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Leon Jaworski:

THE CASE AGAINST NIXON

(CHAPTER II)

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IN CRIMINAL LAW the rule is well recognized that one who learns of an ongoing criminal conspiracy and casts his lot with the conspirators becomes a member of the conspiracy. Once the existence of a conspiracy is shown, slight evidence may be sufficient to connect a defendant with it. But one does not become a member of a conspiracy simply because of receiving information regarding its nature and scope; he must have what the courts describe as a "stake in the success of the venture." He "must in some sense promote the venture himself, make it his own, have a stake in its outcome" Although one member of the conspiracy *must* commit an overt act, it is not necessary that every conspirator do so.

The indictment returned in the Watergate cover-up case charged that the defendants conspired to defraud the United States, to obstruct justice, and to make false statements and declarations, all in violation of 18 U.S.C. 371. The indictment charged that the conspiracy continued up until March 1, 1974, the day the indictment was returned. And the grand jury also charged that President Nixon conspired with those indicted.

Furthermore, the available evidence reasonably indicated that the President participated in a conspiracy to violate certain other statutes in addition to those specifi-

cally charged in the indictment, and that he fairly could be held culpable, both as a principal and on a theory of vicarious liability, for additional substantive offenses.

There was evidence that the President conspired with others to violate 18 U.S.C. 1503 — obstruction of justice — via the means set out in the cover-up indictment. This included paying of funds and offers of clemency and other benefits in order to influence the testimony of witnesses, making and facilitating the making of false statements and declarations, obtaining information about the ongoing investigation from the Justice Department for the purpose of diverting or thwarting the investigation.

There was evidence that the President conspired with others to violate 18 U.S.C. 1623 — perjury — which included the President's direct and personal efforts to encourage and facilitate the giving of misleading and false testimony by aides.

There was evidence that the President conspired with others to violate 18 U.S.C. 201(d) — bribery — by directly and indirectly suggesting and impliedly offering something of value — money and clemency in the case of Howard Hunt, clemency and/or a pardon in the case of some aides — with the intent to influence their testimony before grand juries, courts and congressional committees.

There was evidence that the President conspired with others to violate 18 U.S.C. 1505 — obstruction of a con-

gressional committee — by corruptly endeavoring to influence testimony of various persons before the Senate Watergate Committee.

And there was evidence that the President conspired with others to violate 18 U.S.C. 1510 — obstruction of a criminal investigation.

At the very least, evidence establishing that President Nixon was a member of a conspiracy that had as its means or objects violations of these statutes would also establish violations by Nixon of the particular statutes themselves on the theory of vicarious liability. In addition, 18 U.S.C. 2 provides that one who "counsels, induces or procures" the commission of an offense such as bribery, obstruction of justice or of a criminal investigation, or perjury by another is "punishable as a principal."

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AVAILABLE EVIDENCE was sufficient to make out at least a *prima facie* case that the President participated directly and personally in each of the four most important phases of the conspiracy. Also, he was a major actor in seeking to conceal the existence and later the scope of and participants in the conspiracy, which efforts themselves may be shown to have been part of the original cover-up conspiracy or, possibly, a second illegal conspiracy.

These events appeared to support the charge of the President's direct, affirmative participation in the "hush money" phase of the conspiracy:

1. In his meeting on the morning of March 21, 1973, with Dean and Haldeman, the President learned — if he did not already know — most of the material facts tending to show the involvement of his highest White House and CREEP aides in a cover-up effort that had begun soon after June 17, 1972. He was told that covert cash payments had been made to the defendants and why those payments were made. The President also learned of Howard Hunt's new demand for \$120,000 and of the dangers that might be posed for some of the conspirators if Hunt told what he knew about the Fielding or Watergate break-ins or both.



By David Suter for The Washington Post

2. The President demonstrated familiarity with the fact that payments had been made, volunteering his own belief that this had been done through a "Cuban Committee"; suggested they might have to be continued; told both Dean and Haldeman that what had already been done could be "handled" in the future, even though he apparently recognized in suggesting that the "cover" of the "Cuban Committee" be retained for future payments that such payments probably amounted to criminal activity.

