

Nixon Won't Say How 'Definitive' Court's Tape Ruling Must Be for Him to Obey It

Defers Reply to a Query On Yielding Voluntarily

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WASHINGTON, Sept. 5— President Nixon refused today to say what sort of Supreme Court decision he would consider "definitive" enough to obey in the controversy over making White House tape recordings available to a Federal judge for possible transmittal to the Watergate grand jury.

The President told a news conference that his lawyers would discuss what constituted a "definitive ruling"—one that Mr. Nixon has promised to honor—during their appeal of last week's decision that Judge John J. Sirica should have access to the tapes.

Mr. Nixon also declined to say whether he might make the tapes available voluntarily, to resolve public doubt about their contents, if the Supreme Court ruled that he was legally entitled to keep them secret as a matter of Presidential privilege.

Will Respond Later

The President said that he would be glad to respond to that question if the reporter repeated it "a little later," presumably after the case, scheduled to go to the United States Court of Appeals tomorrow, had been resolved by the Supreme Court this fall.

Mr. Nixon also repeated his contention that the tapes contained "nothing whatever" that would contradict any of his previous statements on the Watergate situation.

In replying to questions about the lawsuit brought by Archibald Cox, the Justice Department's special prosecutor, to obtain the tapes, the President maintained that he was respecting the advice of his attorneys to avoid legal comment while the case was under appeal.

Judge Sirica ruled a week ago that the President must surrender nine tape recordings for his private examination so he could determine what portions, if any, should properly be submitted to the Watergate grand jury.

Schedule Is Set

The White House is scheduled to file a formal appeal of that decision in the Court of Appeals

for the District of Columbia tomorrow, but the court has already set a briefing-and-argument schedule for the case that will be completed by Sept. 14.

In response to other questions, the President said that his lawyers had told him that Judge Sirica's decision would be reversed on appeal.

A reporter asked the President why, in the light of broad public acceptance of the authority of the Supreme Court, "you will abide only by what you call a definitive decision?"

"As far as I am concerned,"

Mr. Nixon replied, "I am simply saying that the President of the United States under our Constitution has a responsibility to this office to maintain the separation of powers and also maintain the ability of not only this President but future Presidents to conduct

the office in the interest of the people.

"Now, in order to do that, it is essential that the confidentiality of discussions that the President has with his advisers, with members of Congress, with visitors from abroad, with others who come in — that those discussions be uninhibited, that they be candid, that they be free-wheeling.

"Now, in the event that Presidential papers—or in the event that Presidential conversations as recorded on tapes . . . were made available to a court, to a judge in camera or to a committee of Congress, that principle would be so seriously jeopardized that it would probably destroy that principle, the confidentiality which is so essential and indispensable for the proper conduct of the Presidency.

"That's why I have taken the hard line that I have taken with regard to complying with the lower court's order. Now, when we come to the Supreme Court, the question there is what kind of an order is the Supreme Court going to issue, if any?"

Enforcement Stayed

Mr. Nixon was referring to a White House statement, issued after Judge Sirica's ruling last Wednesday, that the President

would not comply with the court order to surrender the tapes. As a legal matter, enforcement of the order will be stayed during the entire process of appeal.

In response to another Watergate question today, the President repeated that he had ordered a fresh investigation of the Watergate affair last March 21. Several Administration officials testified at the Senate hearings that they were unaware of any further inquiry.

[Question 8.]

Mr. Nixon said that he had asked John D. Ehrlichman, his special assistant, to undertake the investigation then, when Hohn W. Dean 3d, his special counsel, had proved unequal to the task. He made a similar statement at his San Clemente news conference two weeks ago.

The President appeared to make it clear today that he would carry his appeal to the Supreme Court if he lost in the Court of Appeals. He said that the White House was appealing to the intermediate Federal court "and, if necessary, farther

There had been some speculation among Mr. Nixon's critics that the President might allow an adverse ruling by the Court of Appeals to stand, while refusing to obey it since it did not constitute "a definite ruling by the Supreme Court."

It remains possible, however, that the high court could refuse to accept jurisdiction of the Cox lawsuit, upon an appeal by the President, and that Mr. Nixon could then argue that such a refusal, eliminating the possibility of a Supreme Court ruling on the merits, was not "definite."

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