixon is not consequently to be presumed guilty of all other offenses with which he was charged by the majority of the Committee that approved recommending to the full House three Articles of Impeachment against him. Indeed, it remains our view that, for the most part, he was not guilty of those offenses and that history should so record.

Views on Merits of Charges

Our views respecting the merits of each of the major allegations made by the majority of the Committee against President Nixon are set out more fully in the separate discussions of the three proposed Articles which follow. To summarize:

(1) With respect to proposed Article I, we believe that the charges of conspiracy to obstruct justice, and obstruction of justice, which are contained in the Article in essence, if not in terms, may be taken as substantially confessed by Mr. Nixon on August 5, 1974, and corroborated by ample other evidence in the record. Prior to Mr. Nixon's revelation of the contents of three conversations between him and his former Chief of Staff, H. R. Haldeman, that took place on June 23, 1972, we did not, and still do not, believe that the evidence of presidential involvement in the Watergate cover-up conspiracy, as developed at that time, was sufficient to warrant Members of the House, or dispassionate jurors in the Senate, in finding Mr. Nixon guilty of an impeachable offense beyond a reasonable doubt, which we believe to be the appropriate standard.

(2) With respect to proposed Article II, we find sufficient evidence to warrant a belief that isolated instances of unlawful conduct by presidential aides and

subordinates did occur during the five-and-one-half years of the Nixon Administration, with varying degrees of direct personal knowledge or involvement of the President in these respective illegal episodes. We roundly condemn such abuses and unreservedly favor the invocation of existing legal sanctions, or the creation of new ones, where needed, to deter such reprehensible official conduct in the future, no matter in whose Administration, or by what brand or partisan, it might be perpetrated.

Nevertheless, we cannot join with those who claim to perceive an invidious, pervasive "pattern" of illegality in the conduct of official government business generally by President Nixon. In some instances, as noted below, we disagree with the majority's interpretation of the evidence regarding either the intrinsic illegality of the conduct studied or the linkage of Mr. Nixon personally to it. Moreover, even as to those acts which we would concur in characterizing as abusive and which the President appeared to direct or countenance, neither singly nor in the aggregate do they impress us as being offenses for which Richard Nixon, or any President, should be impeached or removed from office, when considered, as they must be, on their own footing, apart from the obstruction of justice charge under proposed Article I which we believe to be sustained by the evidence.

(3) Likewise, with respect to proposed Article III, we believe that this charge, standing alone, affords insufficient grounds for impeachment. Our concern here, as explicated in the discussion below, is that the Congressional subpoena power itself not be too easily abused as a means of achieving the impeachment and removal of a President against whom no other substantive impeachable offense has been proved by sufficient evidence derived from sources other than the President himself. We believe it is particularly important for the House to refrain from impeachment on the sole basis of noncompliance with subpoenas where, as here, colorable claims of privilege have been asserted in defense of non-production of the subpoenaed materials, and the validity of those claims has not been adjudicated in any established, lawful adversary proceeding before the House is called upon to decide whether to impeach a President on grounds of noncompliance with subpoenas issued by a Committee inquiring into the existence of sufficient grounds for impeachment.

Service to His Country

Richard Nixon served his country in elective office for the better part of three decades and, in the main, he served it well. Each of the undersigned voted for him, worked for and with him in election campaigns, and supported the major portion of his legislative program during his tenure as President. Even at the risk of seeming paradoxical, since we were prepared to vote for his impeachment on proposed Article I had he not resigned his office, we hope that in the fullness of time it is his accomplishments—and they were many and significant—rather than the conduct to which this Report is addressed for which Richard Nixon is primarily remembered in history.

