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**TAPE CASE ARGUED
IN FEDERAL COURT**

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**Sirica Will Decide in Week
—Nixon's Lawyer and Cox
Clash on Secrecy Issue**

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WASHINGTON, Aug. 22—

President Nixon's lawyer and the Justice Department's special Watergate prosecutor clashed in court today over whether the President has the right to withhold records of his conversations from a grand jury investigating crime.

After hearing two hours of pointed but proper argument, Chief Judge John J. Sirica of the United States District Court for the District of Columbia reserved decision on the historic dispute between Mr. Nixon and Archibald Cox, the special prosecutor. The judge said he hoped to hand down a ruling within the next week.

At his news conference in San Clemente, meanwhile, the President said he would comply with "a definitive order of the Supreme Court" disposing of the Cox lawsuit that was argued today. But he added that

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he did not want to discuss it further while the issues were pending in the courts. [Question 16, Page 29.]

Charles Alan Wright, the Texas law professor who represented the President before Judge Sirica, refused to turn over tape recordings of nine White House conversations to the judge for his private determination as to whether they contained relevant criminal evidence.

Mr. Wright argued that the President was the sole judge of whether such White House records should be made available and that no court had a right to substitute its judgment for the President's, particularly when there was a risk of revealing important national security information.

The President's lawyer said that Mr. Nixon had told him that one of the tapes sought by Mr. Cox included "national security information so highly sensitive that he did not feel free to hint to me what the nature of it is," despite the fact that Professor Wright had received a full field security

clearance.

Courtroom Crowded

The unprecedented legal challenge to a President attracted a capacity audience of more than 300 to the courtroom, about a third of them news reporters.

Lawyers, law clerks of other Federal judges, law students and the curious jammed the available seats and spilled over into the jury box and chairs inside the bar. It was a quiet and orderly audience, listening intently and providing almost no audible reaction.

Based on Judge Sirica's indication of a ruling within a week, legal authorities estimated that an appeal could be

carried to the United States Court of Appeals during September, with the case reaching the Supreme Court shortly after the Justices return from their summer recess on Oct. 1.

Arguing that the grand jury needed the relevant sections of the White House tapes, Mr. Cox said there was "strong reason to believe that the integrity of the executive office has been corrupted, although the extent of the rot is not yet clear."

The prosecutor was critical of President Nixon for permitting testimony by Administration aides before the grand jury on White House conversations, evidence that would be "open to the defects of human recollection" but refusing to make available through the tapes "evidence not subject to that defect."

Mr. Cox took particular exception to a contention in Professor Wright's most recent brief filed with the court that the President had the power to suspend the entire Justice Department Watergate inquiry rather than provide it with his tape recordings.

"If he wants to leave this matter to the courts," the prosecutor declared, "he should leave it to the courts. If he wishes to dismiss the case, if he has the power, he should exercise it, and the people will know where the responsibility lies."

Questioned by Judge

After each of the lawyers presented his case, Judge Sirica asked him a series of prepared questions, warning that they should not be interpreted as indicating any inclination on his part toward the position of the President or that of Mr. Cox.

But reporters noted that the judge questioned Mr. Wright for 17 minutes and Mr. Cox for only eight, with the queries addressed to the President's

lawyer appearing somewhat sharper as well as longer.

"As a practical matter," Judge Sirica asked Mr. Wright, "isn't it likely that withholding of the tapes may thwart any further prosecutions in the case?"

The University of Texas law professor said he did not believe that would happen because evidence advantageous to a criminal defendant must be made available to him, under a 1963 Supreme Court decision, if it is available to the prosecution, and the tapes would go to neither.

"Suppose," Judge Sirica said, "any President got evidence about a criminal investigation that had nothing to do with his official duties or any confidential discussion, but he felt it was unfair to a friend of his, could a court subpoena to produce that information?"

"Under those circumstances, the President would have no privileges," Mr. Wright replied.

Abuse of Powers Discussed

"If the President is the sole judge of the scope of his power to withhold information," Judge Sirica continued, "couldn't this lead to a potentially grave abuse . . . contrary to the system of checks and balances provided in the Constitution?"

Mr. Wright responded that the authors of the Constitution were aware that a President might abuse his powers, and "for abuse of those powers, they created a remedy: the impeachment process. So long as the President is President, they wanted him to make these decisions for himself."

The White House attorneys maintain that the President is immune from both civil process and criminal indictment as long as he remains in office, with Congress free to impeach and convict him if it wishes to remove this legal barrier. Other legal authorities disagree.

Mr. Wright and Mr. Cox divided over the likelihood that similar situations would arise in the future, threatening the confidentiality of the President's records and private conversations and making them subject, as Professor Wright said, to court orders from "400 district judges."

Inquiry Termed Persuasive

Mr. Cox said that he thought the President's lawyer overestimated the number of future White House conversations that would be germane to a grand jury investigation. But, he added, "If criminal activities are discussed there more often, surely the need is not for more use of privilege to hide the wrongdoing."

In opening, Mr. Wright acknowledged that the entire Watergate inquiry had been "a hydraulic force," influencing legal opinion against presidential powers that had previously been unquestioned and persuading some lawyers that "the Constitution means something different today than it has during all our history."

Mr. Cox concluded his argument by renouncing any personal antagonism toward President Nixon, saying that "No one would feel more relieved than I if the tape recordings showed the falsity of all accusations against the respondent [Mr. Nixon]."