

Nixon Tells Senate  
He Will Not Testify

## Separation Of Powers Is Cited

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SAN CLEMENTE, Calif., July 7—President Nixon told the Senate Watergate investigating committee today that under no circumstances would he testify before it or open presidential papers for committee inspection.

To do otherwise, he said in a letter to Chairman Sam J. Ervin Jr. (D-N.C.), would violate his constitutional duty to the independence of the presidency and to the principle of separation of powers.

In the letter, made public here and delivered to the committee in Washington, the President promised to "cooperate fully" in furnishing information to the committee.

"At an appropriate time during your hearings, I intend to address publicly the subjects you are considering," he said.

The letter clearly ruled out the possibility that former counsel John W. Dean III might copy official papers of his which are in the White House and turn them over to the committee.

However, the President said nothing to change the earlier promise that Dean and other former assistants may inspect their papers under supervision and make notes from them.

Dean complained in testifying to the committee that he was not provided a desk and was not allowed to use a copying machine in the basement room of the Executive Office Building where his papers are held under guard.

[In a telephone interview with The Washington Post, Ervin said that the President "will have to take the consequences" of his decision to "withhold information from the committee and the American people." He said he believes the committee has authority to subpoena the President, but that he would oppose such a course.]

The President's action in effect locks up any documents not already outside the White House files which

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*Texts of Nixon and Truman letters on Page A12.*

### **PRESIDENT, From A1**

would either prove or disprove the President's position on Watergate.

While the investigating committee has never requested the President to testify, committee members have raised the question publicly and have suggested there might be some way the President could answer questions without going to a televised session to testify.

Mr. Nixon cited a letter from former President Truman to the old House Committee on Un-American Activities declining to respond to a subpoena to testify before it after he left office. "It is difficult to improve upon President Truman's discussion of this matter," Mr. Nixon said, and he enclosed the full text of the letter from the former Democratic President.

Mr. Truman said that he felt "constrained by my duty to the people of the United States to decline to comply with the subpoena. In doing so, I am carrying out the provisions of the Constitution, and I am following a long line of precedents, commencing with George Washington himself in 1796."

Mr. Truman then listed 15 other Presidents who "have declined to respond to subpoenas or demands for information of various kinds from Congress."

Mr. Nixon told Ervin that he wanted to state the reason why "I shall not testify before the committee or permit access to presidential papers."

"I want to strongly emphasize that my decision, in both cases, is based on my constitutional obligation to preserve intact the powers and prerogatives of the presidency and not upon any desire to withhold information relevant to your inquiry," the President wrote.

Regarding the question of his own testimony, Mr. Nixon said: "I have concluded that if I were to testify before the committee irreparable damage would be done to the constitutional principle of separation of powers . . .

"The constitutional doc-

trine of separation of powers is fundamental to our structure of government. In my view, as in the view of previous Presidents, its preservation is vital. In this respect, the duty of every President to protect and defend the constitutional rights and powers of his office is an obligation that runs directly to the people of this country.

"The White House staff will continue to cooperate fully with the committee in furnishing information relevant to its investigation except in those instances where I determine that meeting the committee's demands would violate my constitutional responsibility to defend the office of the presidency against encroachment by other branches . . .

"I consider it my constitutional responsibility to decline to appear personally under any circumstance before your committee or to grant access to presidential files."

Earlier this week, White House press secretary Ronald L. Ziegler said that Mr. Nixon would not testify before the committee. The President's letter, furthermore, made it clear in the phrase "under any circumstances," that he would not now consider inviting the committee to the White House for an informal meeting.

Ziegler also said the President intended to address the subjects raised in the committee when the first phase of the hearings are concluded, possibly in early August, and the President affirmed his intention in today's letter.

Recalling earlier statements, Mr. Nixon said his staff is under instructions to "cooperate fully" in furnishing pertinent information to the inquiry. On May 22, he said, he directed that the

right of executive privilege not be invoked "as to any testimony concerning possible criminal conduct." And "I waived in addition the attorney-client privilege" in the case of his former counsel, John W. Dean III, he said.

"These acts of cooperation with the committee have been genuine, extensive and, in the history of such matters, extraordinary," Mr. Nixon said in his letter to Ervin.

Requests for inspection of presidential papers or for the President to testify, however, he said, "would move us from proper presidential cooperation with a Senate committee to jeopardizing the fundamental constitutional role of the presidency.

"This I must and shall resist."

Declaring that no President could operate without the freedom to communicate with his staff in complete

candor and to explore alternative lines of policy in a confidential manner, the President said he had nonetheless agreed to permit "the unrestricted testimony of present and former White House staff members before your committee."

However, to open his papers "would inevitably result in the attrition, and the eventual destruction, of the indispensable principle of confidentiality of presidential papers," Mr. Nixon said.