We know that it has been said, and perhaps some will continue to say, that Richard Nixon was "hounded from office" by his political opponents and media critics. We feel constrained to point out, however, that it was Richard Nixon who impeded the F.B.I.'s investigation of the Watergate affair by wrongfully attempting to implicate the Central Intelligence Agency; it was Richard Nixon, who created and preserved the evidence of that transgression and who, knowing that it had been subpoenaed by this Committee and the Special Prosecutor, concealed its terrible import, even from his own counsel, until he could do so no longer. And it was a unanimous Supreme Court of the United States which, in an opinion authored by the Chief Justice whom he appointed, ordered Richard Nixon to surrender that evidence to the Special Prosecutor, to further the ends of justice. The tragedy that finally engulfed Richard Nixon had many facets. One was the very self-inflicted nature of the harm. It is striking that such an able, experienced and perceptive man, whose ability to grasp the global implications of events little noticed by others may well have been unsurpassed by any of his predecessors, should fail to comprehend the damage that accrued daily to himself, his Administration, and to the Nation, as day after day, month after month, he imprisoned the truth about his role in the Watergate cover-up so long and so tightly within the solitude of his Oval Office that it could not be unleashed without destroying his Presidency.

We submit these Minority Views in the hope that we might thereby help provide to our colleagues in the House, and to the public at large, a broader perspective than might otherwise be available on these events which have come to play such a surprisingly large part in all of our lives. Joined, we are confident, by our colleagues on the majority of the Committee who, through these past nine months, struggled as we did to find the truth, we conclude by expressing a final, earnest hope: that these observations and all that we have said and done during the course of this Inquiry will prove to have served, as they were intended to serve, the security, liberty and general welfare of the American people.

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B. Meaning of "Treason, Bribery or other high Crimes and Misdemeanors"

The Constitution of the United States provides that the President "shall be removed from Office on Impeachment for, and Conviction of, Treason, Bribery, or other high Crimes and Misdemeanors." We do not believe that a President or any other civil officer of the United States government may constitutionally be impeached and convicted for errors in the administration of his office.

Are "High Crimes and Misdemeanors" Non-Criminal?

There are types of misconduct by public officials—for example, ineptitude, or unintentional or "technical" violations of rules or statutes, or "maladministration" — which would not be criminal; nor could they be made criminal, consonant with the Constitution, because the element of criminal intent or mens rea would be lacking. Without a requirement of criminal acts or at least criminal intent, Congress would be free to impeach these officials. The loss of this freedom should not be mourned; such a use of the impeachment power was never intended by the Framers, is not supported by the language of our Constitution, and, if history is to guide us, would be seriously unwise as well.

C. The evidence before the Committee on the Judiciary

On August 5, 1974, the President released to the Committee and to the public the transcripts of three conversations between himself and H. R. Haldeman on June 23, 1972. Suffice it to say that these transcripts, together with the circumstances of their belated disclosure, foreclosed further debate with respect to the sufficiency of proof of the charges embodied in proposed Article I and led inevitably to the President's resignation three days later.

In the wake of these sudden and decisive events it may seem academic to discuss the character of the evidence which, prior to August 5, 1974, had been adduced in support of the allegations against the President. We are nevertheless constrained to make some general observations about that evidence, for two reasons. First, the disclosure of the June 23, 1972 transcripts, though dispositive of the case under proposed Article I, did not substantially affect the nature of the evidence in support of proposed Article II, Second, the fact that this disclosure cured the evidentiary defects earlier associated with proposed Article I must not be allowed to obscure the fact that a majority of the Members of the Committee had previously, and in our view wrongly, voted to recommend to the House the adoption of that Article on the basis of information then at their disposal.

1. Reliance on Hearsay Evidence

Much has been made of the voluminousness of the "evidence" which was accumulated in support of impeachment, and upon which the majority of the Members of the Committee has relied in reporting out three proposed Articles of Impeachment. However, a fair examination of the character of that "evidence" reveals that it is comprised of layer upon layer of hearsay. We venture to say that ninety per cent of the "evidence" against the President would have been inadmissible in any court of law in the United States.

