

## U.S. Neither Denies Nor Confirms Taps On Nixon's Brother

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WASHINGTON, Sept. 17 —

The Treasury Department, invoking executive privilege, refused today to tell Senator Joseph M. Montoya whether President Nixon had instructed the Secret Service to wiretap the telephone of his brother F. Donald Nixon.

Senator Montoya, a New Mexico Democrat who is a

member of the Senate Watergate committee and chairman of a Senate appropriations subcommittee that oversees the Secret Service, met this afternoon with Edward C. Schmults, the general counsel of the Treasury Department, and Brend Moody, Assistant Secretary of the Treasury for Law Enforcement.

The Senator reported later that the officials told him they could "neither confirm nor deny" reports published earlier this month that Mr. Nixon had asked for electronic surveillance of his brother, a California businessman.

"I personally am assuming there was a wiretap on the

President's brother's phone" that was in violation of Federal law, the Senator said. Otherwise, he added, "the legal answer would be a denial."

Mr. Montoya said Mr. Schmults had advised him that only the President could approve a decision to give the Senator a definite answer.

Aides to the Senator said the officials reported that the Secret Service had conducted nine wiretaps since Mr. Nixon took office in 1969. Each wiretap involved counterfeiting and each was approved by Federal courts, they added.

The aides said the officials had also reported 499 instances in which Treasury agents had

been wired for sound, and that Senator Montoya was seeking details specifying that no political figures had been recorded in those instances.

One of the aides said that when the Treasury officials were asked such questions as, "Did Donald Nixon know he was being tapped?" Mr. Schmults and Mr. Moody smiled and refused to reply.