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3. The President agreed with Dean that some "new strategy" was needed for dealing with the Watergate problem and repeatedly urged that John Mitchell be called to Washington on an urgent basis to sit down with Dean, Haldeman and Ehrlichman and develop such a new approach. A number of possible strategies were discussed.

4. During the March 21 morning meeting there was considerable discussion about the desirability and feasibility of continuing to make cash payments to the Watergate defendants indefinitely, in terms of the cash cost of such a course, political ramifications, and possible course of grand jury and congressional inquiries into Watergate. On several occasions Nixon reiterated that it would be possible to get a million dollars for this purpose, he knew where it could be obtained. But there was also discussion about the difficulties of paying the money and the likely futility of such a course.

5. The President and Dean agreed that if a course of paying the defendants indefinitely were followed, Mitchell should probably be the one to arrange for the mechanics of delivering the cash.

6. With respect to Hunt's current demand, the President on at least 10 separate occasions during the meeting specifically urged and encouraged that Hunt's "financial problem" be "handled" and "damn soon" in order to "buy time."

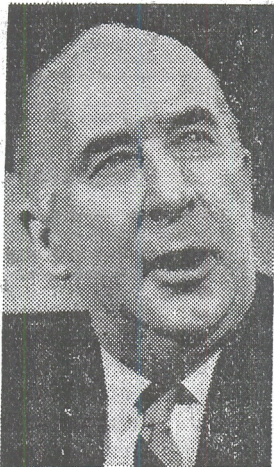
7. Following the March 21 morning meeting, Haldeman telephoned Mitchell in New York City. Thereafter, it appeared that Mitchell had a telephone conversation with Fred LaRue. That evening, LaRue caused \$75,000 to be delivered to Hunt's attorney.

8. In the late afternoon of March 21, Nixon met with Dean, Haldeman and Ehrlichman. Early on in this meeting, the President again raised the question of what should be done about Hunt's demand. Either Haldeman or Ehrlichman told Nixon that Mitchell and LaRue were "aware of it so they know (*inaudible*) feeling is." There was more discussion about whether anything would be done or about the fact that something would be done; inaudibility of the tape made it impossible to determine the precise import of this conversation.

9. The next morning, Haldeman and Ehrlichman learned from Mitchell that Hunt's "problem" had been "taken care of." Ehrlichman apprised Krogh that the possibility of Hunt's talking had been alleviated.

10. Within a short time and well before mid-April, Haldeman informed Nixon that funds had been paid to Hunt.

11. On April 16, in a conversation with Dean, the President acknowledged that because the payment to Hunt was discussed with him and then paid shortly thereafter, that "assumes culpability on that" as to the President himself. This statement followed a discussion initiated by Nixon in which he suggested to Dean that Dean had not told him about Hunt's threat on March 21 but only about a need by Hunt for money; Dean corrected Nixon and reminded him of the true chain of events, including Dean's belief that Mitchell had had the money paid. The President expressed approval that the money had been



John N. Mitchell headed the Nixon reelection committee until July, 1972. He is appealing his January, 1975, conviction on charges of conspiracy to obstruct justice, which led to his disbarment in New York State.



John Ehrlichman was President Nixon's chief domestic adviser until April, 1973. He is living and writing in Santa Fe while appealing his conviction in the Daniel Ellsberg break-in case.

Frederick LaRue was John Mitchell's chief political aide at the Nixon reelection committee. He pleaded guilty to charges of conspiracy to obstruct justice in the Watergate cover-up, served a 6-month term and now lives in Mississippi.



Egil Krogh was John Ehrlichman's deputy. He took full responsibility for the Ellsberg break-in and served 4½ months in prison. He is now director of development for Swensen's Ice Cream Co. in San Francisco.



paid "on the Mitchell level."