2. Reliance on Adverse Inferences

Again putting aside the President's disclosures on August 5, 1974, we would draw attention to a second defect of the approach which the majority of the Committee has taken with respect to the evidence. Seemingly recognizing that even if every fact asserted in hearsay evidence were taken to be true, the case against the President might still have failed, the majority relied further upon inferences from inadmissible evidence, and upon the legal doctrine known as the "adverse inference" rule.

There are a myriad of reasons why materials withheld from the Committee might have been embarrassing or harmful to the President if disclosed, without in any way constituting evidence of grounds for impeachment.

D. Standard of Proof

The standard of proof must be no less rigorous than proof by "clear and convincing evidence."

Article I

Introduction

We believe the evidence warrants the conclusion that the President did conspire with a number of his aides and subordinates to delay, impede and obstruct the investigation of the Watergate affair by the Department of Justice.

Watergate and the Presidents "Policy"

In the Summary of Information which he presented to the Committee before our debate on proposed Articles of Impeachment, the Special Counsel dealt with the question of Presidential responsibility for the two unlawful entries and wiretapping of the Democratic National Committee headquarters in a manner which continues to disturb us:

The evidence available to the Committee establishes that on May 27 and June 17, 1972, agents of CRP, acting pursuant to a political intelligence plan (which included use of illegal electronic surveillance), authorized in advance by John Mitchell, head of CRP, and H. R. Haldeman, the President's chief of staff, broke into the DNC Headquarters at the Watergate for the purpose of effecting electronic

surveillance; *and that this was part of the President's policy of gathering political intelligence to be used as part of his campaign for re-election. (Emphasis added.)*

We consider this to be a careless and unfair characterization of the weight of the evidence then before the Committee.

This sweping allegation will not withstand close scrutiny in the light of the available evidence.

Involvement of President in Cover-up

We will not belabor the abundant evidence to establish the existence of a conspiracy to obstruct and impede the official investigation of the Watergate break-in. We do question, however, any suggestion that the evidence shows Presidential knowledge and involvement from the very beginning.

Pointers in the Wrong Direction

Without in any way suggesting that the President himself was not fully and genuinely responsible for his decision to join the cover-up conspiracy no later than June 23, 1972, we must point out, admittedly only in slight mitigation, that when the President desperately needed sound advice from good men, he was surrounded by aides and advisers who were themselves inclined by the circumstances to give him the worst possible advice. Haldeman, Ehrlichman, Mitchell, Colson and Dean each had selfish, personal reasons for wanting the full story of Watergate concealed from official investigators, the general public, indeed, in varying degrees, from the President himself. In addition, they shared a misguided desire to shield the President, as much as possible, from the need to assume personal responsibility for such a sorry episode in the middle of his re-election drive.

The President Enters the Conspiracy

Since there is no logical need to hypothesize an all-knowing, all-powerful President at the center of the conspiracy from its beginning, organizing and directing the cover-up activities of each of his aides and subordinates (at least in general outline), in order adequately to explain the events that transpired in the first several days following the discovery of the burglars, we consider it our Constitutional mandate not to do so unless and until specific evidence convinces us that it is at least more probable than not that the President had become involved.

The edited transcripts of three conversations between the President and H. R. Haldeman on June 23, 1972 which were submitted to the Committee on August 5, 1974 provide, in our view, the first direct and persuasive evidence of Presidential knowledge and intent to participate in an ongoing conspiracy to obstruct justice in 1972.

Interpreting Events in Light of the June 23, 1972 Transcripts

We do not consider it nit-picking to suggest that, even with the benefit of the additional evience produced by the President on August 5, 1974, some of the specific allegations made against him in the majority report are not well founded. It is still important—perhaps even more important, now that Mr. Nixon is not able to mount a formal defense to the Committee's accusations in an appropriate forum—for us to caution against the indiscriminate adoption of each and every adverse interpretation that could be placed upon specific presidential actions and statements, merely because the President has been shown to be culpable to some extent at an early stage of the cover-up.

