

Turnover Of Tapes Delayed

White House Acts at Request Of Prosecutor

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Responding to objections from the Watergate special prosecutor, the White House has agreed to halt implementation — at least temporarily — of its decision giving former President Nixon control over the tapes and documents made during his administration.

According to informed sources, Presidential counsel Philip Buchen assured representatives of the special prosecutor's office Thursday that a White House-negotiated agreement with Mr. Nixon on the matter will not take effect pending further discussion about the disposition of tapes and documents.

Under the agreement negotiated between the White House and Mr. Nixon's attorneys, the former President would retain control over access to his papers and tapes. In addition, the agreement, which was made public last Sunday, preserves Mr. Nixon's ability to fight subpoenas of the tapes and documents through the courts.

During a White House meeting with Buchen on Thursday, informed sources reported, Deputy Special Prosecutor Henry Ruth asserted that the agreement restricts the government in its continuing investigation of the Watergate conspiracy.

During the two hour afternoon meeting at the White House, attorneys from the special prosecutor's office argued that Buchen should reopen negotiations with Mr. Nixon to

obtain a less restrictive agreement.

Buchen refused to say he would reopen negotiations, the sources said, but assured Ruth that control of the Nixon material would not shift until completion of further discussions with the special prosecutor's office.

According to the sources, Ruth and his associates attacked the legal foundation of the agreement with Mr. Nixon, which was a formal opinion by Attorney General William B. Saxbe that the papers and tapes are "the property of Richard M. Nixon when his term of office ended."

To the contrary, Ruth reportedly argued, a stronger argument could be made that the right of the government to access to the material for criminal investigations should have priority over any claim by Mr. Nixon. The sources said that Special Watergate Prosecutor Leon Jaworski, who was not at the White House meeting, had given

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prior approval to Ruth's objections to the agreement.

Deputy Attorney General Lawrence Silberman also attended the Thursday White House meeting. However, he declined to comment about it yesterday through a Justice Department spokesman.

The agreement on control of the Nixon materials was signed by the former president and General Services Administrator Arthur F. Sampson on Sept. 6 and was announced Sunday along with President Ford's pardon of Mr. Nixon.

One government attorney

said yesterday that he believed the agreement could not be revoked because it says "upon your acceptance we both shall be bound by the terms of this agreement."

Spokesman for the White House and office of the special prosecutor had no comment yesterday evening about Thursday's White House meeting and the decision to suspend implementation of the agreement.

During the meeting, according to the sources, the representatives of the special prosecutor complained that the agreement put them in no more advantageous a position to obtain subpoenaed materials than when Mr. Nixon was in office.

The question of access to White House tapes and documents has dominated the last 13 months of the watergate controversy.

One subpoena for tapes led to the firing of the first special Watergate prosecutor, Archibald Cox, last year and a second culminated in the U.S. Supreme Court decision last June that ordered then-President Nixon to turn over the subpoenaed tapes.

Shortly after Mr. Nixon left office, former White House counsel J. Fred Buzhardt made a unilateral decision granting the former President possession of some of the tapes and documents from his administration. That decision was countermanded by President Ford and led to Buzhardt's firing.

The most immediate effect of the agreement with Mr. Nixon could have been to pose problems for the special prosecutor in the upcoming Watergate cover-up trial scheduled to begin Oct. 1, according to informed sources.

Under the agreement, Nixon could object to subpoenas for materials to be used as evidence by the defendants or the special prosecutor. This could result in a lengthy delay of the trial. Former White House aide John D. Ehrlichman, one of the six defendants, has subpoenaed notes from the White House that have not yet been delivered to him.