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Mr. Haldeman's 'Executive' Privilege

President Nixon's former White House Chief of Staff, H. R. Haldeman appeared only briefly before the Senate Watergate Committee yesterday, just long enough to read a prepared statement and to answer a very few questions. However, it seems to us that in one passage of his presentation, he revealed something far more startling and far-reaching in its implications than anything since Alexander Butterfield's disclosure of the existence of the White House tapes. What he revealed was that he, Mr. Haldeman, had been allowed to hear and take notes on two of the most controversial tapes being sought by the Watergate special prosecutor, Mr. Cox, and by the Ervin committee. In one case, he said, he heard the tape in April, prior to his departure from the White House and for the specific purpose of advising the President on its contents. In the other and, to our way of thinking, far more interesting case, he heard the tape early this July, ostensibly for the same purpose of advising the President. How had he received the tape which he was allowed to listen to in July, long after his return to private life? The President had agreed to have it delivered to Mr. Haldeman's home by a Secret Service agent. Then what happened? In both cases, Mr. Haldeman took sole custody of the tapes which we were told were kept under the strictest security; and no one was present while he heard them. He kept the July tape overnight.

In other words, Mr. Nixon, who refuses to permit the special government prosecutor or the Senate select investigating committee to hear the tapes, has made them available to one of the principal parties under investiga-

tion by a federal grand jury looking into criminal activities upon which the tapes bear. What is more, he has allowed them to be used publicly by Mr. Haldeman in a way which could only be favorable to Mr. Nixon's own version of what the tapes contain. It is true that the White House made a pro forma claim of executive privilege concerning Mr. Haldeman's discussion of these tapes before the committee, but Mr. Haldeman also made it clear that he would abide by the committee's entirely predictable ruling that the claim of executive privilege had no validity. Indeed, his prepared statement appeared to anticipate that he would be allowed to give his particular description and his "impressions" of what the tapes said. Not surprisingly, his "impressions" were entirely sympathetic to Mr. Nixon's assertion that the tapes support his account of events and detrimental to the testimony of John Dean who did not have access to the tapes.

Whatever short-range benefit the President may hope to get from this, in terms of reinforcing his position, it seems to us that the more profound effect can only be to undercut the President's case for withholding the evidence of the tapes. He has made them available to a potential defendant in a criminal case and to a witness as well before the Ervin committee. How can he now deny them to other witnesses and other defendants and—in all logic—to the prosecutors and the committee as well. What is worse, how can anybody be confident that these particular tapes have not been deliberately or inadvertently altered or that the others are under any more reassuring security control?