

Nixon Again Refuses To Obey Subpoena

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'Separation

Of Powers'

Washington

President Nixon, apparently seeking to move toward a constitutional battle with Congress, refused again yesterday to comply with a House Judiciary Committee subpoena for additional Watergate evidence.

In a letter to Peter W. Rodino Jr., (Dem-N.J.), chairman of the committee, Mr. Nixon ruled out any possibility that he would turn over 45 tapes and documents demanded by the committee for its impeachment inquiry.

The letter said he was taking this position on the subpoena to preserve "the principle of the separation of powers and of the executive as a co-equal branch."

Mr. Nixon also said in justification of his refusal that he had already provided the committee voluntarily with "a voluminous body of materials" which give "the full story of Watergate."

The letter urged the committee not to pursue "the chimera of additional evidence from additional tapes . . ."

"Once embarked on a process of continually demanding additional tapes whenever those the committee already has failed to turn up evidence of guilt, there would be no end unless a line were drawn somewhere by someone," the President's letter said. "Since it is clear that the committee will not draw such a line, I have done so."

Mr. Nixon's letter drew

quick criticism from members of the committee and other members of Congress. His flat refusal to turn over the subpoenaed material increases the probability that the Judiciary Committee will vote to present a bill of impeachment to the full House.

In a letter to Mr. Nixon on May 30, Rodino warned that the committee would draw "adverse inferences" from

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the refusal to obey the subpoena — presumably meaning that the committee would infer that the President was seeking to conceal guilt.

The White House has reiterated that it rejects that any "adverse inference" could be drawn from the President's refusal to turn over additional materials to the Judiciary Committee, to the special Watergate prosecutor or to the courts.

A close aide of the President insisted to an interviewer that "this is not stonewalling on the part of the President. It is a very responsible and necessary position to take."

"The President feels he has bared his personal side far beyond what any American president has done before," the aide continued. "He feels that in some ways he has gone too far and will accept no further encroachments on his prerogatives."

In his letter, the President said that a proceeding such as the present impeachment inquiry "places a great strain on our constitutional system, and on the pattern of practice of self-restraint by the three branches that has maintained the balances of that system for nearly two centuries."

In an apparent reference to the demands of the House

Judiciary Committee for White House tapes and documents, Mr. Nixon declared that "whenever one branch attempts to press to hard in intruding on the constitutional prerogatives of another, that balance is threatened."

"From the start of these proceedings," the letter continued, "I have tried to cooperate as far as I reasonably could in order to avert a constitutional confrontation. But I am determined to do nothing which, by the precedents it sets, would render the executive branch henceforth and forevermore subservient to the legislative branch, and would thereby destroy the constitutional balance."

The Speaker of the House, Carl Albert, rejected the President's argument and in a statement said: "The presidency of the United States is not at stake in this matter, and those who say it is are simply going beyond the realm of reason. We want a strong president, we want a strong congress, we want a strong judicial system, but all of us must live within the bounds of mutual responsibility under the Constitution."

Other critics of the President have said that he has created the constitutional conflict with Congress as a defense strategy in the impeachment proceedings.

Although there is conflicting opinion on the so-called claim of executive privilege exercised by the President to withhold evidence, a majority of commentators on the issue recently have held that such a claim of privilege is invalid in an impeachment process. They argue that the House of Representatives is given sole authority under the Constitution to conduct an impeachment proceeding and thus a presidential claim of privilege would deny powers specifically granted to Congress.

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