

Months Before Nixon Can Testify

Washington

Richard Nixon's lawyer informed U.S. District Judge John J. Sirica yesterday that it will be two or three months before the former President could testify at the Watergate coverup trial without endangering his health.

In an affidavit submitted to Sirica, Herbert J. Miller Jr., Mr. Nixon's lawyer, said that opinion was given to him Tuesday by Dr. John C. Lungren, who has been treating Mr. Nixon for phlebitis.

Sirica then observed that Mr. Nixon's testimony may have to be taken on videotape in California.

Meanwhile, Sirica overruled defense objections to the playing of 26 White House tapes as part of the prosecution's case. He said "sufficient foundation" had been laid to authenticate the recordings.

Prosecutor James F. Neal has said that if Sirica ruled the tapes were admissible, the recording of a June 23, 1972, conversation Mr. Nixon had with H. R. Haldeman, then White House staff chief, would be played Monday.

It was during that conver-

sation, six days after the Watergate break-in, that Mr. Nixon and Haldeman discussed the possibility of using the Central Intelligence Agency to contain the FBI investigation of the burglary.

Only days after Mr. Nixon made a transcript of that conversation public last August he was forced to resign the presidency.

In overruling the defense, Sirica rejected arguments that the White House taping system amounted to illegal bugging.

Frank Strickler, attorney for Haldeman, argued that the prosecutors had failed to offer any proof that any of the parties to the conversations had consented to being recorded.

Federal law requires that at least one party be aware that a conversation is being taped.

Sirica said that the tapes "were made at the direction of the President . . . I don't think the Congress ever intended" that the wiretap laws should apply to a system like that installed in the Nixon White House.

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