

# HOUSE PANEL WARNS NIXON IT MAY FIND TAPE REFUSAL GROUND FOR IMPEACHMENT

MOVE VOTED, 28-10

Inquiry Also Will Issue  
a Subpoena for 45  
More Recordings

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WASHINGTON, May 30—The House Judiciary Committee formally warned President Nixon today that his defiance of committee subpoenas "might constitute a ground for impeachment."

As if to underscore the warning, the committee voted nearly unanimously to issue its third subpoena for White House tapes, demanding 45 more recorded Watergate-related conversations between the President and former key aides.

The decisions represented a substantial and, for the White House, ominous erosion of support for Mr. Nixon within the committee investigating his conduct.

At the White House, James D. St. Clair, the President's chief defense attorney, told reporters that the committee could not properly draw any adverse inferences from Mr. Nixon's rejection of subpoenas. He said that the President's position was rooted in a constitutional claim of executive privilege.

#### Rodino Signs Letter

All but one of the panel's 21 Democrats, along with eight of the 17 Republicans, joined in a 28-to-10 roll-call vote to send Mr. Nixon a letter on the possibility of the committee's construing his refusal to surrender evidence as impeachable misconduct.

The letter, signed by the chairman, Representative Peter W. Rodino Jr., Democrat of New Jersey, was delivered to the White House later today. It also declared, at the com-

mittee's direction, that if the President continued to withhold evidence, the committee would "be free to consider whether your refusals warrant the drawing of adverse inferences"—that is, whether the tapes and documents being withheld were incriminating.

In still another rebuff to the White House, the committee, led by its Republican members, voted late today to continue the impeachment hearings in closed sessions for at least several more weeks. The President's lawyers had urged that the hearings be opened to the public.

The actions today were the strongest taken yet by the committee in dealing with Mr. Nixon and the withheld evidence. The essence of the decisions was reflected in the comment of Representative George E. Danielson, Democrat of California.

He told the committee that Mr. Nixon could still supply the evidence and thus purge himself of "open and flagrant

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defiance" of parliamentary law. But, he added that, if the President failed to do so, "we have the ultimate power to enforce our orders through removal of the President from office."

The day-long procedural meeting led to the shunting aside or dismissal of several other proposed approaches, some stronger and some weaker, to the President's defiance of the demands for evidence.

By a vote of 29 to 9, the panel tabled a motion by Representative John Conyers Jr., Democrat of Michigan, to seek an immediate House vote to impeach the President for "contempt for and obstruction of the constitutional process" of impeachment.

Similarly, the committee voted, 27 to 11, to table a proposal by Representative Jerome R. Waldie, Democrat of California, to initiate formal House proceedings to cite Mr. Nixon for contempt of Congress.

The committee rejected outright, on separate roll-call votes

of 32 to 6, two Republican-sponsored plans to seek relief in the Federal courts.

One proposal, by Representative Tom Railsback of Illinois, sought enactment of a law giving the Federal courts jurisdiction to decide whether Mr. Nixon had a constitutional right to withhold impeachment evidence.

The other plan, offered by Representative David W. Dennis of Indiana, would have instructed committee lawyers to file an amicus curiae — that is, friend-of-the-court-brief — with the Supreme Court in support of the special Watergate prose-

cutor's suit to force Mr. Nixon to release White House tapes for forthcoming criminal trials.

The committee dismissed the court proposals after Albert E. Jenner Jr., the chief Republican counsel, said that they would pose "serious legal and constitutional problems" and appeared to delegate to the judiciary powers conferred solely on Congress by the Constitution.

The new subpoena also demanded any White House documents relating to the Watergate burglary and cover-up attempt that may have been among the files of five former Presidential aides—H. R. Halde- man; John D. Ehrlichman, John W. Dean 3d, Charles W. Colson and Gordon C. Strachan.

In effect, the many committee votes reflected a strong bipartisan view that Mr. Nixon's conduct had been "contemptuous" of the impeachment process and risked an eventual determination that he could be impeached for withholding evidence and for what the evidence might contain. However, as one member said, it would be "premature" to begin contempt action or move now on one impeachment count.

The second-ranking Republican on the panel, Representative Robert McClory of Illinois, said that the very essence of the impeachment proceeding was at stake.

"We are reviewing allegations," he said, "that the President obstructed the [Watergate] inquiry of the Department of Justice, the Senate [Watergate] committee and the special prosecutor. His current conduct does not make it easier for this member to conclude that such allegations are without merit."

#### Firmer Action Urged

Mr. Conyers was the only

Democrat to vote against sending the warning letter to the President. He said that firmer action was necessary to prevent Mr. Nixon's conduct from setting a precedent that would "make Presidents immune to the impeachment process" in the future.