12. Thereafter, the President did not disclose and, indeed, apparently tried to conceal from Henry Petersen, chief of the Criminal Division of the Department of Justice, the fact that a specific threat by Hunt was discussed with him on March 21, and that he had learned shortly thereafter that money had in fact been paid in response to this demand.

13. At about the same time, the President had a number of conversations with Haldeman and Ehrlichman in which he urged them to get a story together about their understanding of the purpose for which cash payments to the defendants had been made. On one occasion the President stated that they did not raise money "to obstruct justice," even though, in fact, the President had previously been informed that those who participated directly in making and authorizing payments did it for that purpose, and that Haldeman and Ehrlichman had well understood that themselves.

14. On June 4, 1973, after the President had listened to a number of his own tape recordings, he stated on several occasions that the biggest problem would be the March 21 meeting, but that Haldeman had been present at that meeting and could "handle" it in his testimony before the Senate Watergate Committee.

15. During and after April, 1973, President Nixon repeatedly made incorrect and misleading public statements about his role and that of others in making cash payments to Watergate defendants. For instance, on May 22, 1973, Nixon claimed that he did not know until March 21 of any efforts to provide the defendants with funds; and on Aug. 15, 1973, he stated that he was not told on March 21 that money had been paid to procure the defendants' silence.

The President himself, while claiming that he did not instruct that Hunt be paid during the March 21 morning meeting, did acknowledge with considerable understatement that the tape recording of that meeting permitted "differing interpretations." The preponderance of the evidence showed at the very least that Nixon repeatedly urged that Hunt be paid, expressed the opinion that Hunt should be paid, and possibly instructed that Hunt be paid, in order that the conspirators could "buy time" to work out a new approach to the entire Watergate dilemma. During the meeting the President over and over returned to the subject of Hunt's demand. Not once did the President instruct that this *particular* demand for money by Hunt, made urgent by Hunt's impending sentencing, not be paid. Thus, at the least, the tape showed the President consistently in favor of paying Hunt. Moreover, the tape showed that his views were expressed throughout the conversation, including the final time the subject arose in the meeting.

Even if Hunt had never been paid on March 21, the undisputed facts still showed that the President learned on March 21 of past payments of cash for silence and understood that this was illegal; that he knew that at the least Dean, Haldeman, Ehrlichman, Mitchell, LaRue and Kalmbach were involved; that Nixon never took steps to inform prosecutorial authorities about these facts but instead suggested to Dean and others (and pursued) a course of "handling" those payments through a "cover" story; that Nixon had numerous discussions with Haldeman and Ehrlichman in which he urged them to get together a consistent innocent story about their role in making cash payments, and urged them to be sure others would also "stick to their line" of an innocent purpose; that after he learned that LaRue had confessed, Nixon instructed that Kalmbach be informed so that Kalmbach could meet LaRue's testimony; and that Nixon subsequently made false exculpatory statements concerning his own knowledge of hush money payments and the timing of such knowledge.

In an ordinary case, the President's actions would probably be sufficient to permit a jury to conclude beyond a reasonable doubt that he joined the conspiracy. Moreover, the President's role as Haldeman's and Ehrlichman's superior must also be considered. For instance, in a case in which Haldeman and Ehrlichman were corporate vice presidents and the President was their chief executive officer, the President's role in "ratifying" past action and assisting his subordinates in concealing it or minimizing their criminal liability for it takes on special importance because he would be playing a "part" in the conspiracy that only he could play. That is, when the chief executive officer learns of the conspiracy he is in a position to end it immediately, but by permitting it to continue and encouraging it to continue he is, in effect, joining up with the conspiracy, and lending his status and resources to it. At the least, that is what occurred in the case of Richard Nixon.



THE FOLLOWING events appeared to support the charge of the President's direct, affirmative participation in the "clemency" phase of the conspiracy.

