



CROWD SUPPORTING PRESIDENT IN MACON



ANTI-NIXON DEMONSTRATORS WITH SIGNS AT MERCER UNIVERSITY

## THE NATION

### THE CRISIS

# Round 2 in Nixon's Counterattack

Still pursuing his Watergate counteroffensive, President Nixon flew into Memphis and met behind closed doors with 16 Republican Governors. "Are there any other bombs waiting in the wings?" he was asked. "If there are, I'm not aware of them," he replied confidently. The discussion turned to the White House claims that some of Nixon's court-demanded tape recordings were "nonexistent" or of poor quality. The President quickly assured his listeners that all seven of the existing requested tapes were fully "audible."

Perhaps it was not a bomb, but the pin was soon pulled on a fair-sized hand grenade. Next day, reading nervously from a slip of paper, Special Presidential Counsel Fred Buzhardt told Judge John J. Sirica in a Washington federal courtroom that 18 minutes of conversation on one of those tapes was impossible to hear. It had been mysteriously obscured by an unwavering "audible tone." The President, Buzhardt conceded under questioning, had been told of this before he spoke to the Governors.

While Sirica scowled at Buzhardt and obviously struggled to conceal his irritation, the President's lawyer claimed that "the phenomena occurs during the course of the conversation—that is, not at the beginning or end"—between Nixon and his former chief of staff, H.R. Haldeman, on July 20, 1972. This was just three days after five men were arrested during the wiretap-burglary of Democratic National Committee headquarters. It was also after Haldeman and another former aide, John Ehrlichman, had been briefed on the arrests by

then Presidential Counsel John Dean.

Dean, in turn, had already talked at length to G. Gordon Liddy, one of the leaders of the Watergate burglars and counsel at the time for Nixon's reelection finance committee. Fired Special Prosecutor Archibald Cox had sought this tape because, he had advised the court, "this was the first opportunity for full discussion of how to handle the Watergate incident. The inference that they [Ehrlichman and Haldeman] reported [to Nixon] on Watergate and may well have received instructions is almost irresistible."

**Medium-High.** Buzhardt could not explain how the tone had got on the tape. He said Government technicians had been told about it, had listened to it, and could not account for it either. He had even allowed one of the prosecutors, Carl Feldbaum, to hear the affected portion. Feldbaum described the noise as a "medium-high hum."

In court, Prosecutor Richard Benveniste urged Sirica to take immediate custody of all of the subpoenaed tapes. Buzhardt objected that several conversations not under subpoena were also on the reels containing the desired recordings. Unmoved, Sirica indicated he would order the reels subpoenaed if they were not voluntarily turned over to him by Monday of this week. He added sourly: "This is another instance that convinced the court that it must take steps to safeguard the tapes, to make certain nothing like this happens again between now and when we actually listen to the tapes."

The newest tape revelation was es-

pecially embarrassing to the White House, since it was the fourth recording promised to the court that now is claimed to be either wholly nonexistent or partly inaudible. Moreover, this tape is the same one about which Nixon's personal secretary, Rose Mary Woods, had testified in Sirica's court three weeks ago. She said she had spent 31½ hours trying to transcribe the conversation. While she mentioned various troublesome sounds, including bomblike noises when the President put his feet on his desk near a hidden microphone, she made no mention of such a large segment of conversation being obliterated by a persistent tone. If the obscuring sound had been present when she heard the tape, she presumably would have informed the court.

Technical experts consulted by TIME (see box following page) contend that the described sound could only occur while the White House equipment was set to record, not to playback. But if the sound was present on the original recording, it presumably would have been detected by any of a number of White House officials who have heard some of the tapes. They include the President, Miss Woods, Haldeman, Presidential Aide Stephen Bull and former Presidential Aide Alexander Butterfield. According to Buzhardt, the discovery was made only on Nov. 14, when he and another White House counsel, Samuel Powers, were cataloguing the tapes for presentation to the court. If the sound was not introduced in the original recording of the conversation, it could have been picked up during an attempted

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erasure or re-recording, the experts say.

Sirica announced that a six-man panel of electronic experts, agreed on jointly by the White House and the prosecutors, will make physical and electrical studies of the tapes when they are turned over to the court. The panel will not actually listen to the recordings,

however; and it will work at an uncommonly leisurely pace, reporting their preliminary findings in January.

