

St. Clair Asks Court To Go Slow

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White House lawyers urged the Supreme Court yesterday not to "rush to judgment" over President Nixon's refusal to yield subpoenaed evidence and rejected a congressional warning that his stance may be used against him in the impeachment inquiry.

Waging a two-front battle in the high court and the House Judiciary Committee, presidential counsel James D. St. Clair asked the justices to slow down the "frenzied" pace of review sought by Watergate Special Prosecutor Leon Jaworski.

Then, in a meeting with newsmen, St. Clair declared that it was "improper" for the committee "to draw an adverse inference" from the President's claim of executive privilege in that forum.

The Supreme Court is expected to consider today in secret conference Jaworski's petition for immediate review of U.S. District Court Judge John J. Sirica's ruling last week rejecting the President's claim of executive privilege for 64 White House tape recordings.

Jaworski has sought to bypass the U.S. Court of Appeals, where St. Clair took his appeal last week, in order to avoid delaying into 1975 the Watergate cover-up conspiracy trial of former Attorney General John N. Mitchell and other former Nixon aides.

St. Clair's opposing brief conceded the importance of the legal dispute, but said that called for deliberation, not speed at the Supreme Court level.

"When a case raises the most fundamental issues of the allocation of power among the three branches of the federal government, it is

See **PRESIDENT, A8, Col. 3**

PRESIDENT, From A1

more important that it be decided wisely than that it be decided hurriedly," the brief said.

The brief did not mention St. Clair's claims, raised in Sirica's court and rejected there, that Jaworski does not have the legal right to contest President Nixon's subpoena position in court.

However, St. Clair told reporters that despite protests from members of Congress he has not abandoned the point and has "a duty as a lawyer" to press it if the Supreme Court accepts the case.

St. Clair said he was preparing a letter to Jaworski explaining why he will persist in challenging the power of courts to enforce

subpoenas sought by the special prosecutor against the President's wishes.

Jaworski has said St. Clair's position would make a "farce" out of his investigation, and the Senate Judiciary Committee resolved last week that Jaworski was acting within his charter.

St. Clair repeatedly refused to say whether President Nixon would abide by whatever the Supreme Court decides, saying the question was "hypothetical." He said he was sure that Mr. Nixon "does not intend to, nor has he ever in my view, set himself above the law."

The nine-page memorandum to the Supreme Court signed also by University of Texas law professor Charles Alan Wright, said "some delay" would result if review of Sirica's ruling ran its normal course through the Court of Appeals, but added that "though speedy justice is an important aim of the law it can never take precedence over just justice."

The brief noted, as did Jaworski's petition, that bypassing the intermediate court was highly unusual and often criticized by the justices. But St. Clair disputed Jaworski's argument that the Court of Appeals already had spoken on similar

issues in its 79-page ruling last October enforcing a Watergate grand jury subpoena.

Only last Thursday, the brief noted, the same Court of Appeals upheld a claim of executive privilege for material sought by the Senate Watergate committee, showing that the October ruling "did not deal the death blow to executive privilege that some had imagined. The doctrine remains alive and well."

The brief cited a 1971 dissent by Chief Justice Warren E. Burger complaining that the court had been "pressured" into a hasty decision in the Pentagon Papers case involving The Washington Post and The New York Times. The Courts of Appeals were not bypassed in those cases.

St. Clair and Wright argued that the 1952 steel seizure case, a major precedent for direct high court review, was far more important than the pending criminal case, since it involved the operation of a basic industry during the Korean War.

The strain of the President's legal staff caused by the impeachment inquiry reduces "the ability of counsel to assist the court," St. Clair concluded.

Jaworski's petition asked the court to call for the filing of briefs during the next two weeks and an oral argument during the term scheduled to end in late June. The court could agree with Jaworski's suggestion of call for a special summer session or reject the petition.

On a related matter, White House deputy press secretary Gerald L. Warren refused to confirm or deny a report in The Baltimore Sun that President Nixon had been assessed a 5 per cent negligence penalty when the Internal Revenue Service billed him for about \$476,000 in back taxes and interest. The impeachment investigation includes the possibility of fraud in the preparation of the President's tax returns.

Meanwhile, U.S. District Court Judge John Pratt postponed until Monday a deadline for producing White House documents sought by lawyers for James R. Hoffa.