

Rodino Panel Subpoenas 45 More Tapes

By Richard L. Lyons
Washington Post Staff Writer

The House Judiciary Committee yesterday subpoenaed 45 more tape recordings of presidential Watergate conversations and formally notified President Nixon that it may recommend his impeachment for defying committee subpoenas.

The new subpoena, the fourth directed at the President during the impeachment inquiry, was approved 37 to 1. The only opposition vote was cast by the absent and ailing senior Republican, Rep. Edward Hutchinson of Michigan, who considers the action futile because it is unenforceable.

Earlier, the committee voted 28 to 10 to send Mr. Nixon a letter advising him that members "will be free" to consider his refusal to comply with a subpoena last week in an impeachable offense in itself. Eight of the 17 Republican members approved the letter. One Democrat, Rep. John Conyers of Michigan, voted against it as too weak a response.

The committee also voted 23 to 15 against opening to the public next week's hearings when the committee will consider evidence of other possible impeachment offenses against the President, including political contributions from the dairy industry and his administration's settlement of an International Telephone and Telegraph Corp. antitrust suit. Open hearings, the committee decided, might prejudice some Watergate and other trials. This apparently means that the impeachment hearings will remain closed for at least two more weeks.

At a day-long business meeting, the committee also voted not to seek court help in enforcing its subpoenas against the President and set aside for now efforts to cite for contempt of Congress for defying committee subpoenas.

Mr. Nixon informed the committee by letter May 22 that he would not comply with its subpoena for 11 Watergate tapes or any future Watergate subpoenas because he had given the

committee the whole Watergate story in the form of edited transcripts, and because its "never-ending" demands for tapes would weaken the office of the presidency. He had responded to an earlier subpoena for tapes of 42 Watergate conversations by releasing the edited transcripts of 45 conversations which did not include 11 of the tapes sought by the committee.

His refusal to comply last

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week with the second subpoena produced a solid majority yesterday for a letter which advised Mr. Nixon that it was for the committee, not him, to decide what material is necessary and relevant to its impeachment inquiry.

Calling his refusal to comply "a grave matter," the committee advised the President that:

"In meeting their constitutional responsibility, committee members will be free to consider whether your refusals warrant the drawing of adverse inferences concerning the substance of the materials, and whether your refusals in and of themselves might constitute a ground for impeachment."

Rep. Walter Flowers (D-Ala.), the Democrat considered least likely to vote for impeachment, said it did not serve "this President or the office of the presidency" to refuse to comply. He called the material subpoenaed relevant and necessary and said it was sought "to shed light on the truth."

Rep. Robert McClory of Illinois, senior Republican after Hutchinson, viewed Mr. Nixon's defiance with

"dismay," but said the President could still "sweep away" inferences that he had something to hide by turning over the tapes. McClory voted to send the letter.

Special counsel John Doar said the committee's action had "legal significance" by putting the President on notice that it might consider his defiance impeachable.

White House spokesman Gerald L. Warren said the committee's letter was designed to influence public opinion.

Doar recommended and the committee speedily approved issuing another subpoena, demanding that the President turn over 45 more tapes of White House Watergate conversations by 10 a.m. June 10.

In addition to tapes, the subpoena also demands all tapes, documents or other things relating to the Watergate break-in and investigation in the files of former White House aides H. R. Haldeman, John D. Ehrlichman, Charles W. Colson, John W. Dean III and Gordon Strachan.

The 45 newly subpoenaed tapes cover a period from Nov. 15, 1972, to June 4, 1973. Most are recordings of conversations between the President and these top aides, except Strachan who was an aide to White House chief of staff Haldeman. Most of them are also sought by Watergate Special Prosecutor Leon Jaworski, who has asked for a Supreme Court review of the President's resistance of his subpoena.

The attempt to open up next week's sessions where Doar's staff will present evidence on the ITT and dairy matters was made by Rep. Wayne Owens (D-Utah). His motion sought to guard against release of information that might prejudice upcoming trials. But fear

that this could happen evidently was the main reason for its defeat, 23 to 15.

Minority counsel Albert Jenner said Judge Gerhard A. Gesell of U.S. District Court here was concerned that release of material might force dismissal of a trial scheduled to start next month of defendants in the 1971 break-in of the office of Daniel Ellsberg's psychiatrist.

Doar suggested about two more weeks of closed hearings before letting the public in.

Owens argued that the committee should consider the evidence in the open so that the public would have confidence in its report. The effect of yesterday's vote is to keep the sessions closed

until the committee takes up the issue again at a future meeting.

When Rep. Charles Wiggins (R-Calif.) argued that opening the evidentiary hearings might prejudice Mr. Nixon's right to a fair trial if the impeachment case goes to the Senate, Rep. William Hungate (D-Mo.) observed that James D. St. Clair, the President's lawyer had demanded open hearings.

"Am I confused?" asked Hungate.

"No, Mr. St. Clair is confused," replied Wiggins. "I think he is wrong."

An attempt by Congress to impeach Mr. Nixon now for contempt was rejected, 29 to 9. A proposal by Rep. Jerome Waldie (D-Calif.) to include in the committee's final report a recommendation that the House direct its sergeant-at-arms to "summon" the President to show cause why he should not be found in contempt also was rejected, 27 to 11. The committee felt a decision on contempt should be deferred until it has heard all the evidence and votes on substantive articles of impeachment.

Rejected 32 to 6 was a Republican proposal that the committee seek a court order to try to enforce its subpoenas against the President. The committee has consistently taken the position that since the Constitution gives the House "sole" jurisdiction over impeachment, the courts have no role to play. This argument was most forcefully made yesterday by minority counsel Jenner.

By the same vote, the committee refused to seek to file a friend-of-court brief supporting Jaworski's efforts to enforce his subpoena.

In another action, Judge John J. Sirica said yesterday he was powerless to turn over to the committee four White House Watergate tapes which he had kept from the Watergate grand jury on grounds of executive privilege. Sirica said the committee would have to get the tapes from the President.

The Judiciary Committee will meet again today to decide whether to make public some of the Watergate evidence it considered in eight days of closed sessions.