Clemency

Paragraph (9) of proposed Article I alleges that the President sought to induce criminal defendants and convicts to remain silent about their knowledge of the criminal involvement of others, in exchange for the expectation of some favorable treatment or consideration which presumably the President would be in a position to grant. The Members of the Committee know full well, however, that the gist of this allegation is that the President offered or authorized the offering of executive clemency to those who were or might be convicted of the original Watergate offenses.

We earnestly submit that, taken as a whole, the evidence simply does not fairly permit the inference that the President ever offered or authorized the offer of clemency to any person in exchange for his silence or false testimony.

The March 21, 1973 Payment to Howard Hunt

Our view of the evidence on this point differs substantially from that of the grand jury, as well as from that set out in the Committee report.

The majority of the Committee has, we believe, rendered a version of the facts relating to the March 21, 1973 payment to Hunt that flies in the face of a considerable amount of evidence in the record. One who reads the "Payments" section of the discussion of proposed Article I in the Committee report is led to believe that Dean met with the President and Haldeman on the morning of the 21st; that following that meeting Dean telephoned LaRue to arrange the making of the payment to Hunt; that LaRue and Mitchell then conferred by telephone, whereupon Mitchell authorized the payment to go forward; and that later that day LaRue effectuated the delivery of the money to Hunt.

We think this construction of the facts is mistaken. The evidence clearly shows that Dean talked to both LaRue and Mitchell before meeting with the President on the morning of March 21st, that arrangements for the delivery of the money were made independently of that meeting or any of its results, and that in all probability the delivery of the money to Hunt would have taken place even if Dean had not talked with the President that day.

White House Relationship With the Office of the Watergate Special Prosecutor

Obstinacy on the part of Cox was regarded by the President as a severe breach of etiquette and loyalty at a time of grave national crisis (the Mideast situation), and the President felt that he could not govern effectively with Cox as Special Prosecutor. There is strong reason to believe that President Nixon dismissed Cox as Special Prosecutor because he regarded Cox as a disaffected employee and disagreed with his methodology of prosecution.

There is absolutely no evidence that President Nixon discharged the Special Prosecutor in an attempt to obstruct justice.

In conclusion, the charge that the President deliberately obstructed the Office of the Special Prosecutor is principally grounded on two facts: his discharge of Special Prosecutor Cox, and his resistance to certain subpoenas issued on behalf of the Special Prosecutor. Both presidential actions, however, can be explained in terms of proper motives and need not give rise to any inference of an intention to obstruct justice.

A fair reading of the evidence suggests that the discharge of Cox was motivated at least in part by the President's perception of Cox as a long-term member of the "Kennedy clique," and therefore a political opponent whose impartiality was subject to question. Whether or not this perception was accurate is immaterial; the point remains that the President may have feared that he would not receive fair treatment from the Office of the Special Prosecutor while Cox was in charge. Significantly, the President was able to maintain a satisfactory relationship with Jaworski right to the end.

"Missing" or Incomplete Tapes

18½-Minute Gap

Should the President be expected personally to solve the mystery of the 18½ minute gap when the Office of the Special Prosecutor, Judge Sirica, the F.B.I., and the Grand Jury have been unable thus far to do so?

Should he discharge his personal secretary or any other employee when no charges have been placed?

President Nixon in his public address on April 29, 1974, has denied any knowledge of how the 18½ minute gap occurred. There has not been any direct evidence produced by anyone to show that the President ever listened to the original June 20th tape with the Uher 5000 machine. The only time the President listened to this tape, according to the evidence, is on September 29 at Camp David while Rose Mary Woods was using the 800B Sony machine.

Other "Missing" Tapes

There has been no evidence introduced to contradict the explanations given by the White House for the absence of the June 20, 1972 telephone call between the President and Mr. Mitchell and the non-recording of the April 15, 1973, conversation between the President and John Dean.

