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New Rebuff For Nixon On Tapes

Washington

The Justice Department said yesterday that Congress was right in declaring former President Nixon could not be trusted with his White House tapes and documents.

In a 100-page brief filed in U.S. District Court the department defended the constitutionality of a 1974 law blocking an agreement by the General Services Administration to give Mr. Nixon the first chance to sort the mass of material accumulated during his White House years.

The Justice Department said the White House tapes must be preserved to "assure the American people that they will have the full story of Watergate . . ."

In declaring that the tapes and documents belong to the government, the department noted that when Mr. Nixon was in control of the tapes "they were subject to unexpected gaps and distortions."

The department said disclosure of the Watergate coverup, the unexplained 18 1/2-minute gap in one tape and other circumstances of Mr. Nixon's resignation show Congress was correct in considering the Nixon-GSA agreement "open to question."

Mr. Nixon's lawyers argued

that Congress violated his right of privacy by declaring government ownership of his White House materials, even though he said he intended later to turn over all but purely personal papers.

Congress provided that trained government archivists do the separating.

Tape transcripts showed Mr. Nixon knew of the Watergate coverup before March, 1973, despite his repeated earlier assurances to Congress and the public that he did not, the Department brief said.

The 18 1/2-minute gap was only one of a number of reasons showing Congress had a "rational basis" for fearing the material might not reach the government intact "if he were permitted to have custody of them, even temporarily," it said.

The Justice Department lawyers said they understood Mr. Nixon's chief complaint was that his personal material "will necessarily be reviewed in some detail by government employees." But the lawyers said this is the only way.

Mr. Nixon's own proposal that he, his wife and two daughters do the sorting is unworkable, the brief said. It noted there are 42 million documents and 888 reels of tapes.

A footnote said: "Just listening to 888 reels of tape of five to six hours duration, not to mention transcribing or replaying to hear poorly recorded conversations, would take almost 5000 person-hours, or two years of solid 40 hours weeks."

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