

Aide Says Nixon Will Obey Courts

Washington

The White House indicated yesterday that President Nixon would abide by the ultimate decision of the courts in his historic struggle to prevent the release of tape recordings of his private conversations on Watergate.

Deputy presidential press secretary Gerald L. Warren said there was "no question that the President has abided by court rulings in the past and that he would do so in the future. Pleading ignorance of the "fast-changing, complex legal situation," Warren refused to apply his general statement to this specific case, but that was the burden of his remarks.

It appeared certain that the Supreme Court would be called upon to resolve the constitutional conflict be-

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tween the President on one hand and the Senate Watergate committee and Archibald Cox, the special prosecutor, on the other.

The prosecutor and the committee served subpoenas on Mr. Nixon Monday night, demanding access to tapes and other documents that they believe may help to settle the question of presidential involvement in the scandal. The President refused earlier Monday to supply the materials voluntarily, citing the separation of powers.

No president had been served with a subpoena since Thomas Jefferson received one more than 166 years ago.

CRISIS

Attorney General Elliot L. Richardson, apparently attempting to promote an out-of-court solution to the crisis, issued a statement urging both sides to seek some practical means of reconciling the competing public interest at stake." But he asserted that Mr. Nixon had acted with "substantial legal and constitutional foundation."

On Capitol Hill, the President's action was heavily criticized by senators and representatives of both parties.

The high drama of the moment was suggested by the opening words of the two Senate subpoenas, which showed none of the deference usually evoked by the majesty of the Presidency.

"To President Richard M. Nixon, the White House, Washington, D.C.," The subpoenas began, "Pursuant to lawful authority You Are

Hereby Commanded to make available . . ."

Warren refused, at his regular morning briefing for reporters, to say precisely what action the White House would take in response to the Senate subpoenas. But he said that it would be "consistent" with the principles stated by Mr. Nixon in the letter he sent to the Senate committee Monday.

That seemed to rule out one of the three options available to the President—compliance with the subpoenas.

The two others are to move to quash—that is, to annul—the subpoenas on constitutional grounds, or simply to ignore them. A decision must be made before tomorrow morning, when Mr. Nixon has been ordered to produce the material.

If the president attempted to quash the subpoenas, the committee and the prosecutor would fight the move in federal district court. That court's decision could then be appealed to the court of appeals and, finally to the Supreme Court.

The initial judge in the case would be Chief Judge John J. Sirica who presided over the earlier Watergate trials:

If, on the other hand, Mr. Nixon ignored the subpoenas, the legal situation would be more complex. According to informed sources, Cox would ask Judge Sirica either to hold Mr. Nixon in contempt or to issue a show-cause order, asking the President to explain why he should not be held in contempt.

The case would then proceed through the courts. Cox himself, a former solicitor

general, is prepared to argue his position before the Supreme Court. It is not known who would represent the White House, although Richardson said some time ago that the Justice Department would not be able to because it is carrying out the prosecution.

As for the Senate committee, it could ask the Senate as a whole to find Mr. Nixon in contempt. If the Senate did so, the contempt citation would be turned over to the Justice Department for prosecution. But that would be difficult, because the Justice Department would be caught in a conflict of interest.

Samuel Dash, the committee's chief counsel, said a contempt citation was therefore unlikely. The committee would find it preferable, he told reporters, "to act on a motion to quash."

Leonard Garment, the acting White House counsel, heads the six-man legal team that is examining the possible courses of action open to Mr. Nixon. But the President, who is a lawyer, will make the ultimate and fateful decision, according to Warren.

Warren made the following other points about the tapes:

- They were being "adequately protected" and were "secure," although he again refused to say precisely where they were located, or even how many reels were involved.

- "They have not been edited."

- When Mr. Nixon listened to some of the tapes in June, he did so all alone.

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