

# SENATE UNIT'S BID FOR TAPES DENIED

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Appeals Court Rules Need  
for Data Is Marginal and  
Overlaps House Inquiry  
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WASHINGTON, May 23—  
The United States Court of Appeals here turned down today efforts by the Senate Watergate committee to subpoena five tape recordings from President Nixon, ruling that the committee's need for the tapes was marginal.

The court, in a unanimous decision that upheld a lower court ruling, pointed out that the tapes were made public by the White House in edited transcripts and that copies of the originals had gone to the House Judiciary Committee, which is holding hearings on impeachment.

"The investigative objectives of the two committees substantially overlap: Both are apparently seeking to determine, among other things, the extent, if any, of Presidential involvement in the Watergate break-in and alleged cover-up," Chief Judge David L. Bazelon wrote in expressing the court's opinion.

## The General Duty

He argued that the committee had failed to show any specific laws under consideration that could not be decided without the tapes. Also, he de-

clared that the general duty of Congress to oversee the executive branch of government was little served by having "these particular conversations scrutinized simultaneously "by two committees."

Questions about the President's Watergate actions are likely to be resolved by the House impeachment investigation, he said.

The Senate committee first sought White House tape recordings on July 23, 1973.

Having lost for the third time in the courts, staff members for the committee met this afternoon to study the possibility of further appeal.

Judge John J. Sirica turned down in Federal District Court on Oct. 17 a request to enforce the committee's subpoenas. On Feb. 8, Judge Gerhard A. Gesell turned the committee down a second time, citing the possibility of prejudicial pretrial publicity that might follow if the tapes were handed over.

The committee appealed. While today's action upheld Judge Gesell's ruling, it cited different grounds.

## Cox's Appeal Recalled

The court of appeals has heard one other tapes case — involving a request by the former Watergate special prosecutor, Archibald Cox, to gather White House information for a grand jury. Judge Bazelon cited that case, saying that the President had the right to keep his conversations confidential but that confidentiality must give way when there was a more compelling need, such as gathering evidence for a grand jury.

The Senate committee's need was for oversight and legislation, the judge said, and in light of all the tapes and transcripts in the hands of Con-

gress and the public, "we see no compelling need" to force the President to turn the tapes over to a second committee. After the release of the Presidential tape transcripts on May 2, the committee's lawyers argued that they needed the originals to check the accuracy of the transcripts.

Judge Bazelon added, "There is no indication that the findings of the House Committee on the Judiciary, and, eventually, the House of Representatives itself, are so likely to be inconclusive or long in coming that the select committee needs immediate access of its own."

He called the Senate committee's need "too attenuated and too tangential to its functions to permit a judicial judgment that the President is required to comply with the committee's subpoena."