

the chips were down, it was that spirit of restraint which prevailed.

I trust that the two branches can forge an effective partnership on behalf of budgetary responsibility again in this new fiscal year—and that one year from now the figures will show that the budget for fiscal year 1974 was in balance. The fact that we nearly achieved a balance in the second half of fiscal year 1973 encourages us to believe this a realistic objective.

It should not be overlooked, however, that the veto of certain bills and the reserving of certain funds was essential in achieving our budgetary goals for the past 12 months. Inflation continues to be our most important economic problem—and budget and monetary restraint continue to be our most important tools for fighting it. Our Phase IV controls will help to moderate inflation, but a balanced budget and monetary restraint must be our major weapons against rising prices.

With the economy now operating at a high level, revenues in fiscal year 1974 should approximate, without any tax increases, the overall level of expenditures I proposed last January—about \$269 billion. Balancing the budget therefore means that we must hold expenditures to that level in the coming year, despite the fact that higher prices, higher interest rates, and new legislation will all be working to drive spending higher. I am confident that with the continuing cooperation of the Congress we can meet that goal and thus help protect the American people against the twin dangers of higher prices and higher taxes.

Response to Subpoena of Recordings and Documents

The President's Letter to Senator Sam J. Ervin, Jr., Chairman, Senate Select Committee on Presidential Campaign Activities. Dated July 25, 1973. Released July 26, 1973

Dear Mr. Chairman:

White House Counsel have received on my behalf the two subpoenas issued by you, on behalf of the Select Committee, on July 23rd.

One of these calls on me to furnish to the Select Committee recordings of five meetings between Mr. John Dean and myself. For the reasons stated to you in my letters of July 6th and July 23rd, I must respectfully refuse to produce those recordings.

The other subpoena calls on me to furnish all records of any kind relating directly or indirectly to the "activities, participation, responsibilities or involvement" of 25 named individuals "in any alleged criminal acts related to the Presidential election of 1972." Some of the records that might arguably fit within that subpoena are Presidential papers that must be kept confidential for reasons

stated in my letter of July 6th. It is quite possible that there are other records in my custody that would be within the ambit of that subpoena and that I could, consistent with the public interest and my Constitutional responsibilities, provide to the Select Committee. All specific requests from the Select Committee will be carefully considered and my staff and I, as we have done in the past, will cooperate with the Select Committee by making available any information and documents that can appropriately be produced. You will understand, however, I am sure, that it would simply not be feasible for my staff and me to review thousands of documents to decide which do and which do not fit within the sweeping but vague terms of the subpoena.

It continues to be true, as it was when I wrote you on July 6th, that my staff is under instructions to cooperate fully with yours in furnishing information pertinent to your inquiry. I have directed that executive privilege not be invoked with regard to testimony by present and former members of my staff concerning possible criminal conduct or discussions of possible criminal conduct. I have waived the attorney-client privilege with regard to my former Counsel. In my July 6th letter I described these acts of cooperation with the Select Committee as "genuine, extensive and, in the history of such matters, extraordinary." That cooperation has continued and it will continue. Executive privilege is being invoked only with regard to documents and recordings that cannot be made public consistent with the confidentiality essential to the functioning of the Office of the President.

I cannot and will not consent to giving any investigatory body private Presidential papers. To the extent that I have custody of other documents or information relevant to the work of the Select Committee and that can properly be made public, I will be glad to make these available in response to specific requests.

Sincerely,

RICHARD NIXON

[Honorable Sam J. Ervin, Jr., Chairman, Select Committee on Presidential Campaign Activities, United States Senate, Washington, D.C. 20510]

Response to Subpoena of Recordings and Documents

The President's Letter to Chief Judge John J. Sirica, United States District Court for the District of Columbia. Dated July 25, 1973. Released July 26, 1973

Dear Judge Sirica:

White House Counsel have received on my behalf a subpoena duces tecum issued out of the United States District Court for the District of Columbia on July 23rd

at the request of Archibald Cox. The subpoena calls on me to produce for a Grand Jury certain tape recordings as well as certain specified documents. With the utmost respect for the court of which you are Chief Judge, and for the branch of government of which it is a part, I must decline to obey the command of that subpoena. In doing so I follow the example of a long line of my predecessors as President of the United States who have consistently adhered to the position that the President is not subject to compulsory process from the courts.