1. In January, 1973, probably on the afternoon of Jan. 4, the President had a conversation with Charles Colson in which, according to Nixon, he told Colson that of course clemency could be considered for Howard Hunt on the basis of his family situation. On Jan. 3 and Jan. 4, Colson had two meetings with Hunt's attorney. Prior to these meetings Colson discussed with Dean and Ehrlichman their desire to have Colson reassure Hunt concern-

ing the length of time Hunt would have to spend in jail, without making any overt assurances.

2. Prior to March 21 the President had a conversation with Dean in which he asked if the defendants were keeping quiet because they expected or anticipated clemency; Dean replied in the affirmative. Nixon asked Dean what he would advise on that; Dean said the situation would have to be watched closely.

3. At the March 21 meeting Nixon learned from Dean that Colson had conveyed assurances to Hunt via his lawyer that Hunt would get out of jail within a year — or at least that Hunt so understood it. Nixon took no issue with this information; indeed, later in the meeting he told Haldeman that, "as you know," Colson had "gone around" on the "clemency thing" with Hunt "and the others."

4. During the March 21 morning meeting, the President at no point repudiated or rejected the propriety of the offer of clemency about which he had heard. He did agree with Dean's assessment that clemency was "impossible" prior to the 1974 elections, as a political matter, and questioned Dean about Dean's view that it would never be possible because of the political climate.

5. On March 27 Haldeman mentioned to Nixon that a "super-panel" idea had merit because it would drag out the Watergate matter and, since Nixon could pardon everyone anyway after the 1974 elections, no one involved would be subject to more than a two-year prison liability.

6. On April 14 Nixon, Haldeman and Ehrlichman determined that the latter should meet separately with



John W. Dean III was counsel to President Nixon from 1970 until he was fired in April, 1973. He served four months in prison for conspiracy to obstruct justice and defraud the U.S. government. He now lives and writes in Los Angeles.



H.R. (Bob) Haldeman was President Nixon's chief of staff until April, 1973. He was convicted in January, 1975, of conspiracy to obstruct justice and is appealing his conviction. He lives in Los Angeles.

E. Howard Hunt, a former CIA agent who became a White House consultant, pleaded guilty to all charges against him in the Watergate break-in. He is serving a 2½-to-8-year sentence at a federal prison camp in Florida.



Dr. Lewis Fielding, a Los Angeles psychiatrist, objected to FBI questions about his patient, Daniel Ellsberg. His office was then broken into by the White House "plumbers." He is in private practice in Beverly Hills.



Caption material compiled by Kathleen Summers

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John Mitchell and Jeb Magruder. Nixon urged Ehrlichman to convey the President's "personal affection" for Magruder in meeting with him, since "that's the way the so-called clemency thing's got to be handled..." Haldeman then added, "Do the same thing with Mitchell." Later that day, after meeting with Mitchell, Ehrlichman reported back to the President that he had delivered the message of good feelings to Mitchell (as the tape of their conversation shows he did), to which the President responded, "He got that, huh?" Then, as Ehrlichman was leaving to meet with Magruder, Nixon reiterated, "Be sure you convey my warm sentiments." Later Ehrlichman reported back that he had done exactly that.

7. On the evening of April 14 Nixon had an extensive conversation with Ehrlichman about how Ehrlichman might "move" John Dean around from a position of putting the blame on Haldeman and Ehrlichman. The President stated that the only thing that was likely to be effective in such an effort was Dean's realization that if things went wrong "down the road" only the President could pardon Dean and restore Dean's license to practice law.

8. On April 15 the President told Dean that he, the President, had been "foolish" to talk to Colson about clemency for Hunt.

9. Throughout his conversations with Henry Petersen, the President failed to communicate his knowledge that Colson (whether on Nixon's instructions or in excess of them) had in effect promised clemency to Hunt, and

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failed to tell Petersen that Nixon himself had urged Ehrlichman to make veiled offers of clemency to others.

