

## Watergate Documents

# Nixon Rejects New Tapes Subpoena

## Response To Ervin Committee

San Clemente

President Nixon bluntly rejected yesterday the Senate Watergate committee's subpoenas seeking more than 500 tape recordings and documents. At the same time, he overhauled his Watergate defense staff.

In a letter delivered to Senator Sam J. Ervin Jr. (Dem-N.C.) the chairman of the committee, and made public here, Mr. Nixon said:

"To produce the material you now seek would unquestionably destroy any vestige of confidentiality of presidential communications, thereby irreparably impairing the constitutional functions of the office of the presidency."

Ervin, speaking by telephone from his home in Morganton N.C., said that "my reaction is this, period: There is nothing in the Constitution that gives the President any power to withhold from an authorized congressional committee evidence relating to campaign activity or evidence of criminal wrongdoing by his aides."

Later, his office in Washington issued a formal statement making the same point.

Samuel Dash the committee's chief counsel said in Washington that the panel would take no immediate ac-

tion to enforce the subpoenas pending the outcome of a court case involving an earlier subpoena covering only five tape recordings.

The shakeup in the legal staff removed both J. Fred Buzhardt Jr. and Leonard Garment from active direc-

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tion of the Watergate case. The new man in charge will be James D. St. Clair a Boston attorney and Harvard university lecturer, who was named special counsel to the president.

Buzhardt who had held that title will become counsel to the President, charged with day-to-day White House legal affairs. The last man to serve as counsel was John W. Dean III, who was ousted following Watergate revelations.

Garment who had served as acting counsel since Dean's departure, was named assistant to the president — a title he shares with seven other white house aides, including Alexander M. Haig Jr., the chief of staff.

The reorganization had been expected since late November when, following the discovery of an 18-minute gap in one of the presidential tapes White House spokesmen began talking of "mistakes" and "fatigue" in the counsel's office.

In refusing to comply with the Watergate committee's subpoenas, which were delivered to the White House on December 19, the president waited until the last minute. His response was originally due at 10 a.m. EST yesterday but it was not until six hours later that it was

delivered. Dash and Buzhardt had agreed to an extension by telephone.

Mr. Nixon also suggested that the release of documents and tapes could obstruct justice. He said that "disclosure to you (the committee), and through you to the public, could seriously

impair the ability of the office of the special prosecutor to complete its investigations and successfully prosecute the criminal cases which may arise from the grand juries."

Earlier last year, the Watergate committee had subpoenaed only five tapes. Mr. Nixon refused to comply on that occasion also. The committee sought relief from Chief Judge John J. Sirica of the United States District Court for the District of Columbia, but he declined to act on the ground that he lacked jurisdiction.

Subsequently, Congress approved a bill giving such jurisdiction to Sirica in the Watergate case, and the President allowed the bill to become law without his signature. The United States court of appeals for the District of Columbia circuit, to which the committee had appealed Sirica's decision, sent the case back to him for a ruling.

Thursday, after a conference in Sirica's chambers attended by Dash, Buzhardt and St. Clair, the judge ordered both sides to file new briefs. Dash said yesterday that the committee's brief would be filed Monday, with the White House response due 10 days later.

Dash said he hoped for Sirica's ruling by mid-January.

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