The independence of the three branches of our government is at the very heart of our Constitutional system. It would be wholly inadmissible for the President to seek to compel some particular action by the courts. It is equally inadmissible for the courts to seek to compel some particular action from the President.

That the President is not subject to compulsory process from the other branches of government does not mean, of course, that all information in the custody of the President must forever remain unavailable to the courts. Like all of my predecessors, I have always made relevant material available to the courts except in those rare instances when to do so would be inconsistent with the public interest. The principle that guides my actions in this regard was well stated by Attorney General Speed in 1865:

Upon principles of public policy there are some kinds of evidence which the law excludes or dispenses with. * * * The official transactions between the heads of departments of the Government and their subordinate officers are, in general, treated as "privileged communications." The President of the United States, the heads of the great departments of the Government, and the Governors of the several States, it has been decided, are not bound to produce papers or disclose information communicated to them where, in their own judgment, the disclosure would, on public considerations, be inexpedient. These are familiar rules laid down by every author on the law of evidence.

A similar principle has been stated by many other Attorneys General, it has been recognized by the courts, and it has been acted upon by many Presidents.

In the light of that principle, I am voluntarily transmitting for the use of the Grand Jury the memorandum from W. Richard Howard to Bruce Kehrli in which they are interested as well as the described memoranda from Gordon Strachan to H. R. Haldeman. I have concluded, however, that it would be inconsistent with the public interest and with the Constitutional position of the Presidency to make available recordings of meetings and telephone conversations in which I was a participant and I must respectfully decline to do so.

Sincerely,

RICHARD NIXON

[Honorable John J. Sirica, U.S. Court House, 3rd and Constitution Avenue, N.W., Room 2428, Washington, D.C. 20001]

[cc: Honorable Archibald Cox, Special Prosecutor]

Farmers Home Administration

Announcement of Intention To Nominate Frank B. Elliott To Be Administrator. July 26, 1973

The President today announced his intention to nominate Frank B. Elliott, of Alexandria, Va., to be Administrator of the Farmers Home Administration. He will succeed James V. Smith, who resigned in March.

Since March 1973, Mr. Elliott has been Acting Administrator of the FHA and Deputy Assistant Secretary of Agriculture for Administration. Mr. Elliott joined the Department of Agriculture in September 1970, serving as Director of the Office of Management Improvement until March 1971 when he became Assistant Secretary for Administration.

In January 1968, Mr. Elliott retired from the U.S. Air Force with the rank of brigadier general. Since then he has served as vice president for finance and administration, International Executive Service Corporation, New York, N.Y. (1968-69); as executive vice president, ITCI Commercial Credit Card, Inc., in New York (1969-70); and as an associate with R. B. Anderson and Company, Ltd. (1970).

He was born on January 9, 1917, in Washington, D.C. Mr. Elliott received his B.S. from Lehigh University in 1940 and his M.B.A. from the Harvard University Graduate School of Business in 1951. He served in the U.S. Air Force from 1945 to 1968. His Air Force assignments included tours as a wing commander, division commander, and as Comptroller, Headquarters Strategic Air Command.

Mr. Elliott and his wife, Constance A. Elliott, have five children and reside in Alexandria, Va.

Renegotiation Board

Announcement of Designation of William Scholl Whitehead as Chairman. July 27, 1973

The President today announced the designation of William Scholl Whitehead as Chairman of the Renegotiation Board. He succeeds Richard T. Burress who resigned as Chairman and member of the Renegotiation Board effective June 30, 1973.

Mr. Whitehead has been a member of the Renegotiation Board since June 20, 1969. At the time of his appointment, he was president, a director, and the principal stockholder of Ives, Whitehead and Company, Inc., management and trade consultants. He was with the firm from 1947 to 1969.

He was born on May 27, 1907, in Denver, Colo. Mr. Whitehead was graduated from the University of