

# Mr. Nixon Retreats

President Nixon has capitulated to the explosion of public and Congressional outrage over his effort to evade Federal court orders to turn over to United States District Judge John J. Sirica the subpoenaed taped conversations touching on the Watergate affair. In announcing the dramatic reversal, Presidential lawyer Charles Alan Wright left no room for doubt that Mr. Nixon's move was in response to the refusal of the American people to allow the President to continue to place himself above and beyond the rule of law.

Mr. Nixon's aborted game plan seems clear. After floating the "compromise" proposal to make available an "authenticated" version of the tapes, the President issued orders to Special Prosecutor Archibald Cox to desist both from all future attempts to obtain the tapes themselves and from any further pursuit of other White House documents.

The President could have hardly expected Mr. Cox to obey such an order. The special prosecutor's inevitable defiance provided Mr. Nixon with the pretext to fire Mr. Cox and abolish his office. Had the maneuver succeeded, it would have given Mr. Nixon the double victory of an end-run around the courts and of getting rid of the special prosecutor. Regrettably, he has already managed to achieve half that goal; it is now up to Congress to repair the damage by re-establishing the post formerly held by Mr. Cox.

Referring to the President's effort to end the constitutional crisis, Mr. Wright conceded yesterday that "events over the weekend made it apparent it did not." The game plan failed because, as honorable men, former Attorney General Richardson and his deputy, William D. Ruckelshaus, chose to resign rather than to lend legitimacy to the White House coup. Their courageous rejection of the White House effort to destroy the independence of Mr. Cox did much to persuade the American people and Congress that the President had so far overstepped the bounds of his lawful powers that he now would have to be stopped by any constitutional means necessary.

With his cool and correct presentation at yesterday's news conference, entirely within the framework of loyalty to the Administration he had served so long, Mr. Richardson torpedoed efforts of the White House entourage—what is left of it—to discredit Mr. Cox as a partisan agent intent on "getting" the President. In unequivocal terms, Mr. Richardson said that had he been in Mr. Cox's position, "I would have done what he has done." Even more crucial to the future course of the investigation, Mr. Richardson made it clear that, while he had supported the compromise on the tapes, he had never accepted the White House proviso that Mr. Cox be barred from pursuing with court action other tapes and documents if they were to become essential to the case.

Mr. Nixon's retreat came amid ominous signs that he had embarked on a disastrous course. The House of Representatives had taken steps to determine whether the President's action warranted impeachment proceedings. The bar was in open revolt. Judge Sirica had told the two Watergate grand juries to continue their work and that he was prepared to appoint a special counsel to carry on the prosecutor's task.

The pending investigations, necessarily suspended by Mr. Cox's departure, should certainly be continued by a new and independent prosecutor, aided by Mr. Cox's former staff. It is clear that independence—and assurance that the job will be completed even in the face of Presidential displeasure—is unattainable so long as the prosecutor remains under the jurisdiction of the executive branch.

The first order of business is creation of a new special prosecutor through Congressional action, to function under the authority either of Congress or the grand jury. Now that the will of an aroused people has compelled Mr. Nixon to withdraw from his defiant position on the narrow matter of the tapes, the democratic process that has been set in motion must resume the long-term task of investigating Watergate in all its aspects, including the degree of responsibility—if any—of the President of the United States. What is at stake is nothing less than a return to government under law.