Article II

Legal Considerations

1. Duplicity

Five proposed Articles were considered by the Committee on the Judiciary. Four of these were structured according to a common-sense classification by factual subject matter: Watergate; noncompliance with subpoenas; Cambodian bombing; and personal finances. Article II, by contrast, is a catch-all repository for other miscellaneous and unrelated presidential offenses which were thought to have sufficient support among Committee Members to warrent inclusion. If this Article has any organizing principle at all, it is not a common factual basis but rather a common legal theory supposedly applicable to each specified offense.

The charge encompassed by Article II is that the President "repeatedly engaged in conduct" which constituted grounds for impeachment on one or more of the following three legal theories.

(1) "Violating the constitutional rights of citizens," or

(2) "Impairing the due and proper administration of justice and the conduct of lawful inquiries," or

(3) "Contravening the laws governing agencies of the executive branch and the purposes of these agencies."

The Article then states, "This conduct has included one or more of the following," whereupon five completely disparate types of activity are alleged:

(1) Attempt to misuse the Internal Revenue Service to harass political opponents.

(2) Warrantless wiretapping.

(3) Authorization and maintenance of the "Plumbers."

(4) Failure to prevent subordinates

from impeding inquiries.

(5) Interference with agencies of executive branch.

Our opposition to the adoption of Article II should not be misunderstood as condonation of the presidential conduct alleged therein. On the contrary, we deplore in strongest terms the aspects of presidential wrongdoing to which the Article is addressed. However, we could not in conscience recommend that the House impeach and the Senate try the President on the basis of Article II in its form as proposed, because in our view the Article is duplicitous in both the ordinary and the legal senses of the word. In common usage, duplicity means belying one's true intentions by deceptive words; as a legal term of art, duplicity denotes the technical fault of uniting two or more offenses in the same count of an indictment. We submit that the implications of a vote for or against Article II are ambiguous and that the Committee debate did not resolve the ambiguities so as to enable the Members to vote intelligently. Indeed, this defect is symptomatic of a generic problem inherent in the process of drafting Articles of impeachment, and its significance for posterity may be far greater than the substantive merits of the particular charges embodied in Article II.

2. "Abuse of Power" as a Theory of Impeachment of a President

It is respectfully submitted that allegations of "abuse of power" fail to state a "high Crime and Misdemeanor" within the meaning of the Constitution. Abuses of power in general terms may have been the occasion for the exercise of the impeachment power in England in the Fourteenth and Seventeenth Centuries, during the great struggles for Parliamentary supremacy; but "abuse of power" is no more a high crime or misdemeanor in this country than "maladministration"—which was explicitly rejected by the Framers of our Constitution because it was too "vague."

Factual Allegations

Paragraph (1)

This paragraph charges the President with having endeavored to violate the constitutional rights of citizens in relation to the official governmental activities of the Internal Revenue Service in two principal ways: by obtaining confidential information from income tax returns, and by instigating tax audits and investigations on a politically discriminatory basis.

Ineffectual Attempts

This paragraph does not charge the President with actual misuse of the IRS. Indeed, no evidence before this Committee could support such a charge. Instead the President is charged with responsibility for the unsuccessful attempts by his subordinates to achieve allegedly improper or unlawful goals.

Because such efforts were unsuccessful, certainly the conclusion that the President was seriously intent on, or interested in the misuse of the IRS is negated.

Established practice or custom

We also believe that the Committee's inquiry pertaining to the allegations of this Paragraph was fatally flawed by our failure to develop substantial evidence concerning the routine practices of the IRS, over a period of years spanning several previous Administrations, with respect to the impingement of political or other "extraneous" considerations upon the interpretation and implementation of pertinent regulations and statutory provisions.

Repeated conduct

Article II charges that President Nixon "repeatedly engaged in conduct violating the constitutional rights of citizens." We must point out, therefore, that with respect to only one of the specific allegations made under this Paragraph—that involving the McGovern supporters list—is there any competent, credible evidence from which the Committee could infer that the President actually knew of the nature of his aides' dealings with the IRS.

