

eign affairs and national security agencies. Rather, it involves the preservation of the basic ability of the executive branch to continue to function and perform the responsibilities assigned to it by the Constitution. Unless privacy in the preliminary exchange of views between personnel of the Executive agencies can be maintained, the healthy expression of opinion and the frank, forthright interplay of ideas that are essential to sound policy and effective administration cannot survive.

RICHARD NIXON

The White House,
October 23, 1973.

Presidential Tapes

*News Conference of Alexander M. Haig, Jr.,
Assistant to the President, and Charles Alan Wright,
Consultant to the Counsel to the President, on the
President's Decision To Comply With Court
Order Requiring Production of the Tapes.
October 23, 1973*

MR. ZIEGLER. Ladies and gentlemen, in light of today's events, I thought it would be worthwhile to have Professor Charles Wright, who has been consulting with the White House Counsel's office, to come before you today to make some remarks and take some of your questions, and also the Assistant to the President, Al Haig, who has participated in the events of the past week, together with other members of the White House staff.

But first, before we go to their remarks and give them an opportunity to answer some of your questions, I would like to announce that tomorrow night at 9 p.m., eastern time, President Nixon will address the Nation on the recent events, including today's decision. The President's address will be carried on live television and radio.¹

I think we will begin with General Haig, who can outline for you, first of all, some of the events of the past week that led to this decision, and then Professor Wright can discuss some of the matters relating to the court procedures, and then we can go to questions for a while. General Haig.

GENERAL HAIG. Ladies and gentlemen, what I thought I would try to do this afternoon is try to put some perspective on what one journalist has referred to as the firestorm, and try, to the degree I can, to present to you and the American people some of the considerations that led up to the events of this past weekend and culminated in today's Presidential decision, and in doing that I think it is quite important that we go back in time a bit to a period of the weekend before last.

¹ On Wednesday, October 24, the White House announced that, because of his concentration on developments in the Middle East, the President would not address the Nation that evening but would later hold a televised news conference. For the President's news conference of October 26, see page 1287 of this issue.

And it was at this juncture that the President, after very careful consideration and full consultation with his advisers, especially those on his legal staff, determined that he would make a herculean effort to resolve what had become a highly profiled and extremely controversial issue; that is, the issue surrounding the data and the information contained on the Presidential tapes of conversations which took place with various individuals in the President's office here in the White House and in the Executive Office Building.

Now, there were two factors that led the President to conclude that the time had come to resolve this very, very controversial issue. One of them involved the domestic scene itself, and the storm of controversy that raged around this issue.

I don't think it requires a blueprint for this group here to emphasize that the issue itself had progressively begun to polarize our body politic. Lines were clearly being drawn both within the Congress, within the media, and I think to a large extent within the viewpoint of the American people themselves.

There were such tales being bandied about that the recent nomination of a new Vice President would be held in hostage to a Supreme Court decision on the tapes issue, and the President to defy the court, then we would move with an impeachment against the President, and with no Vice President there would be a turnover of the Government to a party which did not win November's election.

Now these kinds of considerations, and the realization on our part here that the period of time between the decision of the appellate court and the adjudication of this issue by the Supreme Court would result in even more intense political line-drawing, more intense disunity, and more intense doubt and conflict here at home, and that was certainly a major consideration in the President's determination to try to find a solution in the interest of the overall good of the American people.

Now, there were also international implications of some gravity which led to this Presidential decision. I want to say this very carefully and very precisely, but certainly, certainly any foreign leader, whether he be friend or potential foe, must in a period of turmoil here at home make his calculations about the unity, the permanency, the strength and resilience of this Government in a way that had to take consideration of this tape issue into mind.

Now, what I am not saying, gentlemen and ladies, is that the tape issue brought about international crisis of any kind or was, perhaps, the cause for the Middle East tension which was resolved so happily in recent hours. But what I am saying is that any foreign leader who assesses this Government and its relationships with this Government, whether it be in negotiations or long-term assessments, has got to perceive that the degree of unity and effectiveness of this Government is a key factor in those calculations, and indeed it is; it always is.

So for these two fundamental reasons, and no others—no others—the President decided that he would make this effort last weekend. So on Monday we discussed, as the former Attorney General stated in his press conference today, a number of options, all designed to prevent a constitutional confrontation some 3 to 4 months down the road, with all of the debilitating bleeding and controversy that would have accompanied it in the interim.

This is precisely what resulted in the proposal that was presented on Friday night to the American people. It was at that time, on Monday, that the President decided that he would turn over the controversial tapes to an individual of his selection who was peculiarly qualified to perform this task and to permit him to listen to each and every syllable contained in those tapes as repeatedly and as long as that individual felt it was necessary to ascertain that a third-person transcript which would be prepared and in his hands was a precise, thorough, and accurate reflection of the contents of those tapes.

