

# Nixon Fights 'Shortcut' to High Court

Washington

President Nixon's lawyers urged the Supreme Court yesterday not to "rush to judgment" by agreeing now to review a ruling that the White House must surrender 64 more tape recordings to Special Watergate Prosecutor Leon Jaworski.

In a 2300-word brief filed with the high court at noon, Charles Alan Wright and James D. St. Clair declared that the President "opposes any attempt to shortcut the usual judicial processes" because of the importance of the issues involved in the latest tapes controversy.

At a closed conference today, eight of the nine justices will probably decide whether to bypass the U.S. Court of Appeals and take jurisdiction of the ruling against the President, which was made ten days ago by U.S. District Judge John J. Sirica.

If that decision is reached today, it will almost certainly be announced when the high court convenes Monday morning, along with all other decisions reached at the conference.

If the justices should accept the case, it will probably take a month or more to receive more briefs, hear arguments and hand down a decision.

"It is imperative," the

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President's lawyers declared, "that this court consider the case under those conditions that are essential to the judicial process at its best.

"This means that the court must be assisted to the greatest possible extent by the lower courts and by counsel and that the court must have the opportunity for careful reflection and deliberation that wise deci-

sions require."

If the Supreme Court does not decide the tapes case before it adjourns for the summer late next month, Jaworski has predicted, the Watergate coverup trial of former Attorney General John N. Mitchell and six other defendants will have to be postponed from September until the spring of 1975.

"The purported notice advanced by the special prosecutor," the White House brief said, "for a hasty determination of the issues by avoiding the normal channels of appellate review is clearly outweighed by the actual need for a thorough and carefully considered review of the substantial constitutional issues involved in this litigation.

"In addition, it is at least questionable whether it is in the best interests of all parties involved to rush to judgment in this case in the midst of an impeachment inquiry involving intrinsically related matters."

This suggested, without openly stating it, that consideration of the tapes case now would create a potential conflict of interest for Chief Justice Warren B. Burger later, should he be called upon to preside over an impeachment trial in the Senate.

If the Supreme Court should decline to bypass the Court of Appeals, taking up the case later on a more or less normal timetable, any impeachment trial might well be over before the tapes dispute reached oral argument.

Associate Justice William H. Rehnquist has indicated that he will not participate in either a jurisdictional or merits ruling on the case. He served under Mitchell in the Justice Department and testified frequently before Congress in support of the principle of executive privilege, a key issue in the President's case.

After the White House brief was filed, St. Clair declined to predict at a news briefing whether the President would abide by a Supreme Court ruling on the case, calling it "a hypothetical situation."

*New York Times*