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The Tapes: Mr. Nixon's Hard Choice

Business friends of the President are now beginning to circulate among conservative senators proposals that would allow Mr. Nixon to pay back taxes and quit without further penalty. It is easy to see why.

For short of stepping down, the President has no good choices left. The unanimous Supreme Court decision on the tapes has put him in the position where he either coughs up material nearly certain to be badly incriminating or runs a nearly certain peril of quick impeachment by the Senate.

The devastating material involves 17 tapes among the 64 subpoenaed on April 16 by the Watergate Special Prosecutor Leon Jaworski in connection with the trial of the President's leading aides for conspiracy to cover up the Watergate burglary. On May 1, the White House indicated it would not honor the subpoena. District Judge John Sirica set May 6 as the day for argument on whether the subpoena should be quashed.

On May 5, the day before argument, James St. Clair, the President's Watergate counsel, met with Mr. Jaworski at the White House. The two lawyers worked out a deal that would have

avoided a court test on the subpoena. The deal provided that the President turn over to the special prosecutor 17 of the 64 tapes.

On May 6, the President himself listened to parts of the 17 tapes. He refused to go along with the deal, as Mr. St. Clair indicated on May 7. The upshot was the case of the 64 tapes which came to a close a week ago Wednesday with the unanimous decision against the President.

Since Mr. Nixon refused to turn over the tapes after listening to them, since for the sake of the tapes he risked and lost so much in the Supreme Court, the presumption is that the material on the tapes is very damaging. That presumption is underlined by a glance at some of the conversation contained in the 17 tapes.

Two of the tapes are of conversation between Mr. Nixon and his chief political aide, Charles Colson, on June 20, 1972—three days after the Watergate break-in. Another three involve conversation between the President and his chief of staff, H. R. Haldeman, on June 23, 1972. At issue in all five tapes is the question of whether Mr. Nixon

wasn't informed about the White House role in the Watergate burglary in the very first days after the event.

Three more tapes relate to conversations on March 20, 1973, between Mr. Nixon and Mr. Haldeman, in two of which John Ehrlichman, the President's chief domestic aide, was also present. Those talks were held on the day before, according to Mr. Nixon's story, he first learned of the Watergate cover-up from John Dean. All three tapes presumably involve evidence that Mr. Nixon knew about the cover-up before the supposed revelations by Dean.

Under the Supreme Court ruling as interpreted by Judge Sirica, the President has been ordered to yield the 17 tapes to the District Court by tomorrow. Since Judge Sirica has to review the tapes for material that is not germane or that involves national security, the White House can probably tie the material up in court at least until after the House votes on impeachment this month.

But if the House sustains the articles voted by the Judiciary Committee, as now seems certain, the President will

come under heavy pressure to make the material available to the impeachment proceedings. The Senate will vote to subpoena the 17 tapes—and other relevant matter—as soon as it begins its impeachment hearings.

Senators, and especially such crucial southerners as John Stennis of Mississippi, take a far more serious view of their dignity and power than is current in the House. Moreover, by the time the case reaches the Senate, the President will have been formally accused—a man already in the dock. If he refuses to honor a Senate subpoena, there will be an overwhelming majority for impeachment on the issue of contempt of the Senate alone.

So nobody should pay much attention to Ron Ziegler's spels about the President being confident. The fact is that as never before Mr. Nixon is between a rock and a hard place. Either he gives up material which is bound to be very damaging or he risks ouster by the Senate. It makes sense that many responsible persons in business and politics would be looking for a way whereby he could step down voluntarily.