

investigations

Nixon Setback on Tapes

ALMOST lost in the excitement over Vice President Spiro Agnew's resignation and President Nixon's nomination of Representative Gerald Ford to fill the void were the many developments in "Watergate."

Most important was the setback for President Nixon in the Circuit Court of Appeals, which ruled 5-2 that he must turn over portions of nine White House tapes "necessary to the Watergate grand jury."

If the ruling was upheld by the U.S. Supreme Court — where the decision might be taken for final adjudication — it would put a bridle on "executive privilege" and test whether President Nixon would fulfill his promise to abide by a "definitive" decision on the matter.

Reluctant Decision

The appeals court obviously took its decision reluctantly. "Perhaps the President will find it possible to reach some agreement with the Special Prosecutor (Archibald Cox) as to what portions of the subpoenaed evidence are necessary to the grand jury," the decision said at one point.

Actually the court earlier had ordered Cox and the President to try to work out an agreement so it would not have to rule on the tapes issue. But Mr. Nixon and Cox could not agree.

The President's lawyer, Charles Alan Wright then had argued that as long as the President remained in office he was absolutely immune from the compulsory process of the courts.

But the court decided otherwise: "Though the President is elected by nationwide ballot, and is often said to represent all the people, he does not embody the nation's sovereignty. He is not above the law's commands."

1803 Case

The five judges cited the famous *Marbury v. Madison* case of 1803 when Chief Justice John Marshall set the prevailing rule that the high court had the right to overturn acts of Congress (a power not specified in the Constitution) and that there was no such thing as absolute "executive privilege."

Thus, said the court, "It is emphatically the province and duty of the judicial department to say what the law is." In practical terms, it was the duty of Judge John Sirica to examine the nine tapes and give the "necessary" parts to the grand jury so it could do its work.

The controversy had continued so long that many people had forgotten what the tapes presumably contained. The court action indicated they were conversations held by the President with White House campaign aides on seven different days between June 20, 1972 and April 15, 1973.

'Good Job'

They included the Sept. 15, 1972, session in the Oval Office on the day the seven Watergate burglars were indicted and the President, John W. Dean III and H.R. Haldeman, former White House chief of staff, discussed the situation.

Dean had told the Senate Watergate committee that at that meeting the President "congratulated" him on a "good job" in containing the Watergate investigation. Haldeman testified the President did not congratulate



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late Dean. The tapes, presumably, could, if not tampered with, resolve the question of credibility as well as fact.

Cox said he still was willing to work out an agreement with the President on the tapes so that a Supreme Court test could be avoided. But the White House did not comment on the decision.

False Testimony?

Other Watergate developments last week included:

- Three corporations and the board chairmen of two of them, pleaded guilty in Washington, D.C., to misdemeanor violations of federal campaign contribution laws.

American Airlines, Goodyear Tire and its board chairman Russell deYoung, Minnesota Mining and its board chairman Harry Heltzer, were fined from \$500 to \$5000, the maximum fine possible.

- Judge Sirica finally

handed down a decision on the Senate Watergate committee's request to hear the Presidential tapes. Sirica decided his court did not have jurisdiction to rule on the issue and therefore it could not order the tapes turned over to the committee.

- Egil Krogh Jr., 34, at one time head of the White House "plumbers," was indicted in Washington, D.C., for allegedly giving false testimony about the covert activities of E. Howard Hunt and G. Gordon Liddy, two of the convicted Watergate Seven. He allegedly lied to the grand jury about ordering them to break into the offices of Daniel Ellsberg's psychiatrist, Dr. Lewis Fielding, in Beverly Hills in 1971.

- The Watergate Committee, in recess, was reported trying to find out why an agent of Howard Hughes had given \$50,000 in cash to the President's friend, Charles Bebe Rebozo, in 1969 and again in 1970, and Rebozo had returned the \$100,000 (according to Rebozo) in the spring of 1973.

"It may be a coincidence," a committee source told Washington Post reporters Bob Woodward and Carl Bernstein (the men who broke the original Watergate story), "but the first \$50,000 in the contribution came . . . at the time of the property purchase (of the San Clemente White House) and Rebozo has said that the President needed money."

- Representative Jack Brooks (Dem-Texas), chairman of the House Government Activities subcommittee looking into expenditures on President Nixon's and past Presidents' private

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not embody nation-
al sovereignty'**

homes, declared he would seek legislation to block abuse of "virtually unregulated access" by Presidents to public funds for their private residences.

He said his committee found that the most President Johnson had spent on Camp David was \$147,000 in 1968, while in 1973 President Nixon had cost the taxpayers \$640,000 for that government facility alone.

As for public expenditures on his San Clemente, Calif., and Key Biscayne, Fla., homes, Brooks said they had added up \$10.1 million so far in five years.