10. After April, 1973, the President repeatedly made incorrect and misleading public statements concerning his knowledge of this aspect of the conspiracy. For instance, on May 22, 1973, he said: "At no time did I ... know about any offer of executive clemency for the Watergate defendants." On Aug. 15 he again stated that he had consistently maintained a position that "under no circumstances could executive clemency be considered for those who participated in the Watergate break-in." And on Nov. 17, 1973, he claimed that although clemency was raised with him by his aides, he "turned it down whenever it was suggested."

To prove the President's complicity in this phase of the conspiracy it would be unnecessary to show that he personally made or authorized explicit "offers" of executive clemency to anyone in exchange for their continued silence. It would be sufficient to show that with knowledge that such attempts had been made or might be made as a part of the effort to conceal the truth from coming out in congressional hearings or before a grand jury the President took affirmative action to assist these attempts and to conceal that they were being taken by others. But, as indicated in the 10 points, the proof appeared to be much stronger.



THE FOLLOWING events appeared probative of the President's involvement in that phase of the conspiracy that comprehended the counseling, facilitating, assisting and giving of false statements and testimony:

1. In a public press conference on Aug. 29, 1972, the President falsely stated that Dean had conducted an investigation for the White House into Watergate and had found that no one there was involved.

2. Prior to March 21, 1973, the President learned from Dean that Gordon Strachan had "stonewalled" investigators in a number of interviews and would continue to do so.

3. On March 21 the President learned from Dean precise details of how Egil Krogh and Jeb Magruder had committed perjury. He then conversed with Dean about the question of whether Krogh's perjury could be detected and/or proved.

4. On the morning of March 21, in a discussion of the possibility of White House aides going to the grand jury and of the risk of perjury in case that route were pursued, the President told Haldeman: "If you're asked, you just say: 'I don't remember, I can't recall, I can't give an answer to that, that I can recall.'"

5. On March 27 Haldeman suggested to the President that Magruder might be convinced to admit that he'd perjured himself on his "own motive" and not as a part of a conspiracy.

6. In the period April 14-17, Nixon urged Haldeman and Ehrlichman to get their story together about what their position would be on the payment of hush money since they would have to acknowledge, at the least, that they knew money was being paid. On another occasion, Nixon stressed that the important thing was for all those involved in raising money to "stick to their line" that money was not paid to obstruct justice; this was after Haldeman and Ehrlichman had told the President that those directly involved had done it for that purpose, and that Haldeman and Ehrlichman had also known that. On more than one occasion, Nixon actually urged that such a story be put forth.

7. In the period April 14-17, Nixon had a number of conversations with Haldeman and Ehrlichman about

what Strachan would testify to; among other things, the President urged that Strachan be given full information about Magruder's testimony in order to be prepared to "meet those points."

8. On the evening of April 17, in a conversation with Haldeman and Ehrlichman, Nixon learned that Dean had in fact told Kalmbach the purpose of the raising of cash funds for the Watergate defendants, and that Dean had admitted this to Ehrlichman. The President replied: "You can say that he told you on such and such a date that he did not tell Herb Kalmbach what the money was for."

9. On the morning of April 16 Nixon led Dean through his "recollections" of a number of important events. Nixon's "recollections" did not coincide with the facts. In some (but not all) instances Dean corrected the President. For example, the President suggested that he had called Dean in for a "report" in late March, but Dean corrected him as to the timing and circumstances of that meeting. The President claimed Dean had told him only "fragmentary" information on March 21 and had not told him about Hunt's explicit threat to "bring Ehrlichman to his knees." The President repeatedly told Dean to be sure to testify that he had asked Dean for an investigation and that Dean had reported back that no one

was involved. The President several times mentioned that the problem with clemency seemed to be "solely Mitchell," to which Dean replied that it was primarily Ehrlichman and Colson.

10. The President made a variety of false and misleading public statements beginning on April 17 and continuing into November, 1973, concerning his own knowledge and involvement in Watergate-related events.