Now, that proposal was discussed with the former Attorney General in detail and met his criteria for a very reasonable solution to the dilemma.

On Monday afternoon we obtained the agreement in principle of Senator Stennis to take on the task of authenticator, if you will. Now, why Senator Stennis? There are really four fundamental reasons that he was selected by the President for this task.

First, no individual within or without the Government of the United States is more highly qualified than Senator Stennis to assess the national security implications of the contents of these tapes.

Secondly, Senator Stennis—and I am not setting these priorities in order of their merit—is an individual of impeccable reputation for objectivity, honesty, and integrity.

Third, Senator Stennis is a former judge, is highly qualified in law.

And finally, those with partisan views would certainly welcome the selection of a Democrat, albeit a southern one.

For all these reasons, the President felt that Senator Stennis was highly qualified, and, indeed, we were very grateful that the Senator, despite his recent physical problems, patriotically and selflessly agreed to take on this very difficult and tedious task.

Now, having gotten Senator Stennis' agreement, the Attorney General expressed a desire—we having attempted to negotiate a settlement with Professor Cox prior to the appellate court decision, through our White House counsel—the former Attorney General expressed a desire to take up the task of attempting to acquire Professor Cox's acquiescence in this compromise proposal.

He spent the period from Monday evening until Thursday evening at this task, but it became quite apparent to all of us involved by Thursday evening, upon the receipt of a written counter-proposal from Professor Cox, that

this compromise did not meet the criteria he had set for himself.

I say this both in the context of the selection of Senator Stennis as the sole individual to authenticate, a number of other technical concerns that Professor Cox expressed in his written document, counter-proposal, and thirdly, the issue mentioned by the former Attorney General this morning in his press conference, and that being the issue of Professor Cox's strong desire to have the ability at some future date, as a result of his ongoing investigation, to pursue through juridical channels access to additional tapes and personal memoranda covering private conversations of the President.

Now, having viewed Professor Cox's request as one that did not represent the kind of cooperative effort we hoped to receive from him, and having made one more formal try on Friday morning through an exchange of memoranda between Professor Wright and Professor Cox, we then met—that is, the President's counsel, Mr. Garment, Mr. Buzhardt, and Professor Wright, myself—with the Attorney General, and we concluded at that meeting that with or without Professor Cox, we should attempt to resolve this dreadfully controversial issue by proceeding with the proposal providing Senator Ervin and Senator Baker would agree. The results would be the turnover of the product of this effort to both the courts and to the Senate committee in the persons of Senators Ervin and Baker.

Having determined this, and it was the assessment of all of those involved here in the White House that general agreement had been arrived at Friday morning, we set in train the chain of events which brought us to Saturday evening's firestorm, and that is, we requested that both Senators proceed from out of town Friday afternoon to a meeting with the President where the compromise was discussed in detail and where both Senators, I think in a most selfless, patient, and patriotic way, agreed to try to make this thing work.

And so, on Friday evening, this announcement was made concurrently and with the President's viewpoint that he was indeed departing in a fundamental way from a very strongly held conviction that he, as the President of the United States, has the obligation, responsibility to preserve the balance of power between the three coequal branches of Government as it pertains to a protection of confidentiality of Presidential discussions. With that full realization that this was a single exception that he would make in the national interest, he instructed the Attorney General to inform Professor Cox that we were going to proceed, but that henceforth Professor Cox would refrain from requesting, through judicial channels, additional—additional—personal Presidential tapes and memoranda covering private discussions of the President himself.

Now, there was your substantive dilemma, gentlemen. Having received this instruction, and, in fact, somewhat

earlier that afternoon the Attorney General did express some reservations about that aspect of the proposal—some reservations about that aspect of the proposal.

Be that as it may, on Saturday morning we learned here in the White House that Professor Cox was convening a press conference for 1 o'clock Saturday afternoon. Now, on Friday night, when these events drew to a conclusion, we all assumed that Professor Cox had three options, or four, depending on the variance that you care to discuss.

First, he could have said, "I have acquired the information which I have subpoenaed which is necessary in my view to bring these cases to litigation."

Secondly, he could have determined that the prohibition which would not grant him *carte blanche* to request further tapes or personal Presidential memoranda was not acceptable. Had he chosen that option, he could have resigned, with all the implications that that would have had for the participants and for the American people to digest and make their own judgment with respect to the validity of that course of action and the course of action pursued by the President.

An option of that is, he could have delayed. He could have waited, and perhaps waited until further justification developed for a resumption of his needs, should they have developed.

Or, as he finally selected to do, he could appear before the Washington press corps and directly rebut and challenge the President of the United States.

Having done that, I think few Americans will argue that any President faced with this kind of a dilemma can only act as President Nixon did and that is to fire the individual in the executive branch who refused to obey a legitimate order, and that is precisely what ensued.