Paragraph (2)

The gravamen of the charge in Paragraph (2) is that the President misused the Federal Bureau of Investigation, the Secret Service, and other personnel from the executive branch, to carry out at his direction the unlawful electronic surveillance of citizens. Paragraph (2) refers in particular to the authorization, execution and concealment of the so-called 1969-71 wiretaps; the surveillance of Joseph Kraft in 1969; the surveillance of Donald Nixon in 1970; the investigation of Daniel Schorr in 1971; and the Huston plan. These incidents are individually analyzed below, except for the Schorr investigation which does not appear even colorably to have constituted an unlawful or otherwise improper action.

a. The 1969-71 Wiretaps.

Not every leak of classified information, to be sure, represents a bona fide threat to the national security.

During the course of the 1969-71 wiretaps seventeen persons were placed under electronic surveillance. Seven of these persons were employees of the National Security Council; two were State Department officials; and one was at the Department of Defense. All ten had access to the classified information which was leaked, and it is therefore beyond argument that sufficient probable cause existed to justify the surveillance of these persons.

Four were newsmen, at least two of whom were known to have published newspaper articles, based on leaks, which were extremely damaging to the effectiveness of U.S. foreign policy initiatives. The other two newsmen were known to have frequent contact with Soviet-bloc personnel; though perhaps not in itself a sufficient reason to justify wiretapping, this fact must be considered as an aggravating factor under the circumstances.

With respect to the three remaining persons who were wiretapped, it is true that none of them had direct access to classified foreign policy information. It is possible, however, that any one of these persons might have inadvertently come into possession of this type of information simply by virtue of their close contact with other White House personnel. In any event, even if there was not a sufficient showing of probable cause to justify wiretapping these three persons, the entire wiretapping program cannot be condemned simply because of an inadvertent and good faith error in judgment with respect to two or three of the seventeen persons who were placed under surveillance. There is no denying that the 1969-71 wiretaps, by and large, were maintained for longer periods of time than is customary in the case of ordinary criminal investigation; However, the wiretapping program was no ordinary criminal investigation: it was undertaken in response to a serious and ongoing threat to the national security.

Much has been made of the fact that in a handful of isolated instances the wiretaps yielded information which was of incidental political usefulness to the President. This has not been shown to be anything more than an accidental by-product of surveillance undertaken for a different and proper purpose, nor can such a showing be supported by the facts.

The failure to maintain records of the wiretaps on the FBI indices, and the subsequent retrieval of all the 1969-71 wiretap records from the FBI, have been cited as evidence of the President's awareness that the wiretapping program might be illegal. This inference is rebutted, however, by a more compelling inference that the President's actions had an innocent motivation. Whatever his precise instructions to Haig may have been the President was understandably anxious to take all appropriate measures which would ensure that the existence of the wiretaps would not, through leaks, become known to the very persons on whom the surveillance had been placed.

b. Wiretap and Surveillance of Joseph Kraft

It may be doubted that this surveillance constituted a violation of law or of Kraft's constitutional rights (under the Fourth Amendment or any other provision of the Constitution). In any event, there is no evidence at all to suggest that the President authorized or approved this spot physical surveillance.

c. Wiretap and Surveillance of Donald Nixon

There are several reasons why the surveillance of Donald Nixon does not constitute an offense, let alone an offense for which the President should be removed from office. First, there is no evidence that the surveillance was ordered by the President or even known to him until after the fact. Second, the Secret Service is responsible for protecting the physical safety of the President and his immediate family. Third, the surveillance was conducted with Donald Nixon's knowledge and consent.

d. The "Huston Plan"

The President's approval in principle of modifying some operational restraints which had been in existence since 1966 was withdrawn within five days after the circulation of Huston's decision memorandum, which was the device for carrying out the recommendations. There is no evidence before the Committee that any illegal mail coverage, surreptitious entry, or electronic surveillance or penetration was ever undertaken, during these five days, under the authority of the decision memorandum.

