

Senators Sue Nixon for The Tapes

Washington

The Senate Watergate committee filed suit in U.S. District Court yesterday to force President Nixon to make available the White House tapes the Senators believe may help them in their probe of the political burglary and subsequent coverup.

"We submit to the court that the parameters of the Watergate affair must be promptly determined so that the uncertainty and divisiveness that is abroad in the nation can be ended," the committee declared.

In a motion filed with their 2700-word complaint, the seven Senators asked the court to reduce the time within which the President's lawyers must reply from 60 to 20 days. The longer period, normally authorized in suits against the government, is unnecessary here, the committee said.

"This suit runs directly against the President," the committee lawyers observed. "His own counsel have been served with the complaints and, apparently, will personally handle the case."

PREPARATION

Noting that the committee had publicly voted to file the lawsuit on July 26, the Senators said that "surely the President's counsel are well advanced in their preparation for this case and can, without undue difficulty, answer or respond to the present complaint within 20 days."

This was the second suit brought against Mr. Nixon in two weeks. On July 26 Archibald Cox, the Justice Department's special prosecutor, filed a petition, also in U.S. District Court here, to force Mr. Nixon to produce similar tapes and documents after he declined to honor subpoenas.

The committee complaint

yesterday termed the President's refusal to release the tapes of his private conversations in response to sub-

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poena "unlawful, unwarranted and in breach of his legal duty."

"The defendant president's refusal and failure to make available such electronic tapes and other materials," the senators declared, "cannot be excused or justified by resort to any presidential power, prerogative or privilege."

BRIEF

In a brief replying to the Cox suit earlier this week, the President's lawyers contended that Mr. Nixon had no obligation to provide the grand jury with internal White House records if he believed their retention was in the public interest.

In support of its right to bring a suit against the President, the committee cited a Senate resolution passed in 1928, giving all committees the power to go to court if they thought the suit was necessary to their performance or duties.

Plaintiffs in the case are Senator Sam J. Ervin Jr. (Dem-N.C.), chairman of the Senate Select Committee on Presidential Campaign Activities, and the six other members.

Rather than limit themselves to a single legal theory, the senators asked the court for a declaratory judgment that the President must honor the subpoenas, a writ of mandamus compelling

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ing him to do his duty as a public official and an injunction prohibiting him from retaining the tapes and documents.

The court could refuse to grant two of these forms of relief, but the committee could still prevail if the third were upheld. There is, however, considerable legal question, already raised in White House answers to the Cox suit, whether a court can compel a President to do anything.

Even if the court recognizes that the President has some authority to withhold confidential documents, the Ervin committee maintained in its complaint, such a privilege "does not extend to the protection of materials relating to alleged criminal acts."

New York Times