The latest tape debacle is certain to further erode public confidence in the integrity of the Nixon tapes. A Louis Harris opinion survey, begun after Nixon had started his series of talks with con-

gressional Republicans but before his televised question-and-answer appearance at the Associated Press Managing Editors convention, showed that 55% of the public still did not believe Nixon's claim that two of the tapes never were made. A plurality (47% to 27%) believed that the two tapes were destroyed because they would have revealed the President's complicity in the Watergate cover-up. More seriously, the percentage of Americans wanting Nixon to resign his office rose to 43%, a sharp climb from 36% in October.

Those sharp setbacks came as Nixon seemed to be making considerable progress in reversing his disastrous slide in public esteem, and indeed White House aides are eagerly awaiting the next round of opinion polls measuring his standing after the televised Florida press conference. His scrappy performances had won wide praise from his audiences. One somewhat bizarre episode after the conference, in which he seemed to have playfully slapped a friendly bystander (see THE PRESS), hardly distracted from this. Though Nixon kept promising more evidence of innocence rather than providing it after he had met with the Governors, Oregon's Tom McCall declared: "I certainly believed him today." Added California's Ronald Reagan: "He couldn't have been more frank. All of us are going home feeling better."

**Fundamentally Opposed.** Yet the President continued to carry on his seemingly risky attack upon the credibility of former Attorney General Elliot Richardson, who had quit rather than carry out Nixon's orders to fire Prosecutor Cox. Nixon told the Governors that there was a "difference of 180" between what Richardson had said publicly about opposing the firing of Cox and what he had told White House lawyers at the time. Strangely, the White House still insisted that Nixon was not accusing Richardson of having lied.

Obviously puzzled at a similar Nixon assault on the integrity of Cox, Charles Alan Wright, the President's counsel during the tense negotiations that led to the Cox dismissal, last week refuted Nixon's version. While the President had claimed that the White House was unaware of Cox's total rejection of a proposed White House "compromise" plan on the tapes until the end of that fateful week, Counsel Wright told TIME "We knew as early as Tuesday that Cox was fundamentally opposed on several points to the plan. It was absolutely clear by Thursday, or by Friday morning at the latest, that no agreement was possible."

After several White House advance men had worked in Georgia for more than a week, the President received a warm reception in that state. Some 10,000 sign-waving Georgians greeted him enthusiastically as he arrived at Robins Air Force Base near Macon. Many wore the Nixon straw hats that had been so familiar in his 1972 pres-

## The Case of the Telltale Tone

According to technical experts consulted by TIME, the 18 minutes of steady tone overriding conversation on a presidential recording raises the possibility that the noise was introduced during an attempt to erase or re-record on that portion of the tape.

Prime authority for that hypothesis is a Government electronics expert and "wireman" who has carried out bugging and tapping operations for a federal agency. Familiar with the White House recording equipment, he told TIME that the tone could not have been accidentally picked up on the tape while it was being played back for listening or transcribing. Nor, he said, is it likely that the tone, or hum, was recorded during the original taping, since it did not blanket all of the conversation. For a partial malfunction, a plug, or electrical connection, would have to cut out accidentally and just as accidentally resume normal operation after an 18-minute lapse.

That is certainly possible, but this expert found it hard to believe. Rather, he suggested, the hum sounds like "what happens frequently when amateurs try to tinker with a tape." The most likely circumstance, he contended, is that "the hum was recorded when someone attempted to record over the original conversation or tried to erase it." While that was under way, the hum could have been picked up from nearby cords carrying alternating current, such as those to a desk lamp, according to this expert.

Other technical experts consulted by TIME confirmed that the description of the noise suggested a typical 60-cycle

A.C. hum,\* which is not uncommon in unprofessional recording.

The White House used relatively small (11 by 10 by 4 in.) Sony Model 800B recorders for taping conversations in the Oval Office and the President's Executive Office Building hideaway. On such equipment it takes a malfunction, most commonly in a microphone cable, to pick up an A.C. hum, explains Irving Teibel, president of New York's Syntonic Research Inc. "This is quite common in portable recorders," he adds, but usually affects an entire tape.

Another expert, Mortimer Goldberg, technical operations supervisor for CBS Radio, says that such a malfunction on an original recording would not create an overriding steady tone. "I've been working with tape recorders for 23 years and I've never heard the audio completely replaced by a solid tone," he reports. This would happen only during a re-recording, he says. Such a tone could be deliberately created with an audio signal generator (a device used to inject a desired tone to test or adjust audio circuits), but this could be easily distinguished, he explains, from the sound generated inadvertently from fluorescent lights or an electrical cord. Thus it would be a foolish way to make the conversation unintelligible. Re-recording a new conversation or erasing would be more feasible.