It has occasionally been urged that the formation and operation of the "Plumbers" group is evidence that the Huston Plan was not actually rescinded. This is untenable. The two matters were handled by entirely different groups of White House staff members and they arose a year apart. The problem to which the Huston Plan was directed was, essentially, domestic violence, whereas the "Plumbers" were concerned with news leaks and the theft of the Pentagon Papers. It strains the facts to find any connection between the two.

Paragraph (3)

Paragraph (3) of proposed Article II charges that President Nixon, "acting personally and through his subordinates and agents," authorized the maintenance of a "secret investigative unit" within the White House, which (1) unlawfully utilized the resources of the Central Intelligence Agency, (2) engaged in covert and unlawful activities, and (3) attempted to prejudice the constitutional right of an accused to a fair trial. Paragraph (3) also alleges that the Special Investigations Unit was financed in part with money derived from campaign contributions.

The language employed by the majority of the Committee to frame these charges stops short—but just barely—of echoing the near-hysterical cry of some that the President established in the White House a personal "secret police" force that gravely threatened the civil liberties of the entire population. We think it helps to place the matter in better perspective to note at the outset that the "secret investigative unit" mentioned in the Paragraph appears never to have numbered more than four persons at any one time; its members received no special training for their work; they carried no weapons; they made no arrests nor otherwise asserted any power or authority to engage in either general or localized law enforcement.

Any willful violation of an individual's civil liberties by government employees acting at the direction of the President, if proved, would be a matter of deep concern to us all, but we frankly feel

that much of the discussion of the White House Special Investigations Unit is characterized by rank hyperbole. All of the evidence before the Committee bears out the truth of President Nixon's description of the group's mission:

> This was a small group at the White House whose principal purpose was to stop security leaks and to investigate other sensitive security matters.

Under all the circumstances, we believe that if the President had not acted decisively against epidemic leaks of national security material, that would have been a breach of his responsibilities for the protection of the nation's security.

The evidence is virtually undisputed that the President did not know in advance about the break-in at Dr. Fielding's office.

Upon hearing of the Fielding operation, and having knowledge of all the other unrelated national security work carried on by the Special Investigation Unit, the President was concerned that disclosure of the Fielding break-in would lead to exposure of all the Unit's efforts to determine the source of various national security leaks.

It is clear that President Nixon did not contemplate a public relations campaign against Dr. Ellsberg.

Even if the President did wish to conduct a public relations campaign to smoke out the persons who were leaking national security information, it must be remembered that a public relations campaign is not illegal. Public relations campaigns, in fact, are not uncommon in either politics or government.

The point is, that if top secret defense documents are published on page 1 of The New York Times, that constitutes an effective publication and delivery of the information to foreign intelligence sources. An action which jeopardizes the success of American policy in a foreign war or in talks with the Soviet Union to limit the spread of nuclear weapons, is clearly the proper concern of the Central Intelligence Agency. The President's action, which was limited to authorizing C.I.A. assistance to a legitimate national security project, was entirely proper.

(Paragraph (4)

Paragraph (4) of Article II charges that the President "has failed to take care that the laws were faithfully executed by failing to act when he knew or had reason to know that his close subordinates endeavored to impede and frustrate lawful inquiries." These inquiries concerned the Watergate break-in and cover-up, and "other unlawful activities" including those relating to electronic surveillance, the Fielding break-in, the campaign financing practices of the Committee to Re-elect the President, and the confirmation of Richard Kleindienst as Attorney General.

During the period from May 1969 to February 1971, the F.B.I. wiretapped the home telephone of Morton Halperin and thereby incidentally intercepted a number of conversations to which Daniel Ellsberg was a party.

If the failure of the Department of Justice to produce the wiretap logs at Ellsberg's trial was an obstruction of justice, therefore, the F.B.I. itself should be held accountable—not the President. Furthermore, regardless of whether that failure was technically an obstruction of justice, its only effect was to cause Judge Byrne to dismiss the case against Ellsberg. Since the President could have ordered the prosecution of Ellsberg to be dropped anyway, as a valid exercise of prosecutorial discretion, the actual result hardly justifies his impeachment.

