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The Nixon-Richardson Letters

Following is the Oct. 19 letter from Mr. Nixon to former Attorney General Richardson:

You are aware of the actions I am taking today to bring to an end the controversy over the so-called Watergate tapes and that I have reluctantly agreed to a limited breach of Presidential confidentiality in order that our country may be spared the agony of further indecision and litigation about those tapes at a time when we are confronted with other issues of much greater moment to the country and the world.

As a part of these actions, I am instructing you to direct Special Prosecutor Ar-

chibald Cox of the Watergate Special Prosecution Force that he is to make no further attempts by judicial process to obtain tapes, notes, or memoranda of Presidential conversations. I regret the necessity of intruding, to this very limited extent, on the independence that I promised you with regard to Watergate when I announced your appointment. This would not have been necessary if the Special Prosecutor had agreed to the very reasonable proposal you made to him this week.

Following is Oct. 20 letter from Richardson to the President:

Thank you for your letter of October 19, 1973, instructing me to direct Mr. Cox that he is to make no further attempts by judicial process to obtain tapes, notes or memoranda of Presidential conversations.

As you point out, this instruction does intrude on the independence you promised me with regard to Watergate when you announced my appointment. And, of course, you have every right as President to withdraw or modify any understanding on which I hold office under you. The situation stands on a different footing, however, with respect to the role of the Spe-

cial Prosecutor. Acting on your instruction that if I should consider it appropriate, I would have the authority to name a special prosecutor. I announced a few days before my confirmation hearing began that I would, if confirmed, "appoint a Special Prosecutor and give him all the independence, authority, and staff support needed to carry out the tasks entrusted to him." I added, "Although he will be in the Department of Justice and report to me—and only to me—he will be aware that his ultimate accountability is to the American people."

At many points through-

on Curbing Cox's Efforts

out the nomination hearings, I reaffirmed my intention to assure the independence of the Special Prosecutor, and in my statement of his duties and responsibilities I specified that he would have "full authority" for "determining whether or not to contest the assertion of 'Executive Privilege' or any other testimonial privilege." And while the Special Prosecutor can be removed from office for "extraordinary improprieties," his charter specifically states that "The Attorney General will not countermand or interfere with the Special Prosecutor's decisions or actions."

Quite obviously, therefore, the instruction contained in your letter of October 19 gives me serious difficulty. As you know, I regarded as reasonable and constructive the proposal to rely on Senator Stennis to prepare a verified record of the so-called Watergate tapes and I did my best to persuade Mr. Cox of the desirability of this solution of that issue. I did not believe, however, that the price of access to the tapes in this manner should be the renunciation of any further attempt by him to resort to judicial process, and the proposal I submitted to him did not purport to deal with

other tapes, notes, or memoranda of Presidential conversations.

In the circumstances I would hope that some further accommodation could be found along the following lines:

First, that an effort be made to persuade Judge Sirica to accept for purposes of the Grand Jury the record of the Watergate tapes verified by Senator Stennis. In that event, Mr. Cox would, as he has said, abide by Judge Sirica's decision.

Second, agreement should be sought with Mr. Cox not to press any outstanding subpoenas which are directed merely to notes or memoranda covering the

same conversations that would have been furnished in full through the verified record.

Third, any future situation where Mr. Cox seeks judicial process to obtain the record of Presidential conversations would be approached on the basis of the precedent established with respect to the Watergate tapes. This would leave to be handled in this way only situations where a showing of compelling necessity comparable to that made with respect to the Watergate tapes had been made.

If you feel it would be useful to do so, I would welcome the opportunity to discuss this matter with you.