Now, as Elliot Richardson said this morning, it was in the face of this action, and the personal dilemmas that he, himself, was then faced with—that is, being the instrument of the separation of Professor Cox—that he informed the President on Saturday afternoon that he could not serve as that instrument. A similar situation, with somewhat different background, justified Mr. Ruckelshaus' parallel decision.

Now, gentlemen, that is the sequence of events that led us through the firestorm of this weekend. And this morning, after assessing all of the considerations and the outcome of those actions, which were not pre-planned, not desired, and indeed, I think probably not very well visualized on Friday morning by all participants, this is the setting in which the President entered the Oval Office this morning.

I don't have to describe for you some of the backdrop of this morning's atmosphere, but that being true, and having experienced an additional week of some fairly high tensions in our international business, the President concluded, after very painful and anguishing discussion with me, with his counsel, that the circumstances were

sufficiently grave in the context of our national attitudes on this issue, which I must say in my view have been subject to a great deal of misunderstanding, a great deal of misinformation over the past weekend, but in the light of this situation, the President decided that he would abandon, on this occasion, these very strongly held and long held convictions that he, as President of these United States, has the obligation, indeed, to protect the rights and prerogatives of this office not only for himself but for subsequent Presidents in our upcoming history.

Having made that decision, he instructed Professor Wright, sometime around noon today, to prepare to inform Judge Sirica at 2 p.m. this afternoon, at Judge Sirica's hearing, that the President would indeed comply with Judge Sirica's decision, as modified by the appellate court, and turn over the tapes for *in camera* inspection to Judge Sirica.

Now, there have been a number of terms used to characterize the President's decision. I, for one, having worked very closely with him throughout this week's period—you know someone said to me before I came here, "You are going to miss the excitement and danger of professional soldiering," and I would tell them today that if our maelstrom ever develops heroes, it is the politician and the political combatant who really deserve the medals.

But be that as it may, I would like to leave you with my conviction that what the President did today in a most painful and agonizing way is to make this single exception to his held conviction, and to do so in a way that in the very near future the truth of an issue which has long anguished all of you and many American people will be resolved. I am confident it will be resolved along the lines that the President has repeatedly articulated to the American people as factual.

Now, I think I have said enough, and I will turn it over to Professor Wright.

Q. Are we going to get to question General Haig before he leaves?

MR. ZIEGLER. Yes, we will proceed with questions as soon as Professor Wright finishes.

PROFESSOR WRIGHT. And I am not going to delay you unduly, Miss McClendon, I hope, in getting into the questioning, but merely to add a very tiny bit from my own perspective of these dramatic events.

I spent the first half of last week, while these negotiations Al has talked about were going on, in Austin teaching my classes, preparing a petition for certiorari that I fully expected to file on Friday. Indeed, the petition was in print. It would be an interesting memento. I have actually not seen a copy, but the decision was not finally made until 6:30 Friday night that we weren't going to file it. We even had a check for \$100 to the clerk to pay the filing fee all ready to go.

I was not aware at that time of compromise negotiations, and when I was informed of them when I got up

here at 2 o'clock Thursday afternoon, I was astonished that the President was willing to make such a reasonable, indeed I think an extraordinarily generous proposal. Having been privy to the President's thinking throughout the summer, I know how very deeply he values the principle of confidentiality, and that only the most persuasive evidence to him that the national interest required a limited intrusion could have persuaded him to make that proposal. Clearly, we all did miscalculate Friday night.

I see in the room a former student of mine who dropped by my hotel room about 10:30 Friday night when I was about to collapse exhaustedly into bed, and as he can tell you, my mood was euphoric. I checked out of the Madison Saturday morning, thinking I was done with White House employment forever, that the American people would give a tremendous sigh of relief at the thought that now we are going to hear what is in these tapes, and now we are not going to have a constitutional crisis.

Obviously that was a miscalculation. Saturday morning it still looked like a very good calculation. What we had miscalculated was that we had not thought that Mr. Cox would take the course of action that he did that led to further traumatic events.

As a result, by this morning it was apparent that, rather than a national sigh of relief and the end of a constitutional crisis, that the crisis was simply heightened. Under those circumstances, the President thought that the wisest thing in the public interest, in an effort really to put an end to this crisis, was to take the action that I announced in his behalf in court at a little bit after 2 o'clock this afternoon.

We had very good hope that Judge Sirica would have accepted the proposal we made as complying, as I think it did, with the needs of the grand jury, and with the reasons that have persuaded both the District Court and the Court of Appeals to hold that executive privilege should be overridden in this instance, but it was equally apparent that even if we were successful before Judge Sirica on that point, that there were people around the country who were saying, "The President is trying to defy the courts."

