

Nixon's Case for Withholding Tapes

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WASHINGTON — President Nixon's lawyer argued today that a federal court order requiring the President to turn over tape recordings of White House conversations to Watergate prosecutors could set off widespread demands for confidential presidential records.

With his arguments, Charles Alan Wright took the legal battle over access to the tapes into the courtroom before U.S. District Judge John J. Sirica.

Special Watergate prosecutor Archibald Cox was on hand to reply to Wright's arguments.

First Appearance

It was the first courtroom oral argument on a constitutional confrontation that is expected to go to the Supreme Court.

Both sides have set out their positions in lengthy briefs submitted to Sirica in the weeks since Cox went to court seeking tapes the President has refused to turn over either to him or to the Senate Watergate Committee.

Wright asserted that no court can overrule the President in his judgment of whether confidential conversations should be kept secret.

'Sordid Episode'

He said that 18 months ago "nobody of responsible opinion anywhere in the American legal community would have said a court has the power to overrule the President of the United States in a matter of this kind."

He asked rhetorically,

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"What has caused opinion to change?" and added:

"What has happened has been Watergate. The hydraulic force arising from this sordid and unhappy episode has led men of distinction to say the Constitution means something it has never meant before."

'Other Interests'

While Wright said he considers "getting to the truth of Watergate is a goal of great worth," he added:

"There may well be times when there are other national interests more important than the fullest administration of criminal justice."

Wright went to the heart of the White House contention — that the President, not the courts, has the power to decide what material may be made public.

Precedent

"The special prosecutor asked two things," Wright said. "First that the court's judgment be substituted for the President of the United States on whether it is contrary to the public interest to disclose his most privileged documents; and secondly, if the court concludes the President has erred in his judgment to withhold them, whether court has the power of compulsory process to compel him to produce them."

"The simple fact of history is that in the 184 years of the republic, no court has ever been asked to do either thing."

Should the judge order Nixon to produce the tapes, Wright said, it would set a precedent for the 400 other federal district judges in the country who could rule in later cases that they had the power to override a presidential claim of privilege.