

Nixon letting Haldeman hear tapes and then testify to it, voluntarily -unsolicitedly

= My initial reaction, as soon as I heard Haldeman mention this, was that Nixon was playing a trick. Immediately I realized that he may also have made a very serious miscalculation, easily with the calibre of the legal advice he has in the WH. As soon as what is mentioned in my today's letter to Weicher came to mind, I phoned the Post and left a detailed message for Sussman. I do not think the Post will get interested in any aspect, including filing suit, but I informed.

Because of these things, I missed some of Haldeman's statement, most on this. I did get that old fox Wilson saying they would prefer a decision then and there, when three members were out and the chairman was one of them. There was no real difference to Wilson (who is also Nixon's lawyer) or Haldeman unless there would later be the danger of Haldeman getting crossed up. So, I was immediately suspicious of this.

Questioning on when Haldeman heard what tapes was deficient. The exact dates were not even asked. What kind of tapes he had also was unasked (picture of GL letting the uncut originals out of his hands or a full day's tapes for the short passages to be found). It is inevitable that Haldeman had dubs. He was not asked nor is there any way for him to know whether he had edited dubs.

There is a more significant fact in the private citizen Haldeman have a tape overnight and in his home. Aside from the added certainty that he had a dub, there is no question but that Nixon can't raise questions of the physical security of any tape.

In addition, Nixon set a precedent in letting Haldeman hear tapes of conversations of which Haldeman was not part.

Until I can read the transcript I can't be certain of other conclusions. There is too much I missed.

But that Nixon would arrange for Haldeman to testify in support of most of what Dean testified to, alleging only that Dean had "misinterpreted", as I recall, is quite provocative. He could have intended, as part of his counterattack, to provoke the Senate further- all the Senate, not just the committee.

But there are too many other possibilities to be at all certain. An obvious one is that he is insecure and intended this as a gesture, via a man he could trust and whose interpretations he could depend upon.

If a good lawyer were to file, I think the Nixonians would be caught by surprise. I don't think they considered 5 U.S.C. 552. The exemptions that might have applied have been waived. Of the 9, on "internal procedures and "internal communications" would seem to be reasonably pertinent. "National defense and foreign policy", "Information given in confidence," (!) "Protection of privacy" might be invoked. There seems to be no special Presidential exemption. The law applies to the executive branch only, so he is covered that way, not by specific exemption. The "doctrine" can't be under "statutory exemption" because there is no such law.

HW 7/30/73