

# Watergate: 'Greatest Tragedy'

Senate Watergate Committee chairman Sam J. Ervin Jr. (D-N.C.), yesterday termed the Watergate scandal "the greatest tragedy this country has ever suffered."

Ervin made the statement as the committee voted to subpoena tapes of conversations between President Nixon and White House aides after Mr. Nixon refused to send the tapes to the committee.

Following is the text of remarks by Ervin and the committee's vice chairman, Howard H. Baker, who expressed disappointment at being "on the brink of a constitutional confrontation between the Congress and the White House."

Ervin: Upon the receipt of this communication from the White House, the select committee held a meeting and unanimously voted to authorize and direct the chairman to issue two subpoenas, one requiring the President to produce the tapes which will be described in the subpoena, and the other one requiring the President to make available to the committee—I should have said requiring the President to make available to the committee the tapes which will be described in the subpoena, and the presidential papers—that is, the White House papers—that are to be described in the subpoena.

This is a rather remarkable letter about the tapes. If you will notice, the President says he has heard the tapes or some of them, and they sustain his position. But he says he's not going to let anybody else hear them for fear they might draw a different conclusion.

(Laughter from the audience)

Ervin: In other words, the President says that they are susceptible of, the way I construe it, two different interpretations, one favorable to his aides and one not favorable to his aides.

I deeply regret this action of the committee. I have very different ideas of separation of powers from those expressed by the President. If such a thing as executive privilege is created by the doctrine of separation of powers, it has these attributes. First, if it exists at all, it only exists in connection with official duties.

Second, under no circumstances can it be involved on either alleged illegal activities or political campaign activities.

I am certain that the doctrine of separation of powers does not impose upon any President either the duty or the power to undertake to separate a congressional committee from access to the truth concerning alleged criminal activities.

I was in hopes that the President would accede to the request of this committee for these tapes and these papers.

I love my country. I venerate the office of the President, and I have the best wishes for the success of the incumbent, present incumbent of that office, because he is the only President this country has at this time.

A President not only has constitutional powers which require him to see to it or to take care that the laws be faithfully executed, and I think it's his duty under those circumstances to produce information which would either tend to prove or disprove that criminal activities have occurred. But beyond that, the President of the United States, by reason of the fact that he holds the highest office in the gift of the American people, owes an obligation to furnish a high standard of moral leadership to this nation and his constitutional duties, in my opinion, and undoubtedly his duty of affording moral leadership to the country place upon him some obligation under these circumstances.

We have evidence here that during the time the President was running for re-election to the highest office in the gift of the people of this nation that some of his campaign funds were found in the possession of burglars in the headquarters of the opposition political party. And I think that high moral leadership demands that the President make available to this committee any information in the form of tapes or records which will shed some light on that crucial question: How did it happen that burglars were caught in the headquarters of the opposition party with the President's campaign funds in their pockets and in their hotel bedrooms at the time? And I don't think the people of the United States are interested so much in abstruse arguments about the separation of powers or executive privilege as they are in finding the answer to that question.

I deeply regret that this situation has arisen, because I think that the Watergate tragedy is the greatest tragedy this country has ever suffered. I used to think that the Civil War was our country's greatest tragedy, but I do remember that there were some redeeming features in the Civil War in that there there was some spirit of sacrifice and heroism displayed on both sides. I see no redeeming features in Watergate.

(Applause.)

Sen. Baker: Mr. Chairman?

Ervin: Sen. Baker.

Baker: Mr. Chairman, it is difficult for me to express my disappointment that we arrive at the place where at least the leading edge of a confrontation on the question of separation of powers between the Congress and the White House is before us. You have pointed out, I am sure, that this committee has authorized by unanimous vote the issuance of a subpoena duces tecum for certain documents and certain portions of the so-called Butterfield tapes relevant to the inquiry of this committee.

As my colleagues on the committee know, I have tried as hard as I know how to find a way around this confrontation. I have suggested various and

several alternative possibilities. Even now, I don't despair of hope that we can find a way to reconcile our differences in the conflict that impends between the Congress and the Executive Department. But I concur with my colleagues on the committee in the evaluation that there was no other practical course of action except to authorize the action which has now been described and I voted for it and I support it.

I think the material sought by the subpoena duces tecum or, more accurately, by the subpoenas duces tecum, are essential, if not vital, to the full, thorough inquiry mandated and required of this committee.

I shall refrain from expressing my evaluation of the entire situation, that is, the totality of the testimony and the inferences to be drawn from it, until we have heard all of the information, all the witnesses, all of the testimony, and examined all of the documents that are made available to us. On Feb. 24, 1974, or prior thereto, if the committee files its report at an earlier date, I will express my conclusions, but not before.

It is my fond hope, however, that when we do finally get to the business of writing a report, that we have all of the available information and that we can in fact write a definitive statement on Watergate—not trying to indict or persecute anyone nor to protect anyone.

The committee has been criticized from time to time for its absence of rules of evidence, the right of confrontation, of cross-examination by counsel, and a number of other legal concepts that we do not have. But we do not have defendants, either, and we are not trying to create defendants. We are trying to find fact, to establish circumstances, to divine the causes, to ascertain the relationships that make up in toto the so-called Watergate affair.

I am unhappy that it is necessary for us to come to the brink of a constitutional confrontation, and although that is a hackneyed phrase, it is an accurate phrase, a constitutional confrontation between the Congress and the White House, a confrontation that has never been resolved in its totality by the courts, a principle and doctrine that has never been fully elaborated and spelled out, in order to fully discharge our obligation as a committee. But I think that is precisely where we are.

I have no criticism of any person. I will not sit in judgment of any person or the conduct of any person until all of the evidence is taken, but I can do no less than try to gain all of the information available on which to base such a conclusion later.

Thank you, sir.