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# Crumbling Power Of the Presidency

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THE LATEST White House offensive on Watergate has turned out to be a kamikaze operation. President Nixon is not so much toughing it out as messing it up.

The big move in the counteroffensive was the refusal of the White House to release the tapes of Mr. Nixon's conversations and phone calls. The move came in two parts, and each bore the seeds of self-destruction.

First, Mr. Nixon himself sent a letter to Chairman Sam Ervin of the Watergate committee denying the committee's request for the tapes on the ground of separation of powers between the Executive and Legislative Branches of government. That claim is a straightforward one which could well be upheld in the courts. But Mr. Nixon tacked onto it an unnecessary and self-defeating assertion.

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THE PRESIDENT said he had listened to some of the tapes himself, and that they sustained his version of the Watergate break-in and cover-up. But he added that the tapes "contained comments that persons with different perspectives and motives would inevitably interpret in different ways."

That gratuitous observation amounts to a virtual confession that the President is holding back on the tapes because they do not exonerate him. So even if he wins the legal fight with the committee, which seems likely, Mr. Nixon is in effect proclaiming: "I'm withholding the evidence because I'm not innocent."

The second move in the counteroffensive is a letter from the White House denying the tapes to Special Prosecutor Archibald Cox. The legal problem was

tougher here because Cox had been appointed by Attorney General Elliot Richardson. Cox claimed that he was a member of the Executive Branch who could not be denied access to the tapes on grounds of the separation of powers.

The White House, in the person of Professor Charles Wright, a special consultant on Watergate, made what looked like an ingenious response. Wright wrote Cox saying that if Cox was in fact a member of the Executive, he was subject to orders from the President and could be denied the tapes simply by the President's fiat.

Wright went on, however, to say that Cox was in fact responsive to the grand jury and the courts, not the President. Therefore, Wright's letter concluded, the separation of powers doctrine did apply against Cox.

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HOWEVER ingenious that argument, it actually lost ground for the President. The thrust was to assert that Cox is an officer of the court in a matter involving evidence of a crime. But in matters involving evidence of a crime, an officer of the court has special rights. So it looks very much as though Cox is going to win his court move to have access to the tapes.

The impression that the President is going down has already found its political consequences. Men all over Washington are splitting from Mr. Nixon.

Power and influence are running out on the President. He is working himself into the position where the only way to reassert the authority of the President will be for Mr. Nixon to relinquish his grip on the office.