\*Normal U.S. house current alternates at 60 cycles, which is an audible frequency. It can be radiated through adjacent unshielded wires, resulting in a hum when one of the wires is related to an audio amplifier circuit.



SONY 800B TAPE RECORDER MODEL SIMILAR TO THOSE USED IN WHITE HOUSE



WHITE HOUSE LAWYER BUZHARDT  
An irresistible inference.

idential campaign. Nixon never mentioned Watergate in an airport speech, stressing his foreign policy accomplishments and the end of the Viet Nam War.

At Mercer University, where he appeared to help observe both the 100th anniversary of the law school and the 90th birthday of former Congressman Carl Vinson, a small group of protesters detracted little from the President's rousing reception. Nixon's only reference to his troubles was a typical football analogy: "I followed the Falcons, and I guess you would call them the comeback team of 1973," he said. "They lost their first three and they have won their last six. I ought to have a talk with Norm Van Brocklin [the Atlanta Falcons coach] and find out how they did it."

**Finding Ways.** While there were signs that Nixon's comeback effort was progressing among his loyal followers in the South and elsewhere, his larger fate remained in doubt. As the tapes episode again demonstrated, he still has not carried out the promises of candor that he has so often made. Amazingly, Nixon's aides contend that he is still trying to find ways to make the tapes and other critical facts public. His critics cannot be blamed for wondering why it is so difficult to find the means to do so.

On that front, there is yet a fresh potential impasse developing, of the very kind that set off the Saturday Night Massacre. Cox was fired by Nixon for his refusal to stop pursuing White House documents through the courts. The papers Cox wanted included White House reports and memorandums on the Watergate break-in, the ITT affair, cam-

aign contributions, and operations by the White House plumbers; they were first asked for by Cox last July, five months ago. Soon after he took over from Cox, Special Prosecutor Leon Jaworski asked for the same documents and gave the White House ten days to supply them. When the deadline passed

last week with no word from Nixon or his aides, Jaworski fired off a tough second letter, and he may well go to court if it produces no response this week. Should that happen, Nixon will be back to square one, exactly where he was before he fired Cox—fighting his special prosecutor in the courts.

## Murky Places in Operation Candor

With one exception, all of the give-and-take sessions in Operation Candor, as the White House dubbed Nixon's ten-day blitzkrieg to restore his credibility, took place behind closed doors. The exception, of course, was his hour-long televised press conference with the Associated Press Managing Editors in Florida's Disney World (TIME, Nov. 26). While carried off with panache and an almost hectic energy, that performance at many points was something less than candid. In fact, on closer examination, the list of some of the distortions, innuendoes and false assumptions by the President is astonishing.

Nixon said that he had "voluntarily waived privilege" on his tapes; what he did was obey two court directives ordering him to yield up the tapes. He said that he hoped a way could be found to get what is on the tapes out to the public; the court had already advised him that he was free to make public the tapes and any other material at once.

He implied that Archibald Cox should have long since wrapped up the Watergate investigations, since "the case was 90% ready" when Cox inherited it; the reason Cox could not wrap up his investigations was that Nixon would not provide him with the evidence on the tapes or in White House files. He said that the McGovern campaign, as well as his own, had received illegal corporate contributions; this could be so. But six major corporations have been found guilty of illegal contributions to the 1972 Nixon effort, while not a single charge of wrongdoing has so far been brought against any company for giv-

ing to McGovern. He claimed that the law on political donations by corporations had been changed and thus the donors did not know their contributions were illegal; the law has been on the books since 1907 and was not changed.

He said that President Johnson had better taping equipment in the White House than his own "little Sony" recorders; so far as anyone knows, Johnson had nothing approaching Nixon's pervasive, voice-activated room-and-telephone bugging apparatus. He said that the nominal taxes he had paid for 1969 and 1970 were not the result of "a cattle ranch or interest or gimmicks"; but there is no way his taxes could have been so low if he had not deducted his interest payments on the loans and mortgages for his real estate purchases.

Beyond such misstatements, there is the matter of Nixon's gift to the nation of his vice-presidential papers and the tax benefits that resulted from the bequest. To begin with, Nixon said that he got the idea from Johnson when he was elected to succeed him: But Nixon had already given a batch of his papers to the U.S. in 1968 and was well aware of the procedure. In addition, in 1969, Congress was debating the law that took effect on July 25, 1969, making such gifts no longer valid as tax deductions. Though Johnson, who had just left office, had presidential papers that certainly would have been worth millions of dollars, he elected not to take advantage of the lame-duck law and did not deduct them from his income tax. Nixon had no such hesitation. He made the bequest and took the deductions.