Now, the President, I am certain, has never at any time had in mind any thought of defying the courts. The one other time I appeared at this podium was on July 26, and I know that an hour before I appeared here, Jerry Warren made the statement that, as the President has always done, he obeys the law; he will abide by a definitive decision.

We had thought that the proposal that we made on Friday was not defiance of the law, but a reasonable accommodation that the court, we hoped, would accept as satisfactory, but if the thought were abroad in the land that the President was not complying with court orders, if a constitutional crisis persisted, then a wound that has hurt the American country deeply would have continued to drain. We wanted to cure that, and so the President

this morning, about noon, as Al has said, authorized us to make the announcement that we did.

We will comply in every particular with the order of the District Court as it was modified by the Court of Appeals.

Q. Mr. Wright, have you heard the tapes, the nine tapes?

PROFESSOR WRIGHT. I have never heard any tape.

Q. In other words your projection here is against a great deal of ignorance as to what is on the tapes?

PROFESSOR WRIGHT. Of course.

Q. You have only the self-serving declarations of the President and Mr. Haldeman to support whatever position you are taking?

PROFESSOR WRIGHT. I don't quite see how that follows.

Q. Well, the President has told you he is innocent.

PROFESSOR WRIGHT. We are producing the tapes, and the tapes will speak for themselves. Judge Sirica will examine them under the procedures of the court.

Q. Now, what you have said here about the tapes supporting the President is based upon what the President told you, and not upon you hearing the tapes?

PROFESSOR WRIGHT. Exactly so. I have the old-fashioned American habit of believing Presidents of the United States.

Q. You haven't had the experience I've had.

Q. Will you produce the documents called for in the subpoena?

PROFESSOR WRIGHT. Everything called for in the subpoena will be produced.

Q. Professor Wright, can you say if the President will turn over additional documents requested for the prosecution of suspected wrongdoers in connection with the case?

PROFESSOR WRIGHT. I simply don't know the answer to that question.

Did you catch the question, Al?

GENERAL HAIG. I am not sure I got the question.

PROFESSOR WRIGHT. Would you repeat the question?

Q. Maybe I can get an answer in a different way. Does this, the President's decision to allow Judge Sirica to examine these tapes, does this mean that he will not furnish any additional information requested for prosecution in the case?

PROFESSOR WRIGHT. I am certain it does not mean that, no, not at all. We have been furnishing a great deal of information, as Attorney General Richardson made clear this morning, that has never been involved in these subpoena controversies.

Q. A question for General Haig.

General, did I understand you correctly to say that the President's order of Friday night to Mr. Cox referred only to desisting from attempting to obtain additional tapes and additional memoranda and did not bar him from trying to get the nine tapes he had subpoenaed? Was that the order?

GENERAL HAIG. I think the question even is a little difficult the way it is posed.

The decision to provide the third-party transcripts of the nine tapes, plus the tape requested by the Senate committee, the overlap tape, would have given Professor Cox the tapes he had requested. What the President's order was involved with was subsequent requests, through the judicial process, for Presidential tapes and memoranda and documents covering personal discussions, private discussions of the President, as distinct from the portrayal of that inhibition on Saturday during Professor Cox's press briefing.

Q. Are you saying that he was not barred from seeking the actual nine tape recordings beyond the summaries you were going to furnish?

PROFESSOR WRIGHT. The answer to that question is yes, he was barred by the compromise, not by the dicta, the memoranda, the compromise, but you will recall that the court itself had already deprived Professor Cox, in two rulings, of access to the tapes.

Q. Will national security information be withheld from the courts? Is there any part of these nine or ten tapes now which contains national security information and which will not be turned over to Judge Sirica?

PROFESSOR WRIGHT. I am informed that there is at least one tape, perhaps more, that contain national security information. The Court of Appeals order is that where we believe that there is anything that regards national security, that we should make a submission to Judge Sirica in chambers as to why we believe this involves the national security, that if he accepts our decision on that, that portion of the tape is excised. If he does not, the relevant showing is sealed, and we are allowed to take an appeal to the Court of Appeals on whether it truly was or was not national security.

Q. Does that one tape apply to the Ellsberg case?

PROFESSOR WRIGHT. I have no idea what it applies to.

Q. Are you saying you don't know or it does not?

PROFESSOR WRIGHT. I don't know.

Q. The same portion of that statement you referred to also provides for a special prosecutor to argue whether or not that statement that you make is correct. Who will now argue for that?

PROFESSOR WRIGHT. I would assume that the Department of Justice would.

Q. General Haig and Mr. Wright, is it your understanding that the President's instruction to Mr. Cox, as the President stated it in his Friday night statement, stands as his instruction to the Acting Attorney General and to Mr. Petersen?

GENERAL HAIG. I think that is a question which I am not going to address here this afternoon. It will be addressed in the very near future, but I can assure you that the President's actions in this regard will be totally within the law.

