

Time on Tapes Running Out

Suit Against Nixon Returned to Sirica

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The United States Circuit Court of Appeals put the Senate select Watergate committee into a race against time yesterday, sending the committee's suit against President Nixon back to a lower court for a decision rather than ruling on the matter itself.

Committee chairman Sen. Sam J. Ervin Jr. (D-N.C.), although calling the appeals court action a "logical ruling," acknowledged that it could ultimately prevent the committee from obtaining about 1,000 documents and tapes from the White House before the committee's deadline falls on Feb. 28.

Ervin declined to say whether he would ask the Senate for an extension of the deadline. He said he wanted to see how the case "fares in court before I make a decision on that."

At one point in a telephone interview, Ervin indicated that he might be inclined to go ahead with the committee report without obtaining the information sought from the White House. "I'd like to finish it and make the recommendations," he said.

The committee filed suit against President Nixon last summer after he declined to turn over to the committee tapes of five conversations, and other documents. Chief United States District Judge J. Sirica ruled on Oct. 17 that he had no jurisdiction over the suit, a ruling that prevented Sirica from addressing any of the merits of the claims made by the committee.

The committee appealed Sirica's ruling to the United States Circuit Court of Appeals. At the same time, Ervin introduced a bill giving the United States District Court here specific jurisdiction over the committee's suits to enforce its subpoenas against anyone in the executive branch, including the President.

The bill became law on

Dec. 18 when President Nixon allowed it to become effective without his signature. The committee then asked the appellate court to retain jurisdiction over the matter and to give an expedited ruling on the merits of the case. Alternatively, the committee asked the court to send the matter back to Sirica on an expedited basis for consideration in light of the new law.

The court's one-sentence order granted the committee's alternative request. A source close to Sirica said it would be two or quite probably three weeks into January at the earliest before the matter would be ready for a ruling by him even if the case were handled on an expedited basis.

Since the legislation went into effect, the committee has served the White House with three more subpoenas. One subpoena, dealing with the so-called milk fund, requested 70 or more tapes and documents.

The second subpoena, relating to a \$100,000 contribution from billionaire recluse Howard Hughes to President Nixon's friend, Charles G. (Bebe) Rebozo, requested 37 papers and tapes and copies of daily news summaries prepared for the President by his aides for almost two years. The third subpoena, relating to Watergate matters, requested tapes of more than 475 meetings between Mr. Nixon and certain aides on 168 separate days from a period in April, 1971, through Nov. 17, 1973. In addition, the subpoena requested a record of meetings and telephone calls for several White House aides for periods ranging from two months to almost three years.

The White House has termed the subpoenas "incredible" and hinted at a long legal battle opposing the committee's latest de-

mands. The Washington Post reported yesterday that the White House has decided to resist attempts by the committee to obtain Presidential tapes and documents.

Resistance by the White House to the committee's latest subpoenas could impede or block entirely further hearings by the committee, thus requiring an extension of the deadline.

The two primary areas where the committee still is conducting investigations aimed at public hearings are the milk fund and the Hughes-Rebozo transaction and related activities.