ANSWERING QUESTIONS FROM ASSOCIATED PRESS MANAGING EDITORS



WORKERS SORTING MAIL IN THE OFFICE OF REPRESENTATIVE PETER RODINO

OPINION

## How the Nixon Mail is Running

Five weeks after President Nixon's firing of Watergate Special Prosecutor Archibald Cox, the unprecedented outpouring of public protest that White House Chief of Staff Alexander Haig likened to a "fire storm" was finally starting to slow down—though letters from voters were still pouring into Washington offices at a high rate. A survey by TIME of Senators and Representatives, key committees in the Legislative Branch and Western Union indicates that Americans have sent over 3,000,000 messages to the capital in the wake of the Saturday Night Massacre. Examination of the most recent, especially those written after the President's counterattack began, shows a noticeable gain in support for Nixon, occasionally reaching half the total volume. But most counts are still running 70% to 80% against him, compared with at least a 95% disapproval rating in the days immediately after the debacle.

Perhaps the most telling indicator of opinion being expressed in letters and telegrams is the persistent refusal of the White House to reveal anything about Nixon's total mail, not even an estimate of how many messages have been sent to him. In all probability, Nixon received well over 250,000 messages. When public expression has been running in his favor, the White House has been quick to make the counts known. Thus, after his televised appearance before a convention of news executives in Florida, presidential aides announced that of 1,000 telephone calls and 5,000 letters and telegrams, Nixon was being praised in a ratio of 12 to 1. But overall figures are still unavailable.

Congressman Peter Rodino, who as chairman of the House Judiciary Committee heads the formal inquiry into Nixon's possible impeachment, has received more than 165,000 pieces of mail. His overall tally is about 95% against the President, but he estimates that in the declining volume of mail that has reached his office during the past week

or so, the share of pro-Nixon letters has risen to about 17%.

At the Senate Watergate committee, the volume of mail has dropped off sharply, from 15,000 pieces during the week after the firing to about 6,000 last week, but the writers have grown progressively harder on the President. In the first batch, 56% called for Nixon's impeachment and 3% were favorable to the President (the rest were unfavorable but stopped short of calling for his ouster); the most recent shows three-quarters in favor of impeachment or resignation and less than 1% pro-Nixon.

**Ouster Demands.** New York's conservative Senator James Buckley estimates that sentiment for impeachment-resignation in the 600 letters a day that he has been receiving declined from 98% at first all the way down to 50% recently. About 700 letters a day reach the state's other Senator, liberal Republican Jacob Javits. Though it is now running about 3 to 1 against the President, Javits' total post-Cox haul of 42,000 letters and telegrams includes only 4,000 voicing support for Nixon.

Democratic Senator Henry Jackson's mail has shown a slight retreat from ouster demands, which were running at 90% earlier and 75% more recently. At the office of New Jersey's Republican Senator Clifford Case, where Nixon has received support in less than 10% of all mail in recent weeks, his rating last week had improved to 20%.

Senator Alan Cranston, a Democrat from California, reports nearly a 10-to-1 ratio against the President in 35,000 letters, including one from a youth counselor in Whittier, Nixon's home town. "I find it a bit awkward to convince a wayward youth to be honest or just while our President sets such a startling example to the contrary," he wrote. A pro-Nixon letter from Newport Beach countered: "From the Viet Nam War through Watergate and calling Brezhnev's bluff, Mr. Nixon's full name should be President Guts Nixon."

INVESTIGATIONS

## The Staff Cox Left Behind

When White House staffers came up with yet another botched tape last week, they faced the attack of a brash and bright lawyer named Richard Ben-Veniste, who, at the age of 30, is the main courtroom performer for the staff of the Special Prosecutor for Watergate. After hearing that the tape was indecipherable, Ben-Veniste urged Judge John J. Sirica to take custody of all the presidential tapes in question to ensure their "integrity"—a request that the judge promptly granted.

It is Ben-Veniste and not the new Special Prosecutor, Leon Jaworski, who has been handling the courtroom duels with the White House lawyers over Watergate. During his three weeks on the job, Jaworski has been content to give plenty of leeway to the staff of 80 people, including 38 lawyers, that he inherited from Archibald Cox. In fact, the staff has become an important force on its own in the struggle to get to the bottom of Watergate. Several key members are determined to quit if Jaworski does not continue to press ahead with the investigation.

Along with their new power, the Watergate staffers have been emerging from their largely anonymous role under Cox to become public figures in Washington. For days, Ben-Veniste and



PROSECUTORS VOLNER & BEN-VENISTE  
Dueling with the White House.