

President Will Reportedly Contest

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By R. W. APPLE Jr.

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WASHINGTON, July 25—A lawyer representing President Nixon will ask a Federal court tomorrow to set aside at least one of three subpoenas ordering him to produce confidential documents and recordings dealing with the Watergate case.

Authoritative White House sources said that Mr. Nixon, who decided last week not to release the materials either voluntarily or under subpoena, has now elected to take the initiative and contest the subpoena in court, rather than ignoring it and waiting for the next move from the special prosecutor, Archibald Cox, who issued it.

The sources said that the President's representatives would ask Judge John J. Sirica, who presided over the original Watergate trial, to set aside Mr. Cox's subpoena on the ground that it violated the constitutional separation of powers.

It is unlikely that Judge Sirica, who is chief judge of the United States District Court for the District of Columbia, will be asked to set aside the two Senate committee subpoenas as well. Legal experts said this would be a normal request, but the White House was reported to have rejected this course of action.

An alternative would be for Mr. Nixon to send a letter to Senator Sam J. Ervin Jr. of North Carolina, the committee chairman, respectfully declining to honor its subpoenas.

It was not clear whether the President would ask that the subpoenas be quashed or employ some other technique that would have the same result. That question was reportedly still under study by White House lawyers early this evening.

Representing the President in court tomorrow will be one of three principal lawyers who have been working on the case in his behalf — Leonard Garment, the acting White House counsel; J. Fred Buzhardt Jr., a special counsel, or Charles Alan Wright of the University of Texas, a consultant.

Sources in the prosecutor's office said that Mr. Cox, who will probably handle the case himself, would be ready either to argue against a motion to set the subpoena aside, or in the event that Mr. Nixon chose

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Subpoena by Cox on Release of the Tapes

to ignore the subpoena, to argue that he should be held in contempt of court for doing so.

The White House officials who described the President's thinking said he had chosen to fight the subpoenas affirmatively because that would be the more "dignified" course. One official said that ignoring the subpoenas would be construed as "arrogance."

Presumably, the losing party in Judge Sirica's court will challenge his ruling before the United States Court of Appeals for the District of Columbia, whose chief judge is David L. Bazelon. The losing party there would presumably carry the matter to the United States Supreme Court.

Gerald L. Warren, the deputy Presidential press secretary,

implied yesterday that Mr. Nixon would obey the final determination of the courts, and other officials stated privately but emphatically that the President would do so.

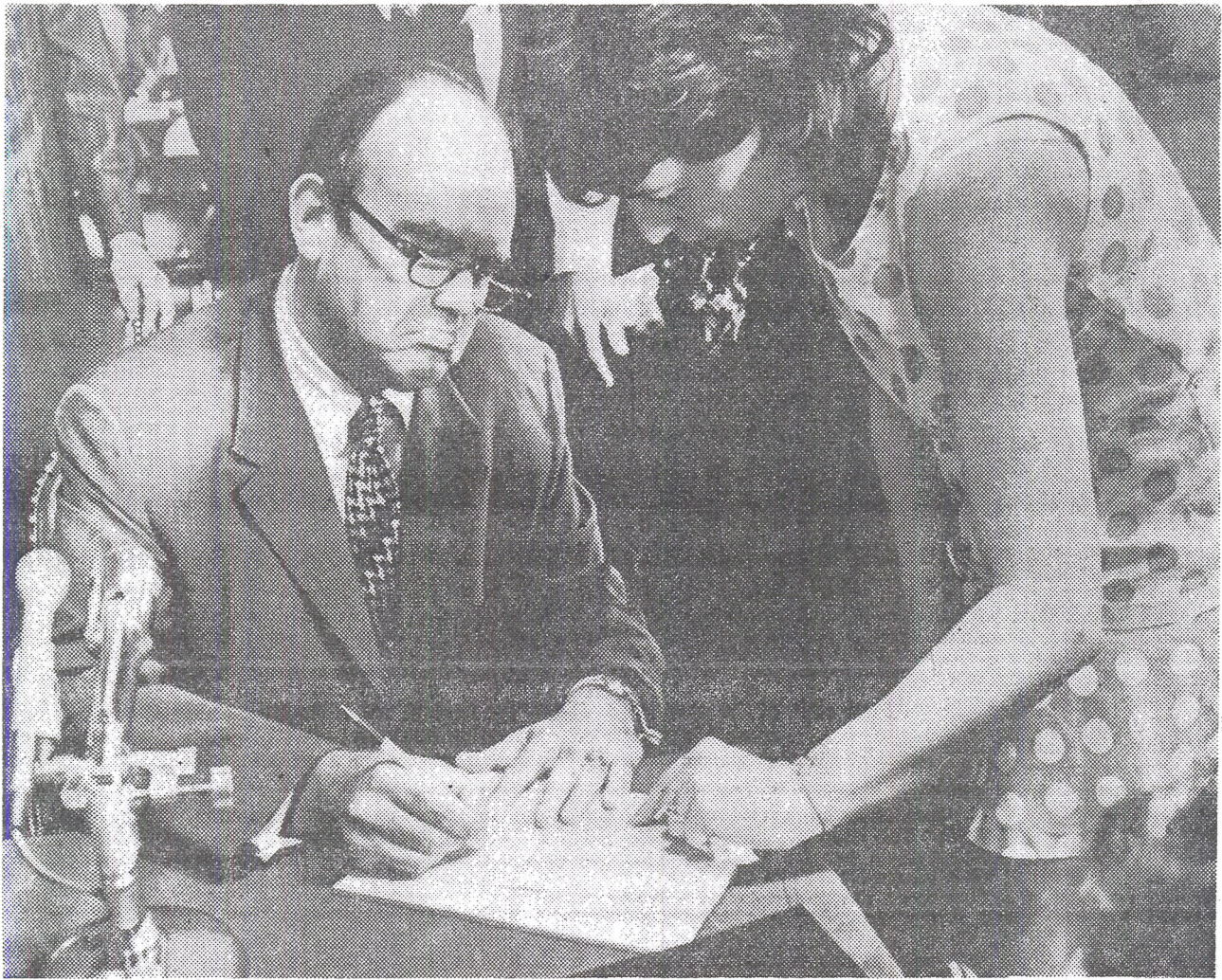
Mr. Nixon said, in discussing a parallel separation-of-powers question at his March 15 news conference, that "if the members of the Senate, in their wisdom, decide that they want to test this matter in the courts, we will, of course, present our side of the case."

But he stopped short of saying that he would abide by whatever the courts decided.

Mr. Warren said at his news briefing this morning only that no announcement of the President's decision would be made today. He clung to earlier statements that Mr. Nixon's response tomorrow would "not be inconsistent with" the President's letter Monday refusing to release the material to the Senate.

Among the documents with which the lawyers were working, one source reported, was a letter written by President Johnson to the General Services Administration on Aug. 13, 1965, in connection with his personal papers. The letter said in part:

"Since the President of the United States is the recipient of many confidences from others, and since the inviolability of such confidences is essential to the functioning of the constitutional office of the Presidency, it will be necessary to withhold from public scrutiny certain papers and classes of papers for varying periods of time. . . ."



The New York Times/Mike Lien

John D. Ehrlichman signing a witness voucher in order to be paid for his appearance before the committee