11. On June 4, 1973, the President had a number of conversations with Ron Ziegler and Alexander Haig in which he stated that Haldeman could "handle" the March 21 meeting in testimony. Subsequently, Haldeman testified before the Senate Watergate Committee in line with the President's assurances and suggestions.

12. Throughout his conversations in late April with Henry Petersen, Nixon made a number of false or misleading statements concerning what had happened on March 21, and what he was or was not doing with the information Petersen was giving him about testimony being obtained by the United States attorney.

BASED ON the above events, it could reasonably be said that President Nixon participated in the "perjury" phase of the conspiracy in a variety of different ways, each of which was designed to further the aims of the conspiracy: to "cut losses" at as low a level as possible, to conceal the scope of and participants in the conspiracy, and to minimize the liability of Nixon's own closest White House aides.

First, Nixon learned in intimate detail that a number of persons had committed perjury and that at least two had suborned perjury, and he failed at any time to bring this to the attention of prosecutive authorities.

Second, a jury could certainly conclude beyond a reasonable doubt that the President himself urged various individuals to commit perjury: his "perjury lesson" to Haldeman and Dean on March 21, his April 16 meeting with Dean in which it could be concluded that he coached Dean about what to say regarding Dean's contacts with him, and his encouragement of Haldeman and Ehrlichman to develop an exculpatory version of money payments.

Third, President Nixon was instrumental in developing a "cover story" respecting the collapse of the conspiracy in late March and April, 1973, which he himself put out in several public statements, beginning on April 17. The cover story implied that the President had broken the case after an investigation by Dean and Ehrlichman and then had "gotten in" the Justice Department and given them his information. It was demonstrably false.

Fourth, the President made false exculpatory statements about his knowledge of hush money and clemency and his attempts to get the truth out.

Fifth, Nixon directly made false and misleading state-

ments to Henry Petersen. These statements could constitute an offense under 18 U.S.C. 1001 and current case law interpreting it. On and after April 15, the President began a series of almost daily meetings with Petersen in which he repeatedly sought information from Petersen about the process of the investigation and, especially, about the evidence being accumulated against Haldeman and Ehrlichman. On one occasion, according to Petersen's testimony, the President pressed for a written summary of the evidence against his top aides, but Petersen refused to provide it. Nixon justified his desire for this detailed information on the ground that he needed it to make policy and to decide what should be done about Haldeman and Ehrlichman. In truth, Nixon was passing on information to Haldeman and Ehrlichman in order to protect their interests and those of his other aides, and himself.

In addition to giving information to Haldeman and Ehrlichman to help them protect themselves, Nixon had them pass along information to three others for the protection of those other persons — all of whom in fact were eventually charged with conspiracy or alleged to be co-conspirators in the cover-up indictment.

Nixon instructed Haldeman and Ehrlichman to notify Kalmbach that LaRue had made a full confession to the prosecutors. This was before Kalmbach's grand jury appearance in April, 1973. Ehrlichman did in fact have a telephone conversation with Kalmbach and inform him of this fact.

Nixon discussed on the evening of April 14 the need to give Colson a "touch up" on events that were rapidly unfolding in order to permit Colson not to perjure himself unnecessarily.

It was obvious from the White House transcripts that Nixon, on April 14-16, was extraordinarily concerned with the testimony that Gordon Strachan would provide with respect to allegations by Jeb Magruder that wiretap material from the Democratic National Headquarters had been sent to Strachan for transmission to Haldeman. On the 14th Haldeman reported to Nixon that Magruder was cooperating with the prosecution, that Magruder had implicated Strachan in connection with the transmission of wiretap materials to the White House, and that, according to Magruder, Fred LaRue was also about to confess. Repeatedly over the next several days

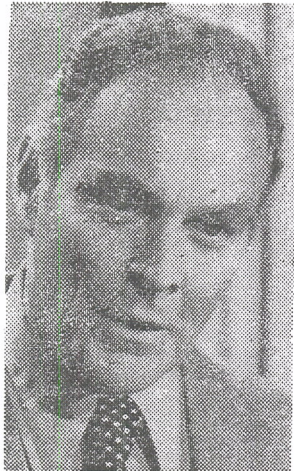


Gordon Strachan, an aide to H.R. Haldeman, was indicted as a Watergate co-conspirator but all charges against him were dismissed by Judge John J. Sirica. He now is a law clerk for the Salt Lake City firm of Berman and Giague.



