

WXPost

OCT 5 1973

# Judge Denies Bid For Nixon Tapes In Texas Case

By Gayle McNutt

Special to The Washington Post

DALLAS, Oct. 4 — U.S. District Court Judge W. M. Taylor Jr. denied a motion here today to order President Nixon to produce private

White House tape recordings of conversations about a 1971 Texas securities fraud case.

A number of top Texas Democratic Party officials are implicated in the case, and six Texas defendants sought the Nixon tapes as evidence for a motion to dismiss securities and mail fraud charges against them on the ground the case was politically inspired.

Taylor said that so far the defendants, including one-time Texas Attorney General Waggoner Carr and former state Insurance Commissioner John Osorio, have failed to prove there was any Republican plot behind their indictments.

He termed this week's hearing "a fishing expedition." The judge said that even if White House discussions about the Texas case were shown to be of a political nature, before he will issue an order to produce the records, "there must be some showing or inference of criminality on the part of the person asked to produce them. There is just not that."

Taylor told defense attorneys he had already gone beyond what most federal court judges would be expected to do in connection with such proceedings. He noted that he had issued orders to produce confidential White House and Justice Department files on

the Texas stock fraud case for his own inspection and had allowed attorneys to use some of the documents as evidence.

Former Attorney General John N. Mitchell testified here Wednesday that he had discussed the Texas case with President Nixon on two occasions in the summer and fall of 1971, but said the discussions did not concern using the case for political gain.

Will Wilson, assistant attorney general in charge of the Justice Department's criminal Division at that time, had previously served as the personal attorney for the central figure in the investigation, Houston financier Frank W. Sharp.

The investigation had brought repeated publicity about ties between Wilson and Sharp, and ultimately, Mitchell testified, he and Mr. Nixon made the decision that Wilson should resign to avoid embarrassing the President. Wilson resigned in October, 1971.

Other witnesses, including former Attorney General Richard G. Kleindienst, former acting FBI Director L. Patrick Gray III, and Henry E. Petersen, now chief of the Criminal Division, have testified they were aware of the Texas investigation and Wilson's connection with Sharp. But all denied that any indictments returned in Texas had been politically motivated.

Attorneys for the Texas defendants today filed a second motion seeking tapes of Nixon's conversations about the case, arguing that whether the tapes would help or hurt their clients, the discussions were important as evidence in the case.

The principle defense contention was that because Mitchell was "unable to furnish the defendants details of his conversations with the President, and further, because the defense is unable to obtain the testimony of the President as to his recollection," the tapes were the only source of proving whether or not there was political conspiracy.