

SENATE'S INQUIRY APPEARS BALKED ON HEARING TAPES

Judge Grants Nixon a Delay
Likely to Push Final Ruling
Beyond the Adjournment

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WASHINGTON, Sept. 6—The Senate Watergate committee apparently lost today its last chance to gain access to President Nixon's White House tape recordings in time for its final series of hearings to reflect any secrets the tapes contain.

The parallel effort to make at least part of the tapes available to the Watergate grand jury proceeded at a rapid pace, however, as Mr. Nixon filed a request with the United States Court of Appeals for the District of Columbia Circuit to overrule a lower court decision last week that he must surrender the recordings.

In the case of the Senate committee, Chief Judge John J. Sirica of the Federal District Court here granted the President's attorney a two-week delay in filing a response to the committee's latest motion, making it virtually impossible to reach a final ruling before Congress adjourns its 1973 session.

Plea by Dash Rejected

The judge rejected protests by Samuel Dash, chief counsel to the Senate committee, who said that permitting the delay would create "a matter of crisis" for the Senators and amount to "ruling the Senate really out of court."

"The court believes this is a very important case," Judge Sirica said from the bench after 15 minutes of argument, "and it is determined not to be pushed into a half-baked job."

Both the Senate committee and the special prosecutor, Archibald Cox, seek access to the recordings of Mr. Nixon's conversations with close associates in an effort to learn who has been telling the truth about the burglary of the Democrats' headquarters in the Watergate complex here last year and the subsequent cover-up.

Temporary Respite Gained
Mr. Nixon, espousing the

doctrine of executive privilege, has refused to yield the tapes on the ground that confidentiality is necessary for the Presidency to function.

Having gained a temporary respite in one Watergate suit, the President's attorneys filed with the Court of Appeals a request to overturn Judge Sirica's ruling in the parallel case being brought by Mr. Cox.

Judge Sirica ruled last week that the White House tapes should be delivered to him for a private examination, to determine what part of their contents can properly be passed on

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to the Watergate grand jury.

The President appealed that ruling today, in an effort to block any access to the tapes. Mr. Cox will also appeal tomorrow, in an apparent effort to have the appellate court define more clearly the standards the judge would apply to his screening.

Trying to persuade Judge Sirica this morning to require a prompt reply by the White House in the Senate committee suit, Mr. Dash said that the Senators were, "in terms of urgency, ahead of the special prosecutor's needs" because the deadlines they face are more imminent.

Nov. 1 Target Date

The life of the Watergate grand jury expires on Dec. 4, Mr. Dash said, but Congress is officially scheduled to adjourn for the year on Oct. 15. While this date will probably not be met, the counsel predicted, the committee is aiming to complete its hearings by Nov. 1.

Mr. Dash said that if Judge Sirica granted a delay, "we will not be able to get it [the evidence of the tapes] in time for hearings."

"At a time when the President has been making public statements that there should not be delay, this matter should go forward," he said. "This matter hangs like a cloud over the country. These are not usual times, these are unusual times."

But the judge said, in ruling from the bench, that "the White House is not dragging its feet in this case." That the request for delay was "a reasonable one" and that he himself had not completed reading the 35-page committee motion filed last Wednesday.

9-Judge Panel Sought

In relatively brief papers filed with the Court of Appeals

in the Cox case, the President's lawyers asked Chief Judge David L. Bazelon and his eight colleagues to hear the case sitting as a group and to reverse Judge Sirica's decision as "clearly erroneous."

Ordinarily, the Court of Appeals sits in panels of three judges each, with the members chosen by lot. To empanel the entire court, Chief Judge Bazelon must obtain the assent of a majority of the nine judges. Court attachés reported today that no decision on the issue had yet been reached.

Technically, Mr. Nixon asked the appellate court for a writ Sirica's decision void, but the practical effect was the same as an appeal. The White House attorneys said that the case involved "a question of exceptional importance"—whether the President can be compelled to obey a subpoena to provide grand jury evidence.

More information on the current legal positions of both the President and Mr. Cox will become available on Monday when they file briefs with the appellate court. The case will be argued Tuesday, with a decision expected in another week or 10 days.

Argument by Buzhardt

Arguing for delay in the Senate suit, J. Fred Buzhardt, special counsel to the President, noted that the White House had already agreed to cutting the time for an initial response to the suit to 20 days from the usual 60 days. He added that the pressure of appealing the Sirica ruling on the Cox lawsuit was "quite stringent."

Mr. Buzhardt also argued that the White House attorneys needed more time to study the jurisdictional problems posed by the Senate committee suit. The President has challenged the legal standing of the Senators to bring their action to en-

force a subpoena in the first place.

Under Judge Sirica's ruling today, the President will have until Sept. 24 to respond to the Senate committee's motion for an immediate district court decision on the legal issues, all the basic facts being undisputed.

That will probably mean oral arguments will not be held until early October, followed by a decision in mid-October and consideration of appeals by the Court of Appeals and the Supreme Court that might not be finally concluded until late December or early 1974.