

President Isn't Above the Law, Nixon Insists

By Helen Dewar

Washington Post Staff Writer

Former President Nixon, contending his televised comments on presidential power have been misinterpreted, said yesterday a president must be able to "go beyond the strict letter of existing law" to cope with emergencies.

In a lengthy statement published in today's editions of The Washington Star, Nixon said he does not believe a president is "above the law" but must have latitude to adapt "statutory laws to the laws of necessity and to the rule of reason."

The 2,500-word statement, which Editor James G. Bellows said was submitted unsolicited to the paper by Nixon representatives, was described by the former President as an attempt to clarify remarks he made during his third televised interview with David Frost on May 19.

During the interview, Nixon was asked why he had authorized burglaries, wiretapping and other illegal actions against anti-Vietnam war protesters. He responded at one point, "Well, when the President does it, that means that it is not illegal."

His real views are "not the way they have been represented by columnists and cartoonists on the basis of fragments of one conversation, Nixon wrote in setting out a rationale for his contention that "exercise of power is not necessarily the abuse of power even when that exercise results in a technical breach of statutory limits."

Denying that he was engaging in a "semantic quibble," Nixon wrote:

"First, I do not believe and would not argue that a President is above the law. Of course he is not. The question is what is the law and how is it to be applied with respect to the President in fulfilling the duties of his office.

"Precedents over the years have sanctioned some degree of latitude in the use by presidents of emergency measures to meet emergency situations. I believe such latitude is necessary, and at times vital. My insistence that this latitude does not place president above the law is not a semantic quibble. To me, it is a vital distinction which goes to the heart of our constitutional system."

Urging that President be accorded "some faith in his judgment" and "room for maneuver" in emergency circumstances, Nixon said: "His powers are not unlimited. But neither can he be powerless to go beyond the strict letter of existing law—in a limited way, and at times of special need—and still meet these larger responsibilities."

When he said presidential actions are inherently legal, Nixon explained, he was "referring to that traditional latitude pro-



Associated Press

CHECKING OUT—If his appeal fails, former Attorney General John N. Mitchell, shown here leaving an office garage,

has until June 22 to surrender to federal authorities and start jail term for his role in Watergate.

virtually closed down the Ku Klux Klan and asked, "Was that breach of the law by the FBI right or wrong? Was the Klan's threat to individual liberties sufficient to justify that intrusion on its members' liberties?" He did not answer the question but said it could also be asked of Weathermen bombings in 1970.

Again invoking predecessors, he said Lincoln had to choose between the letter and spirit of the law in saving the Union, and the inherent powers of the presidency were used by Jefferson in the Louisiana Purchase and by Truman in the steel industry seizure.

Similarly, he said, prosecutors sometimes choose not to enforce a particular law when it would result in an injustice or compromise national interests and some governmental jurisdictions have laws "so bizarre that no one expects them to be enforced."

He said it would be "absurd" to assert that anything a President might do is *per se* legal. The bounds, he said, are "limits of common sense, of necessity and of fidelity to the basic concepts of our constitution and of our body of statute law, as interpreted by the courts."

GSA Tries Again on Rules For Access to Nixon Tapes

Associated Press

The General Services Administration is trying once more to persuade Congress to approve guidelines for public disclosure of former President Nixon's papers and tapes.

After Nixon resigned in August, 1974, Congress passed a law seizing his White House materials, and a legal battle ensued over the law's constitutionality.

Lawyers for Nixon are fighting for custody of the material, and the issue is before the Supreme Court.

GSA on Friday sent a fourth set of

proposed regulations to Capitol Hill governing the manner in which Congress would allow people to have access to the Nixon papers and tapes.

Under the 1974 law, Congress directed GSA to draw up regulations for public access. They would go into effect within 90-days unless either house of Congress disapproved. Three sets of proposed GSA regulations have since failed to win Congressional approval.

Under the fourth proposal, GSA archivists would catalogue all materials, screen them to remove personal or national security matter and notify the public of planned release through the Federal Register. Protests would be considered by a Presidential Materials Review Board. Copies of the materials would then be made available at 11 GSA deposit areas in the country, including one in Suitland.

To overcome Congress' main objection to previous proposals, the GSA agreed to be bound by available judicial guidelines governing reproduction and sale of the materials, according to Donald P. Young, assistant general counsel for records and administration at GSA. GSA initially made no provision for sales and later proposed review of sales plans by the Review Board, Young said.

GSA, which is expecting the Supreme Court to uphold the constitutionality of the disclosure law, wants to be ready to move when the high court announces its decision, probably late this month.

Even if the court rules that Congress constitutionality took custody of Nixon's papers and tapes, the regulations providing for their disclosure must pass the congressional hurdle and possible legal challenges.

Young says it may be one to six years before the public hears any tapes.

"We're going to have lawsuits for a long, long time," he says. "I think Nixon will be dead and gone long before this thing is finally resolved."

vided in dealing with emergencies."

He said the so-called Huston Plan for spying on domestic dissidents was "targeted at an organized clandestine campaign of violence in which people were being killed and communities terrorized"—a campaign of such threatening potential, he said, that it became a "federal responsibility."

He noted that an FBI report on an illegal surreptitious entry during the previous Democratic administration calimed to have