

Appeals Court Orders Nixon to Release Tapes

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Washington

In what it called an "unavoidable" and historic ruling, the U.S. Court of Appeals ruled last night that President Nixon must turn over to the Federal District Court here the

disputed White House tape recording bearing on Watergate.

By a five-to-two vote, the panel said that the district court could then give the Watergate grand jury any relevant material, unless it

feels that there is some public interest to be served by withholding "particular" statements or information.

"Though the President is elected by nationwide ballot, and is often said to represent all the people, he does not embody the nation's sovereignty," the court said. "He is not above the law's commands."

The court's ruling thus substantially upheld the order last August of U.S. District Judge John J. Sirica — though it appeared to take an even tougher stance against the President than Sirica had.

RULING

The appellate court made its ruling in response to requests by both Mr. Nixon and Archibald Cox, the special prosecutor in the Watergate case, to reverse Sirica. Cox, who had initiated the proceedings, when he had a subpoena issued for the tapes, asked the appeals court to order that the tapes be turned over directly to the grand jury.

Mr. Nixon, for his part, asked the court to rule that Sirica was incorrect in ordering any disclosure by the White House of the tapes.

The Court of Appeals ruled

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ing was a historic one of unprecedented magnitude, involving as it did a clash between the President of the United States and the nation's judicial system.

OPINION

Over and over in its opinion, the court noted this and indeed hinted at its own sadness at being forced to make such a ruling. At one point, for instance, it said: "Here, unfortunately, the court's order must run directly to the President, because he has taken the unusual step of assuming personal custody of the government property sought by subpoena."

The court had tried unsuccessfully last month to avoid making a ruling, asking the parties to make an out-of-court compromise.

And in its decision yesterday, it showed it still felt, even now, that the constitutional crisis the lawsuit has caused can be set aside.

"Perhaps," it said, "the President will find it possible to reach some agreement with the special prosecutor as to what portions of the subpoenaed evidence are necessary to the grand jury."

The office of the special prosecutor last night, said that it would be amenable to the court's suggestion: "Mr. Cox expressed complete willingness to pursue the court of appeals suggestion that the President and he try to reach agreement, as to what portions of the subpoena evidence are necessary to the grand jury's task."

Last night, Gerald L. War-

ren, the President's deputy press secretary, said only that the White House is "studying" the opinion. The President said previously that he would abide by a "definitive" ruling from the judiciary, but he declined to define what that meant.

Sources at the White House said that the President will simply wait for the Supreme Court to decide the matter.

The tape recordings sought by Cox are recordings of nine different conversations held by the President with White House and campaign aides. The conversations — one on the telephone and the others in person — occurred on seven different days, the first on June 29, 1972, and the last on April 15, 1973.

One of those conversations took place in the President's oval office on Sept. 15, 1972, the day that the seven Watergate burglars were indicted for conspiracy and various other offenses. Present were the President, his counsel of the time, John W. Dean, and his staff director, H. R. Haldeman.

In a nationally televised appearance before the Senate Watergate committee, Dean testified last summer that in that conversation, Mr. Nixon congratulated his counsel on the "good job" he had done in containing the investigation of the break-in.

In a subsequent appearance, Haldeman testified that the group had discussed the Watergate indictments. But he swore that the President had not congratulated Dean for successfully thwarting the investigation.

New York Times