Q. General Haig and Mr. Wright, both of you, please, could you tell me if at any time either of you gentlemen participated in a meeting prior to Saturday, prior to Friday night, at which you advocated the firing of Professor Cox? There have been reports, and in fact Mr. Richardson said that, I believe, counsels and other staff people had indeed done this.

GENERAL HAIG. I think I will answer that question very clearly for you.

As I told you on Monday morning, following a week-end decision by the President to seek a compromise, and as Elliot Richardson so stated this morning, a number of options were discussed and considered, including the Bickel theory, including the Bickel theory, which would have involved the mooted of the issue through the separation of a member of the executive branch from that branch.

So the answer to that question is yes, that was an option discussed, but was rejected on Monday morning at that meeting. It was unacceptable to a number of people in the discussion. Now I am divulging to you discussions held on Monday morning.

Q. General Haig, can you tell us if the telegram from Senator Ervin was addressed today, and if so, is there a response to the telegram, his understanding of the arrangements Friday for disclosure of the material on the tapes to the committee?

GENERAL HAIG. Gentlemen, I am sorry; I have not seen the telegram, and I cannot comment on it.

Q. Will the President allow a full and vigorous investigation, and if necessary, prosecution of other matters that the Special Prosecutor was investigating, specifically the IT&T, or the dairymen's contribution, the \$100,000 Hughes contribution via Bebe Rebozo?

GENERAL HAIG. I think I wouldn't necessarily accept your litany of problem areas, but I think we have made it very clear that what the prosecuting team—

Q. Excuse me. These were the things that press reports have stated the Special Prosecutor—

GENERAL HAIG. I think Elliot Richardson commented on this very question this morning at great length, and he is far more qualified than I to give you a precise answer. But the answer to your question is that we intend to proceed vigorously with all of the ongoing investigations, and if prosecution is the result of those investigations, to pursue that prosecution with the same vigor and objectivity.

Q. You seem to gloss over a period as between Saturday, when your position was Course A and suddenly Monday morning when your position was Course B. Could you specify those specific things on the President's mind which, in fact, accounted for the change today? Was it impeachment, for example? Was it the surprise of Elliot Richardson resigning? Would you expand on that?

GENERAL HAIG. No, I think it was the whole milieu of national concern and, quite frankly, a great deal of con-

cern for the misinformation that had been running afield on his motives and really the character of the compromise itself.

What was on Monday a most conscientious and, I think, heartfelt initiative, certainly for all of us involved, to finally reveal the contents of the controversial tapes, and at a time before we were faced with a constitutional confrontation, turned out by Saturday night to be some kind of a nightmare in which we had devised a scheme to prevent the information in the tapes from being divulged to the court and to the Senate committee.

Q. General Haig, you had a great speech here today—

GENERAL HAIG. Sarah, I would like to hear your question.

Q. You have had a great speech here today which I cannot rebut because I am just a reporter. I have got to ask you a question. But you acted as if we were all wrong because we didn't agree with you and the President on this.

GENERAL HAIG. I hope not, Sarah.

Q. And I want to ask you why you didn't take in a third dimension in consideration when you were going over this matter? Why didn't you think about the fact that didn't the President feel he was putting himself above the law?

GENERAL HAIG. Well, that is a very tough question. First let me say this, Sarah: From the outset, I don't believe that the President has ever intended to set himself above the law.

I think our legal counsels here in the White House and the Attorney General wrestled in the most carefully and thoughtfully detailed way with these issues throughout the week, and it was our conclusion that there was no question about the legality of the President's actions.

Now let me comment on another shade of your question.

I hope that I have not conveyed to anyone here that I share the impression, or harbor the impression that there is some kind of prejudice or malfeasance in the press corps here. That is the last thing I would ever suggest.

Q. I am thinking about the American people.

GENERAL HAIG. I think the press corps reports what it gets accurately, and it is indeed their obligation to do so.

Q. General, can I ask you, can you discuss what happens to the information on the tapes, vis-a-vis the Senate Committee? Will they get any part of it? Does the compromise package still stand for—

GENERAL HAIG. No, and let me comment on that. The question was, will the Senate committee—will we now proceed with a compromise, and the answer to that question is no, and let me explain why.

This morning, the counsel to the Senate committee submitted an appeal for expedited processing of their appeal of Judge Sirica's ruling, and so they have themselves sought to resolve this issue through the courts.

Now, secondly, and this is a consideration in our decision, Senator Stennis had agreed to take on this very difficult and arduous task, hopefully devoid of the limelight of the kind of tensions that have developed around this issue.

As you know, Senator Stennis has experienced a very grievous wound recently, and I think the President's view is that given all of the tensions, publicity, pressure now associated with this task, that he just would not presume to impose upon Senator Stennis when the information is now being divulged in its complete form in accordance with the rulings of the courts.

