

# A New Report on Nixon, Watergate

## Grand Jury's Vote Told

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The Watergate grand jury voted — without dissent — in February to name President Nixon as an unindicted co-conspirator in the Watergate coverup, sources close to the defense have told the Los Angeles Times.

But the indictment returned on March 1 listed as co-conspirators, in addition to seven former administration and Nixon campaign aides, only "other persons to the grand jury known and unknown."

The grand jury's balloting on Mr. Nixon was communicated to U.S. District Judge John J. Sirica and defense lawyers in a closed-door meeting early last month.

Watergate special prosecutor Leon Jaworski told Sirica and defense lawyers about the grand jury's proposal in order to bolster his arguments that Mr. Nixon's attorney should not be allowed to quash a subpoena for tapes of 64 presidential conversations, the sources said.

Sirica, in ruling that the tapes must be surrendered — a matter now on appeal before the Supreme Court — took the unusual step of ordering that the subpoena proceedings be kept confidential.

Sources on the House Judiciary Committee said the grand jury's vote on Mr.

Nixon was not included in the secret report and briefcase of evidence Sirica forwarded to the committee in March.

The grand jury apparently concluded that Mr. Nixon should not be named in its March 1 indictment because

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of legal doubts over its authority to do so.

James D. St. Clair, Mr. Nixon's Chief Watergate counsel, said in response to the Times' information:

"The evidence before the grand jury does not support and, indeed, contradicts such an allegation by the grand jury. Furthermore, the evidence before the grand jury on the Watergate matter relating to the President is before the House committee, and together with information furnished subsequently by the President to the House committee, proves the President's innocence."

A spokesman for Jaworski said yesterday that he could not comment on the grand jury's deliberations or on closed-door proceedings before Sirica.

However, in public statements both before and after the March 1 coverup indictment, Jaworski said there was "a very, very strong question as to whether or not a sitting President is indictable."

The special prosecutor's remarks did not go to the point of whether a President could be named as an unindicted co-conspirator. But court arguments on transmitting the grand jury's report made it clear that Jaworski viewed the House Judiciary Committee as the proper forum for determining

Mr. Nixon's role in the case.

The determination of who is to be indicted and who is to be named an unindicted co-conspirator is the responsibility of the grand jury, usually acting with the advice of prosecutors.

In a standard criminal case, an "unindicted co-conspirator" refers to a person the grand jury believes took part in a conspiracy,

but does not want to indict for one of two reasons: The prosecution wants to use him as a witness against others or there is insufficient evidence to establish his guilt.

However, these reasons presumably did not apply to Mr. Nixon's case, in which grand jurors apparently acted with more than normal caution. In March, after the grand jury's secret report on Mr.

Nixon was sent to the House committee, a high White House official said privately that if the grand jurors had any evidence involving the President they would have named him in their indictment.

It could not be learned what led the grand jury to conclude Mr. Nixon was involved in the coverup conspiracy. The most damaging item of evidence to emerge publicly so far is Mr. Nixon's comments on March 21, 1973, to John W. Dean III, then White House counsel.

According to edited transcripts released by Mr. Nixon, the President in that conversation suggested several schemes for delivering \$1 million in hush money to Watergate defendants. In

addition, he impressed on Dean the urgency of meeting the money demands of Watergate burglar E. Howard Hunt Jr., then scheduled to go to jail in two

days.

Jaworski, in court papers filed yesterday, agreed to a defense request to provide the names of "all persons alleged to have conspired with the defendants named in the indictment." He did not say when he would do so, or whether this information would be held under seal

and thus kept secret.

Jaworski noted that "some specially sensitive matters" were involved when he successfully urged the Supreme Court to bypass the court of appeals and take up the issue of his subpoena directly.

To avoid influencing the House Judiciary Committee's impeachment inquiry, St. Clair and Jaworski may attempt to submit sealed information later this month to the Supreme Court on Mr. Nixon's status in the case.

How to deal with information involving the President has complicated the special prosecutor's assignment from the start.