When Mr. Nixon refused to honor fully the Judiciary Committee's first subpoena for tape — he supplied edited White House transcripts last month rather than the recordings — the committee approved, 20 to 18, a mild, one-sentence letter advising him that he had not complied.

Only one Republican, Representative William S. Cohen of Maine, supported the mild letter, sent to Mr. Nixon on May 1. Today, however, seven other Republicans joined Mr. Cohen in adopting the stiff language of the new letter.

The others were Henry P. Smith 3d and Hamilton Fish Jr. of upstate New York, Charles W. Sandman of New Jersey, Lawrence J. Hogan of Maryland, M. Caldwell Butler of Virginia, Mr. McClory and Mr. Railsback.

Although the language of the

letter was broad enough to apply generally to Mr. Nixon's conduct toward the subpoenas, it was, technically, directed at the President's refusal last week to comply with the committee's second tape subpoena. The panel had demanded recordings of 11 Watergate conversations and records of Mr. Nixon's business meetings over nine months of 1972 and 1973.

#### Text of Letter

The letter read as follows:  
"Dear Mr. President:

"The Committee on the Judiciary has authorized me to reply to your letter of May 22 in which you decline to produce the tapes of Presidential conversations and Presidential diaries called for in the committee's subpoenas served on you on May 15, 1974. You also decline to produce any other material dealing with Watergate that may be called for in any further subpoenas that may be issued by the committee.

"The Committee on the Judiciary regards your refusal to comply with its lawful subpoenas as a grave matter. Under the Constitution it is not within the power of the President to conduct an inquiry into his own impeachment, to determine which evidence, and what version or portion of that evidence, is relevant and necessary to such an inquiry. These are matters which, under the Constitution, the House has the sole power to determine.

"In meeting their constitutional responsibility, committee members will be free to consider whether your refusals warrant the drawing of adverse inferences concerning the substance of the materials, and whether your refusals in and of themselves might constitute a ground for impeachment.

"The committee's decision on these matters will be contained in the recommendation the committee will make to the House of Representatives.

"Respectfully,

"Peter W. Rodino Jr.  
Chairman.

The committee's third subpoena for tapes, calling for the production by June 10 of 45 Watergate-related conversation that occurred between Nov. 15, 1972, and June 4, 1973, was approved by a vote of 37 to 1.

#### Hutchinson Dissents

The lone dissent came from Representative Edward Hutchinson of Michigan, the senior Republican, who has opposed all impeachment subpoenas on the grounds that they are unproductive and merely generate conflict with the White House. Mr. Hutchinson, who is recuperating in Bethesda Naval Hospital from surgery cast his vote today by proxy.

Committee officials had made plans to begin open hearings next Tuesday on the President's relations with the International Telephone and Telegraph Corporation and dairy industry groups, each of which made

large pledges of funds for Mr. Nixon's re-election campaign in 1972.

But opening the hearings to public view would have required approval of the committee, and the panel voted, 23 to 15, to table a motion to that effect offered by Representative Wayne Owens, Democrat of Utah. The vote means that the hearings will not be opened until committee lawyers complete their presentation of confidential materials, such as White House recordings, or the committee votes to chance its judgment.

All but two of the Republicans voted against the open meetings despite the White House demands for an end to the closed sessions.

At one point in the debate, Representative William L. Hungate, Democrat of Missouri, asked with evident sarcasm if he was "confused" in recalling that Mr. St. Clair had said that the hearings should be made public.

"You are not confused," retorted Representative Charles E. Wiggins, Republican of California. "Mr. St. Clair is confused. I think he's wrong."

Mr. Wiggins, who led the opposition to the motion for open hearings, said that one obvious complication was that evidence presented to the committee could jeopardize the rights of defendants at forthcoming Watergate criminal trials.

#### Backed by Democrat

"Far more important" he added, "is that we not prejudice a trial of the President of the United States in the Senate."

He was supported by Representative Don Edwards, a California Democrat who is a leading civil libertarian in Congress. Mr. Edwards said that opening the hearings might produce material defamatory to "dozens of third parties" and would breach House rules designed to afford protection to individuals.

Mr. Owen's motion would have provided for closing the hearings any time that the two senior committee members believed defamatory material would be involved. But several members objected that there would be no way of knowing that in advance.

Representative Barbara C. Jordan, Democrat of Texas, said that the result, even if successful, would be to provide the public with a "sanitized, laundered" version of the hearings on television.

"We ought to either open these hearings or close them, and this motion does neither," she said.

The committee will, accordingly, resume the hearings in closed sessions next Tuesday.

Tomorrow, the panel will meet — publicly — to decide how much of the evidence presented to it in executive hearings to date may be made public.