PROFESSOR WRIGHT. I want to add to General Haig's answer to that question, and that is—then I know there is a person here who has been trying for a long time to get a question to me—just after we got back from court this afternoon, Mr. Garment had a call from Sam Dash who said, "I think you have done exactly the right thing, and so far as we are concerned, we will see you in court and battle out in the appellate court whether we have a right to get at the tapes."

Now, this gentleman.

Q. Dr. Wright, you said to Mr. Mollenhoff that you believe in the old fashion practice of believing Presidents of the United States. My question is, based on the fact that two of the most respected members of the Nixon Administration have left the Government and a prosecutor who the American people felt had been assured the right to search without restriction has been fired, how can the American people, in your judgment, begin to believe the President of the United States?

PROFESSOR WRIGHT. I don't see what these very unfortunate departures have to do with the credibility of the President. I believe that it would have been intolerable for the President to have maintained Mr. Cox in his position when Mr. Cox defied a direct order of the President, and I understand the reasons that led General Richardson and Mr. Ruckelshaus to feel that they had to resign.

Q. General Haig, do you feel at any time that the agreement you had with Senators Baker, Ervin, or Stennis or anybody else, accepting the compromise, their agreements were at all withdrawn over the weekend or before you made the decision—

GENERAL HAIG. No. Let me say a word about that.

Q. Could I ask a subsidiary question? There have been reports that the President was particularly aggrieved at Cox's treatment of some of his former aides. Can you address that one? That Cox's handling of the questioning of Haldeman and Ehrlichman, and so forth, that he was aggrieved about this?

GENERAL HAIG. Well, let me answer your first question first. With respect to the agreement arrived at here on Friday between Senator Ervin, Senator Baker, initially with the counsels and myself and then subsequently with

the President, I know of no departure from that agreement, and I would like to say a word about it.

I don't think anyone here would have classified Senator Ervin as an advocate, and indeed he has not been, but I think in the national interest, and at a time when there was great tension in the Middle East, when the Senator could observe for himself the kind of polarization that was taking place, that he very selflessly and, I think, quite correctly, decided that this was a compromise that he could accept.

I am not aware of any deviations from the agreement that was arrived at. I know there were some semantic problems over the weekend, but they were just that, and I for one hold with the highest admiration the arrangements that we had with both Senator Ervin and especially Senator Baker as well, who was a catalyst in the thing, and a very important one.

Q. General Haig, you have mentioned a number of times about misinformation and concern for misinformation. What misinformation did you have in mind that caused the President to change his opinion this morning?

GENERAL HAIG. Peter, take thy sackcloth off. I wasn't referring to the press corps in that.

Q. I wasn't either.

GENERAL HAIG. I think the press corps reports as objectively and honestly as they can, and when they don't we usually look to ourselves for failure to bring the word to you in a precise and effective way. But I think one of the key points—and I have already commented on it—was the impression at large that this compromise did not represent a decision and an action on the part of the President to meet the requirements of the court and the Senate committee, but rather was a contrived subterfuge to, (a) not turn over the information, or (b) design some devious scheme by which to relieve ourselves of the burden of Professor Cox and his investigating team. I think that is a terrible disservice to the President of the United States and to those of us—and I include Senator Ervin and Senator Baker and Senator Stennis—who worked so hard to get something that had the promises of success put together.

Q. General Haig, two parts. First, part of Bob's question remains unanswered. I also wanted to ask you about the reports that high White House officials felt that Mr. Cox was engaged in an improper attempt to get the President.

Do you believe that is so, and does the President think so, and could you also finish up Bob's question, if you remember it?

GENERAL HAIG. You know, we have an old Army club they call "foot-in-mouth," and the answer to that question is a prime invitation to join it. But I will say this, there are many of us who have been somewhat concerned about the political alignment of Professor Cox's staff as distinct from Professor Cox himself, and what on occasion appear

to be roamings outside of the jurisdiction of the charter that was originally conceived for that investigating committee.

Now, having said that, having said that, and that is a perfectly understandable thing, everybody has partisan views, and I think they have every right to have them, and I am sure on many occasions those partisan views sometimes influence actions people take, but I am not going to join the broad and sweeping condemnation that Professor Cox was out to get the President. I don't know that to be true, and I personally don't believe that to be true.

Q. I want to ask Professor Wright if he or the other counsel had any reason to believe that Judge Sirica would not accept the compromise had your decision not been changed today at noon?

PROFESSOR WRIGHT. Obviously we could not know that he would accept it. We felt we had good legal arguments why he should, and I was greatly heartened—though by this time we were pretty well on the road toward the decision that was finally made—to hear General Richardson say this morning several times at his press conference that he thought that it would fully satisfy the purposes of the court orders. So we had some confidence.

