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The Tape Refusal: The Senators Feel Betrayed

Facing both an historic court test and massive popular disapproval following his refusal to release the Watergate tapes, President Nixon now confronts a new challenge from angry senators who feel betrayed.

Sen. Adlai Stevenson III of Illinois, a liberal Democrat not normally noted for partisan fireworks, will take the Senate floor soon to denounce Mr. Nixon for "covering up the cover-up." Stevenson and other senators of both parties believe Mr. Nixon's refusal to release the tapes reneges on his pledges of full authority for special prosecutor Archibald Cox. Without those pledges, the Senate almost surely never would have confirmed Eliot Richardson as attorney general.

Thus, the world is closing in on the President over the tape issue. Instead of resigning in protest, as some presidential aides may have hoped, Cox is going to court. Public opinion, instead of admitting the President's pluck, has turned against him. And now angry senators are about to add to the tumult.

Stevenson was a chief actor in the high drama last May during Richardson's acrimonious confirmation hearing. That drama centered on efforts by both the Senate Judiciary Committee and Stevenson, acting outside the com-

mittee on behalf of 28 senators. They demanded Richardson pledge the Nixon administration to give the yet unnamed special prosecutor complete freedom of action in prosecuting former or present administration officials. Stevenson thought he got that pledge.

Instead, Stevenson now tells those 27 fellow senators, the President's decision denying Cox access to the tapes has "violated Richardson's clear pledge." In his Senate speech, he will charge:

• The President said in his April 30 speech he would give Richardson "absolute authority to make all decisions bearing upon the prosecution of the Watergate case and related matters."

• Richardson, in a much-studied "charter" of authority for the special prosecutor, in turn promised that Cox would have "full authority" for "reviewing all documentary evidence available from any source, as to which he shall have full access."

Stevenson, Republican Sen. Charles Mathias of Maryland and others among the 28 senators, who wrote two letters to Richardson during his confirmation hearing pinning down Cox's powers, now believe the administration

has reneged. Stevenson feels that the denial of the tapes to Cox amounted to Mr. Nixon's "reversing the rules" and "undermining the authority" of both Richardson and Cox. "Either Mr. Cox has full access or he does not, and if not, or trust was misplaced," Stevenson told us.

The administration challenges the very source of the Stevenson argument: If Mr. Nixon really intended Cox to have total power over which White House documents and presidential papers should be given the Watergate prosecutors, Cox would be usurping the powers of the President.

Actually, say Mr. Nixon's men, the President never intended any such unprecedented delegation of power. What Richardson really meant to tell the Senate was that Cox would have exactly the authority which he, Richardson, would have if the Justice Department were in charge of the prosecution. No more, no less.

The fact is that, in making his pledge to the Senate Judiciary Committee (and separately in his two letters to Stevenson), Richardson was acting on his own. "His 'charter' for the special prosecutor was never discussed with the President or with the White

House lawyers who are handling Mr. Nixon's legal case.

That explains Richardson's ambivalent reaction to Cox's confrontation with the President. While asserting that the President's refusal of the tapes to the Senate Watergate committee rested "on substantial legal and constitutional foundations," Richardson added that the parallel request from Cox was "in full accord with the requirements of his job." Maintaining an above-the-battle posture, Richardson called for a compromise. Cox himself has no quarrel with that reaction or with Richardson.

To the senators, however, this smacks of lawyers' language. Mathias believes Richardson was speaking for the President when he pledged sweeping powers for Cox. "If the Attorney General wasn't offering this deal in the President's name, as we thought he was," says Mathias "it isn't worth very much."

Having been on the receiving end of White House deception and cover-up for months, the Senate is in no mood to bow meekly to the President's refusal to deliver his tapes. The coming Stevenson attack is the opening shot in a new Senate onslaught against Mr. Nixon which threatens to make his lethal political situation worse.