

President Refuses to Yield Them

Washington

President Nixon refused yesterday to release tape recordings of his conversations about the Watergate case. Both his special prosecutor and the Senate Watergate Committee moved at once to subpoena the tapes.

Three subpoenas — one each from the prosecutor and the Senate committee covering the tapes and one from the committee covering other documents — were served shortly after 6 p.m. They were accepted by Leonard Garment, the acting White House counsel, and J. Fred Buzhardt, a special counsel.

Deputy presidential press secretary Gerald L. Warren said he could not predict whether they would be honored or not, but other White House officials said the decision had already been made to ignore them, thus implicitly inviting a test in the federal courts.

JOINED

And so the constitutional struggle between the President and those charged with uncovering the truth about Watergate and allied scandals was finally joined, more than 13 months after the break-in at the Democratic National Committee.

Mr. Nixon took his stand behind the doctrine of separation of powers, despite the prevailing view among politicians outside the White House that to do so would

Back Page Col. 1

From Page 1

convince the public that he had something to hide.

He also took the risk that the battle could result in his being the first President to be impeached — that is, put on trial before the Senate — since Andrew Johnson in 1868. But the White House inner circle believes, and many senators and representatives agree, that the Congress will hesitate before forcing the issue to that extreme.

LETTER

In a letter to Senator Sam J. Ervin Jr. (Dem-N.C.), the committee chairman, Mr. Nixon argued that "the tapes are entirely consistent with what I know to be the truth and what I have stated to be the truth." But he insisted that "the tapes would not finally settle" the question of his involvement.

"As in any verbatim recording of informal conversations," Mr. Nixon added, "they contain comments that persons with different perspectives and motivations would inevitably interpret in different ways."

Mr. Nixon also sent a second, private letter to Ervin, which the Senator made public. In it, he said that he knew of "no useful purpose that will be served" by a meeting between himself and Ervin, which he promised on July 12. The President said he is willing to go through with a meeting if Ervin insisted, but Ervin said he would not.

The rejection of the requests of the special prosecutor, Archibald Cox, was stated not by the President or by any permanent member of his staff but by Charles Alan Wright, a law professor at the University of Texas who has been serving as a \$150-a-day consultant to the White House on Watergate matters.

In a letter couched inun-

usually blunt language, Wright dismissed Cox' contention that, because he was appointed by the President, he is a part of the executive branch and thus not involved in any separation of powers question.

"If you are an ordinary prosecutor, and thus a part of the executive branch as well as an officer of the court," Wright wrote, "you are subject to the instructions of your superiors, up to and including the President, and can have access to presidential papers only as and if the President sees fit to make them available to you."

Wright argued further that the separation of powers doctrine applied to Cox because release of the tapes to him "would lead to their use in the courts, and questions of separation of powers are in the forefront when the confidential documents of the presidency are sought for use in the judicial branch."

Cox replied in a statement that Wright's arguments were "without foundation." The prosecutor, a professor at Harvard Law School who served as solicitor general under President Kennedy, has made it clear from the start that he would demand all relevant documents, and has told some friends that he would resign if he was unable to obtain them.

White House officials have said privately in recent days that the loss of Cox would be a further blow to the credibility of the President. But the tone of the Wright letter led some observers to wonder whether Mr. Nixon wanted him to quit.

Asked whether the President had lost confidence in the prosecutor, Warren avoided a direct answer, replying that "nothing has changed."

Warren turned aside almost all questions at a spe-

cial briefing. He would not say where the tapes were being kept, when the secret listening devices that produced them had been disconnected or who has had access to the recordings.

The spokesman did disclose that Mr. Nixon had listened to some of the tapes early in June.

That was about the time that the first bits of what John W. Dean III, the deposed White House counsel, planned to tell the Senate committee later in the month began to become public. Dean's testimony heavily implicated the President in the Watergate coverup, and the committee had hoped to discover whether he was telling the truth by listening to tapes of his numerous conversations with Mr. Nixon.

The existence of the tapes was made public a week ago when Alexander P. Butterfield, a former White House aide, told the Senate committee that Mr. Nixon had taped nearly all of his meetings and telephone conversations at the White House, in the Executive Office Building next door and at the Presidential retreat at Camp David, Md.

VOLUME

Mr. Nixon cited the volume of material contained on the tapes as one reason that they could not be released.

"The tapes could be accurately understood or interpreted only by reference to an enormous number of other documents and tapes, so that to open them at all would begin an endless process of disclosure of private presidential records," he said.

The President concluded that "the tapes, which have been under my sole personal control, will remain so." He said that none had been transcribed and that none would be.

New York Times

FOR IMMEDIATE RELEASE

JULY 23, 1973

Office of the White House Press Secretary

THE WHITE HOUSE

TEXT OF A LETTER FROM THE PRESIDENT
TO SENATOR SAM J. ERVIN, JR.
CHAIRMAN OF THE SELECT COMMITTEE ON
PRESIDENTIAL CAMPAIGN ACTIVITIES

Dear Mr. Chairman:

I have considered your request that I permit the Committee to have access to tapes of my private conversations with a number of my closest aides. I have concluded that the principles stated in my letter to you of July 6th preclude me from complying with that request, and I shall not do so. Indeed the special nature of tape recordings of private conversations is such that these principles apply with even greater force to tapes of private Presidential conversations than to Presidential papers.

If release of the tapes would settle the central questions at issue in the Watergate inquiries, then their disclosure might serve a substantial public interest that would have to be weighed very heavily against the negatives of disclosure.

The fact is that the tapes would not finally settle the central issues before your Committee. Before their existence became publicly known, I personally listened to a number of them. The tapes are entirely consistent with what I know to be the truth and what I have stated to be the truth. However, as in any verbatim recording of informal conversations, they contain comments that persons with different perspectives and motivations would inevitably interpret in different ways. Furthermore, there are inseparably interspersed in them a great many very frank and very private comments, on a wide range of issues and individuals, wholly extraneous to the Committee's inquiry. Even more important, the tapes could be accurately understood or interpreted only by reference to an enormous number of other documents and tapes, so that to open them at all would begin an endless process of disclosure and explanation of private Presidential records totally unrelated to Watergate, and highly confidential in nature. They are the clearest possible example of why Presidential documents must be kept confidential.

Accordingly, the tapes, which have been under my sole personal control, will remain so. None has been transcribed or made public and none will be.

On May 22nd I described my knowledge of the Watergate matter and its aftermath in categorical and unambiguous terms that I know to be true. In my letter of July 6th, I informed you that at an appropriate time during the hearings I intend to address publicly the subjects you are considering. I still intend to do so and in a way that preserves the Constitutional principle of separation of powers, and thus serves the interests not just of the Congress or of the President, but of the people.

Sincerely,

/s/ Richard Nixon

Honorable Sam J. Ervin, Jr.
Chairman
Select Committee on Presidential
Campaign Activities
United States Senate
Washington, D.C. 20510

AP Wirephoto

The White House released this copy of President Nixon's letter to Senator Sam J. Ervin, the Watergate committee chairman