Ronald L. Ziegler, President Nixon's press secretary, worked with Nixon in San Clemente until February, 1975, and then joined Syska and Hennessy, a New York firm of engineering consultants.

Alexander M. Haig was White House chief of staff in the last year of the Nixon administration. He is now supreme commander of U.S. and NATO forces in Europe.



James McCord, a former CIA security expert, was one of the five men arrested in the Watergate break-in. He was convicted of burglary and served four months in prison. He is now retired and lives in Fort Collins, Colo.



Henry Petersen was assistant attorney general in charge of the Justice Department's Criminal Division during the Watergate investigation. He resigned at the end of 1974 and is now a Washington lawyer.



Herbert Kalmbach, President Nixon's personal attorney, pleaded guilty to illegal fund-raising in the 1970 campaign. He served six months in prison and has returned to Newport Beach, Calif.

Charles Colson, special counsel to President Nixon, served seven months of a 1-to-3-year sentence after his conviction for obstructing justice. He now is working to develop Christian ministries in federal prisons.



Jeb Stuart Magruder was deputy director of the Nixon reelection committee. He served 7 months for obstruction of justice and fraud in the Watergate cover-up. He now is vice president of a religious youth group in Colorado.



Nixon, Haldeman and Ehrlichman discussed how to handle this situation. The President urged that Ehrlichman meet with Magruder "particularly" to learn "what the hell he is going to say about Strachan," agreed that what Strachan "has to do is prove the defense that . . . meets these points," and advised that Ehrlichman "should put Strachan through a little wringer there" in preparing him for interrogation by the prosecutors.



IT SEEMED REASONABLE that all of the following actions by the President would be admissible evidence of his participation in a conspiracy to obstruct justice and to obstruct a criminal investigation.

1. Between March 21 and April 15, 1973, the President made no attempt to bring to the attention of legitimate prosecutorial authorities the knowledge he had acquired that was highly incriminating of many of his top aides and associates. In fact, Nixon on two occasions authorized public statements in his name of his continued confidence in Dean, who had admitted to Nixon that he was involved in obstruction of justice.

2. On March 21 and 22, 1973, the President and his aides decided upon development of a new strategy to continue the Watergate cover-up. It included preparation of a written report focusing on pre-June 17 events that was plainly calculated both to conceal highly incriminating evidence of post-June 17 activities and to influence the Senate Watergate Committee and grand jury investigations by narrowing their likely ground of inquiry, thus preserving White House officials including Haldeman, Ehrlichman, Dean, Strachan and Colson from criminal liability.

3. After McCord's letter of March 23, Dean's reluctance to produce a written report, and the beginning of the collapse of the cover-up, the President was a central figure in developing a different, "limited hang out" strategy to accord with the developing situation. This included sacrificing Mitchell and Magruder and developing a cover story that Nixon himself had broken the case by ordering an investigation by Dean and then Ehrlichman — the results of which, the President would claim, he then made available to the Justice Department. Even after Dean began cooperating with the prosecution, this false scenario, rehearsed over and over again in the presidential transcripts, was put into effect in Nixon's April 17 public statement and adhered to thereafter.

4. After it became clear that Dean was talking to the prosecutors, Nixon had numerous conversations with Henry Petersen during which he obtained information from Petersen that he then related to Haldeman and Ehrlichman in order that they could be prepared to meet the testimony of those who were cooperating. Nixon misled Petersen during these conversations. He also attempted to prevent Petersen from giving Dean immunity for fear that Dean could then testify fully against Haldeman, Ehrlichman, and possibly Nixon himself.