

Court Hears

Another

Tape Plea

Washington

The White House asked a federal judge yesterday to refuse the Ervin committee's demand for President Nixon's Watergate tapes, charging the committee had exceeded its authority by conducting a "criminal investigation and trial."

The Senate committee promptly countered with a request that chief U.S. District Judge John J. Sirica issue a summary judgment — without further deliberation — for immediate release of the disputed tapes, which could yield conclusive evidence of who is telling the truth about the scandal.

The court exchange came a few hours before Sirica ruled on a similar demand for the tapes by special Wat-

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ergate prosecutor Archibald Cox.

LAWYERS

Seven White House lawyers headed by J. Fred Buzhardt responded to the Senate committee's original request for a declaratory judgment by Sirica that it had a right to obtain the tapes it has subpoenaed.

In its reply, the White House said the committee's request was an unconstitutional attempt to interfere with the confidentiality of Mr. Nixon's private conversations with aides "relating to the official duties of the President."

It asserted that the committee subpoena was void because the Senate had not authorized it to take such action against the President.

But the primary White House argument seemed to be that the Senate, as well as the committee headed by Senator Sam J. Ervin, had violated the legislative pow-

ers granted Congress by the Constitution by conducting "a criminal investigation and trial . . . for the purpose of determining whether or not criminal acts have been committed and the guilt or innocence of individuals."

ANTICIPATE

Anticipating Sirica's ruling favorable to Cox later in the day, the motion filed by chief counsel Sam Dash said the Senate committee wanted a similar decision without further delay, because the issues in both cases were similar.

Dash said Mr. Nixon's refusal to turn over the tapes "cannot be justified by resort to any asserted presidential power, prerogative or privilege or otherwise."

Furthermore, he said, the tapes are the only conclusive evidence of what Mr. Nixon knew of the Watergate break-in and coverup.

IMPLICATE

"Testimony before the committee, if believed, would tend to implicate im-

portant former government officials in a conspiracy to obstruct justice and other illegal conduct, including John D. Ehrlichman, H.R. Haldeman, John N. Mitchell, Robert C. Mardian and Herbert W. Kalmbach," Dash said.

"In fact, there is evidence that, if believed, would tend to implicate the defendant President in criminal conduct. There is also testimony that would exonerate the President and others who have been accused."

Through his White House lawyers, Mr. Nixon has argued that only he can decide whether to make the tapes public, and that no court in the land can force him to turn them over.

However, Mr. Nixon has promised he would obey any "definitive" order of the Supreme Court in the historic constitutional struggle which the President has portrayed as a test of the doctrine of separation of powers.

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