The belated disclosure of the June 23, 1972 conversations between the President and H. R. Haldeman made it clear for the first time that the President did indeed conspire to obstruct justice, and did obstruct justice, by impeding the lawful inquiries into the Watergate break-in and cover-up. Since this obstruction of justice represents the gravamen of the charge under Article I and has been treated at length in the discussion of that Article, it requires no further comment here.

Paragraph (4) alleges that the President, after learning that his subordinates were trying to obstruct lawful investigations into allegedly illegal campaign financing practices of the Committee to Re-elect the President, failed to take action to inform the appropriate authorities of his subordinates' conduct.

The President might reasonably have believed that the demands of the orderly administration of justice did not require him to rush to the prosecutor with news of a possible violation of law, particularly when he was personally unconvinced that it was in fact a violation.

To charge the President with knowledge that his close subordinates had endeavored to frustrate the Senate inquiry [*on I.T.T. and the Kleindienst nomination*], two facts must be proven. First, it must be shown that the President had knowledge of the specific testimony of Kleindienst and Mitchell. Second, it must be shown that the President knew that testimony to be false.

The evidence establishes that the testimony of Kleindienst and Mitchell, though perhaps misleading, was not perjurious; that the President was probably not aware of the substance of their testimony; and that even if he had been aware of it, he would not have recognized it as false. This fair reading of the evidence does not even make out a case of negligence against the President, let alone support the charge that he knowingly failed to take care that the laws be faithfully executed.

Paragraph (5)

Paragraph (5) charges that the President "knowingly misused the executive power by interfering" with the Federal Bureau of Investigation, the Criminal Division of the Department of Justice, the Watergate Special Prosecutor, and the Central Intelligence Agency. This charge is essentially a repetition of allegations which are encompassed by Article I, Paragraphs (4) and (6).

If the allegations in Article II, Paragraph (5) are regarded as having an independent significance apart from the Watergate conspiracy, then they are reduced to describing a few isolated incidents which do not, in our opinion, rise to the level of a ground for impeachment. Conversely, if the allegations are concerned with the Watergate conspiracy, then Paragraph (5) merely duplicates Article I and is redundant.

Article III

Article III charges that the President, "without lawful cause or excuse," failed to produce papers and things subpoenaed by the Committee on the Judiciary, which were deemed necessary by the Committee in order to resolve questions relating to Presidential knowledge or approval of certain actions "demonstrated by other evidence to be substantial grounds for impeachment of the President."

We believe that adoption of Article III would have unnecessarily introduced an element of brittleness at the heart of our system of Constitutional checks and balances, and for this reason would have been unwise. Furthermore there may appear to be an element of unfairness, or even circularity, in removing a President from office for failure to cooperate in his own impeachment—for failure to furnish information to his accusers, as it were—particularly where other grounds for impeachment are thought to exist.

If this were nevertheless to be done, certainly it should be done only after a formal adjudication by the House of Representatives as to the relevance of the material sought, the adequacy of the President's response, and the applicability of any privilege or other "lawful cause or excuse" claimed by the President. Such is the time-honored procedure of the House, and to abandon it in this, of all cases, could only cause grave doubts as to the fairness of a vote to impeach on this ground.

To those Members who may believe that in this case the claim of Executive privilege was asserted by the President in bad faith, at least as to some materials, we would reiterate our view that this alone should not have deprived the President of an opportunity to make his defense before the full House, like any putative contemnor. Even so, the House would not have been without recourse, inasmuch as a willful refusal to furnish relevant subpoenaed material based on a bad faith claim of privilege, if proved or admitted, would have been relevant to the obstruction of justice charge contained in Article I. It is in that context that we believe the President's response to the Committee's subpoenas should have been examined.