Q. General Haig, the point of this question is to try to get some idea as to the President's opinion of Mr. Cox, whether he felt that Mr. Cox was out to get him, how he felt about the areas that Mr. Cox was getting into, particularly involving some of the President's friends.

GENERAL HAIG. That is the part of Bob's question I didn't answer. I wouldn't presume to pass on to you what I assume to be the President's judgments about Mr. Cox and his activities. I do know that there have been occasions where we haven't been especially pleased. I also know my own view, which I have just expressed to you, and that is as far as I will go.

Bob, I am not sure I answered the second part of your question, because I—

Q. It went to that point, Al, but it went to whether the President was particularly aggrieved with what was reportedly Cox's heavy-handed attitude towards Halde-man and Ehrlichman as they—

GENERAL HAIG. No, I am not aware of anything like that from my perspective at all.

Q. General Haig, did you order the FBI to take over the offices on Saturday night, and if so, why?

GENERAL HAIG. Guilty.

Q. Why?

GENERAL HAIG. The why was that we had reports here that members of Professor Cox's staff were leaving rapidly with huge bundles of documents under their arms, and I felt that the responsible thing to do was to ensure that the evidentiary material held in Professor Cox's quarters be retained in its complete and thorough form for subsequent continued investigations.

Q. Mr. Richardson and Mr. Ruckelshaus both said today that they believe that a special prosecutor is needed to restore public confidence in the Government and in this investigation. Does the White House agree?

GENERAL HAIG. I think I am going to limit my comments to the issue of the tapes the President has turned over to the courts in complete compliance with two court level decisions, and we are going to live up to that to the letter. The President has moved to put the case within the institutional framework of the Department of Justice. He did that on Friday, and I have no basis for offering any other change.

Q. On that point, wasn't it the institutional framework of the Justice Department where this thing went wrong to start with? Wasn't that what caused the Watergate coverup?

GENERAL HAIG. Not being an expert on the events of that day, I am not sure I would characterize the problem as you just described it, and I would leave that for someone who had a better grasp for the legal details.

Q. General Haig, why couldn't you have averted the agony of Saturday night by simply continuing to not give these documents and memos that go beyond the charter of Mr. Cox; simply not give them to him and go ahead with—what kind of compelling power did they have that forced you into what you did? Why couldn't you have continued the way you were?

GENERAL HAIG. I think that is a very good question, and it was a question that the Attorney General on Friday afternoon began to develop reservations about, and I think the answer to that is simply this:

The President, in an effort to get a compromise, viewed the situation on the previous weekend from the context that Professor Cox had been through 5 months of careful investigation, and had presented the courts and him with a subpoena for some detailed information on nine tapes, and that that was the information he needed—he has stated repeatedly since that subpoena, to go on and process whatever is the outcome, indictments or what have you, within the grand jury.

And contrary to the President's own strong conviction that this should be made available, he decided to do it in the interest of settling this very tough issue.

Now, hindsight is a great vehicle, and I am not sure had we known the outcome would have resulted where it was on Saturday night that we wouldn't have given that option very careful consideration. As it turned out, it was Professor Cox who opted for the course of action which turned that sequence of events into what was a very serious one.

Q. General Haig, have you heard the tapes, and two, do you say that the cry of impeachment that has been rising in the country had nothing to do with today's turn-about, reversal? Have you heard the tapes, because you say that they will vindicate the President completely, and also impeachment, which really grew today—

GENERAL HAIG. No, Helen, I haven't heard the tapes. I have had considerable exposure to a number of things, including sworn testimony by all of the key witnesses in the Senate committee, where the inquisitors were uninhibited by normal rules that govern conduct in a courtroom and, therefore, are able to extract information which would probably be far more difficult with an active defense counsel at the side of the witness, and I have had an opportunity to review that material in detail.

I have also had an opportunity to discuss a number of the ramifications of this in the preparation of the May 22 statement, discussions with the President, reviewing with him and our counsels, Mr. Buzhardt, Professor Wright, and I am very comfortable with the course of action that has been undertaken today.

Q. General Haig, can you say specifically if the threat of impeachment was a factor in the decision, and whether or not the President took the talk of impeachment seriously?

GENERAL HAIG. I think that is a presumptuous role for me to play here, to outline that kind of concern, but I didn't answer Helen's question, and yours is part of it.

You ask me a question, do I think impeachment is a serious problem. My answer to that is no, I don't. I think in light of the action just taken, no, not at all. Before the action taken, no, and I will tell you why: Because I think the American people, American press included, Congress, and in fact our whole body politic, has a remarkable ability, after some false starts and some dialectic waves, to get pretty close to the truth on an issue, and I am very confident that such a serious action as you have described, impeachment, would not be the outcome of the events thus far.

