

AUG 30 1973



Associated Press

Sen. Ervin talks to newsmen in New Orleans while awaiting word of judge's ruling on the Nixon tapes.

Ervin Fears for U.S. If Tapes Case Is Lost

By Joseph P. Manguno

NEW ORLEANS, Aug. 29 (UPI)—Sam J. Ervin Jr., Watergate committee, said today that if the Supreme Court fails to order the release of President Nixon's secret tapes and documents, "then I fear we have lost the republic."

Ervin said U.S. District Court Judge John J. Sirica's order today for the tapes to be turned over for his private inspection was "a great victory in the search for truth."

"If the Supreme Court does not rule to uphold Judge Sirica's order . . . then I fear we have lost the republic," Ervin said.

Although Judge Sirica's ruling was in an action by Watergate Special Prosecutor Archibald Cox, Ervin said it gave him hope that his committee also would ultimately get tapes.

"We are only asking for four tapes," he said. "We are asking for certain memoranda in addition to the four tapes on the conversations between the President and John Dean.

"And I think we are entitled to the tapes just as much as the courts because we have the constitutional power to conduct this investigation. There can be no doubt of the constitutional powers of the Senate committee and I do not see how the judge could make a different decision with respect to the committee than what it made with respect to the grand jury."

Ervin called Sirica's decision "a great victory" over those who believed that the Constitution gives the President "absolute power to withhold—at his pleasure—truth."

"It would be a terrible thing if the President of the United States was the only one of the over 200 million Americans who was privileged at his discretion to hold the truth from a grand jury," he said.

Earlier, Ervin said he saw no parallel between the vio-

lent demonstrations of the past decade and what Mr. Nixon called the excesses of Watergate or between Mr. Nixon's wiretapping and that of other presidents.

"This is about the weakest argument that could possibly be advanced," Ervin said. "The fact that Cain killed Abel doesn't justify murder. We've had murder and stealing in every generation since the earth began and that has not made murder meritorious or larceny legal.

"I see no parallel at all between the protests of the 1960s and Watergate," he said.

He said Mr. Nixon's argument that the separation-of-powers doctrine exempted him from having to comply with the Watergate committee's subpoena for the tapes "is wholly inconsistent with that principle as it is stated in the Constitution."

Other presidents—including Thomas Jefferson, Abraham Lincoln, Ulysses S. Grant and Theodore Roosevelt—cooperated with the courts and Congress on such matters, said Ervin, and "the Constitution did not collapse, the presidency was not destroyed and the heavens did not fall.

"Such dire consequences would not ensue if President Nixon should exercise good judgment and voluntarily make the full specified tapes and memoranda available to the select committee," he added.

"I couldn't quite understand the President's comments about being ultimately responsible for Watergate, but not being to blame for it," he said.

Ervin vowed to fight the attempt of any President to Rome."

"As long as I have a mind to think, a tongue to speak and a heart to love my country, I shall deny that the Constitution confers on any President the arbitrary power to turn George Washington's America into Aurn America into "imperial gustus Caesar's Rome."