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NIXON'S POWERS FACE TEST TODAY IN SUPREME COURT

Oral Arguments Planned on Withholding of 64 Tapes and Citation by Jury

WIDE INTEREST STIRRED

Line Forms at Courthouse for 100 Seats Allotted Public at Session

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WASHINGTON, July 7—The Supreme Court meets tomorrow in a highly charged political atmosphere to hear two cases with profound legal and personal implications for President Nixon and his former aides, six of whom are accused of conspiring to cover up the Watergate burglary.

The decision of the eight Justices — Associate Justice William H. Rehnquist has disqualified himself—could have a direct bearing on impeachment proceedings now pending in the House Judiciary Committee and on the Watergate cover-up trial, scheduled to open in September.

Most Supreme Court oral arguments are relatively routine presentations by opposing lawyers of the points they have raised in their legal papers, but tomorrow's session has aroused almost unprecedented advance interest.

Line Forms for Seats

Persons began lining up on the marble steps of the courthouse yesterday morning, hoping to qualify for the 100 public seats in the chamber. Guards warned the earliest arrivals that they would be arrested for vagrancy if they fell asleep waiting in line.

Before the Justices in the two cases are these basic questions:

Can President Nixon refuse to surrender 64 White House tape recordings to Federal District Court, to be screened for possible use in the Watergate cover-up trial, on the ground that executive privilege gives him an absolute right to withhold criminal evidence?

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¶Can the Watergate grand jury name Mr. Nixon as a participant in the conspiracy to defraud the United States by concealing the Watergate burglary, without its indictment charging him with a crime?

The Court session will open at 10 A.M. in the high-ceilinged marble and mahogany-paneled chamber, before about 325 people, two-thirds of them lawyers, newsmen and Court attachés who survived a stringent selection process to qualify for tickets and the rest members of the public.

Although the high court's order specified that the White House and the special Watergate prosecutor would each have an hour to argue their cases, the hearing is expected to run as long as three hours, allowing for questioning from the bench.

The Justices could decide the case later tomorrow or delay a ruling for weeks, even months. But balancing a desire for careful deliberation on issues of such high import against pressure for a prompt decision, most Court observers predict a decision within a week or 10 days.

If the Supreme Court should uphold Federal District Judge John J. Sirica and order the President to surrender the tapes, Leon Jaworski, the special prosecutor, would almost certainly obtain some additional evidence to bolster his case against the Watergate cover-up defendants.

At the same time, as the President's chief defense counsel, James D. St. Clair, has charged, these recordings would also probably, in the long run, find their way into the hands of the House Judiciary Committee to produce more ammunition for backers of impeachment there.

On the other hand, if the Supreme Court should uphold the President's right to withhold the recording, it would very likely make it more difficult for Mr. Jaworski to obtain convictions in the cover-up trial and for the Judiciary Committee to prepare stronger charges against Mr. Nixon.

Possible Precedent

In addition, a decision favoring the White House would set a strong, if not necessarily controlling, precedent for further lawsuits by either Mr. Jaworski or the House Committee to force the President to surrender potentially relevant evidence under his control.

A ruling upholding the grand jury's right to name Mr. Nixon as an unindicted co-conspirator would be likely to ease the special prosecutor's problems in the cover-up trial by permitting him to use evidence tying the conspirators together through the President.

For example, if there is evidence that Mr. Nixon discussed a key issue with H. R. Haldeman, his chief of staff, and later separately with John D. Ehrlichman, his domestic adviser, such evidence is admissible to prove a conspiracy between Mr. Haldeman and Mr. Ehrlichman only if Mr. Nixon is also named in the indictment as a co-conspirator.

As a political matter, however, striking the President's name from the indictment as the result of an order by the Supreme Court would have uncertain impact. The public would be unlikely to forget that the grand jury believed the President had participated in the conspiracy.

On the other hand, White House officials could be expected to argue that a decision holding that the grand jury lacked authority to name any President in an indictment amounted to a rejection by the Justices of any complicity on Mr. Nixon's part in the cover-up.

Rehnquist Steps Down

Associate Justice Rehnquist stepped down voluntarily from consideration of the two Watergate cases, despite his public view that disqualification is to be avoided by judges. Before he came to the high court, he served in the Department of Justice under John N. Mitchell, the former Attorney General, who is one of the defendants in the cover-up case.

With eight Justices sitting, the Court could divide 4 to 4 over either or both of the issues before it. Such a result would uphold Judge Sirica's rulings that the President must surrender the tapes and that the naming of the President in the indictment was within the grand jury's authority.

Last year, commenting on a similar tapes case that never reached the Supreme Court, President Nixon said he would abide by a "definitive" ruling from the high bench, but White House aides have declined to make that pledge in recent months.

Yesterday Vice President Ford told a news conference in Dallas that he assumed Mr. Nixon would obey a Supreme Court order to surrender the tapes. Some Congressional leaders have predicted that defiance of the hight court by the President would dramatically increase sentiment for impeachment.

The adversaries in tomorrow's confrontation, Mr. St. Clair and Mr. Jaworski, both have formidable reputations as trial lawyers in their home cities of Boston and Houston but relatively little experience in the special kind of argument made before appelate courts.