Q. General Haig, can you tell us if at any time between Saturday night and this noon, when the President changed his mind and decided to hand over the tapes, you received word from Mr. Petersen or anyone else in the Department of Justice that they would be reluctant to resume control of the investigation without access to the tapes?

GENERAL HAIG. None whatsoever.

Q. General, has, at any time during this chain of events, the President considered resigning?

GENERAL HAIG. Not to my knowledge, and I would prayerfully hope not.

Q. General Haig, you said earlier—you emphasized that the President is making a single exception to his fidelity to particularly this question of Presidential confidentiality. Are you telling us that in the face of any additional request or subpoenas for additional tapes that the President will resist those efforts?

GENERAL HAIG. You are skewering me again on the same question I have already answered, and I said I am not going to take that minefield route this afternoon. I am going to assure you that any course of action the President takes in the future will be within the legal prerogatives of his office.

Q. Besides firing the Special Prosecutor, why was it necessary to shut down his office? You know some of us were writing that the President was more concerned about what Cox was developing than about the tapes, and lo and behold, here it is Tuesday, he has given over the tapes, but the office is gone.

PROFESSOR WRIGHT. I think that the answer is that when the Special Prosecutor took the position that he did, making it necessary for the President to discharge him, that it hardly made sense to keep the Special Prosecutor's handpicked force of people at work, even if a new special prosecutor were brought in, that it made much more sense to get back into the institutional framework and let Henry Petersen have the assistance that he feels that he requires.

Q. Are you suggesting that the handpicked people of Mr. Cox were either unethical in their pursuit of the investigations or were incapable or incompetent or lacked integrity or were so prejudiced that they were out to get the President?

PROFESSOR WRIGHT. I am suggesting no such thing. I am suggesting only that anybody who has the responsibility for an investigation of this magnitude would, I think, want to have his own people rather than those who had been picked by someone else.

Q. I want to ask you if the President didn't go back on his word? Did he not say that he would not interfere with the work of the Special Prosecutor and also that the Special Prosecutor could act independently and then did he not come through and fire the Special Prosecutor and say nobody in the executive branch of the Government under me can disobey me?

PROFESSOR WRIGHT. He did those things, but I would not accept, Miss McClendon, your adjective to describe them. I would support what General Richardson said today, that the President must always be free in the light of changing national circumstances to change his mind about the conditions in which he has asked people to work for him. In this situation the President believed that he was making a concession so very great from his point of view in allowing the Stennis report to go forward that it was necessary in order to put the tape issue to rest that there be this one limited intrusion on the independence of the Special Prosecutor.

Q. General Haig, is there any provision in the procedure that will be followed now that would permit public disclosure of what is on these tapes, or is the public not going to be able to find out what is on the tapes?

GENERAL HAIG. Well, I can't give you a direct and precise prediction on that, but it is quite obvious to me that Judge Sirica has to make a number of determinations in dealing with this issue, and certainly the pertinent aspects of these tapes in my view will be known as they pertain to Watergate and Watergate coverup.

Q. General Haig, did you use the words "The Commander in Chief" in issuing your orders?

GENERAL HAIG. Anybody who knows me knows what a militarist I am.

Now I will tell you as best I can recall what I said to Bill Ruckelshaus.

"Hello, Bill, this is Al."

"Right, Al, I expected your call, and Bob Bork is sitting here with me."

"As you probably know, Elliot Richardson feels he cannot execute the orders of the President."

"That is right. I know that."

"Are you prepared to do so?"

"No."

As I recall, I said, "Well, you know what it means when an order comes down from the Commander-in-Chief and a member of his team cannot execute it."

He said, "That is right." And I think we both understood at that moment that he was neither fired nor resigned but somewhere in between with a happy mutual term that I haven't developed.

Q. General Haig, you have quoted the former Attorney General a number of times today, always favorably. Is there a move on your part to invite him back?

GENERAL HAIG. That would be a big part for me to do such a thing. No, I am not aware of any plan. Obviously, the Attorney General's departure is a departure that we all regret very, very much.

Q. From an historical point of view, to what extent does this erode the executive branch if the courts can go in and constantly chip away? From an historical point of view, I would like to know.

PROFESSOR WRIGHT. I think it does. I think this is why the President has fought hard and why we have fought hard all summer on a matter of principle that we thought of great importance, and finally the decision simply was that the condition of America today so requires a resolution of this issue that we had to bear up even with the decision of the Court of Appeals that we thought to be erroneous and damaging.

REPORTER. Thank you, gentlemen.

NOTE: Press Secretary Ronald L. Ziegler introduced General Haig and Professor Wright at 4:38 p.m. in the Briefing Room at the White House.

National Council on Indian Opportunity

Announcement of Reappointment of Four Members of the Council. October 24, 1973

The President today announced the reappointment of four persons as members of the National Council on Indian Opportunity for terms expiring August 31, 1975. They are: