

Mr. Nixon's Supreme Court Strategy

The deepening insistence by President Nixon that he intends to preserve "strong presidency," no matter what the cost, is setting the stage for possible presidential refusal to abide by an adverse ruling of the Supreme Court in the Watergate conspiracy tapes.

Indeed, the "strong presidency" argument is used to justify the flat refusal by the White House to assert that Mr. Nixon would accept an adverse court ruling.

These two possible clues to secret White House impeachment strategy, moreover, are privately confirmed by senior Nixon advisers, inside and outside the White House.

Of course, all this might be an elaborate bluff to intimidate the Supreme Court into ruling against Special Prosecutor Leon Jaworski's subpoena of White House tapes. But even the most untasteful Oval Office scenario could rarely imagine the justices being so averse.

Why, then, would Mr. Nixon even contemplate an act of defiance which rarely would bring conviction by two-thirds of the Senate close to reality? If convicted, Mr. Nixon could at least claim he was driven from office in defense of "the presidency," not as a Watergate conspirator. On the other hand, if he was acquitted by the Senate, Mr. Nixon would elevate his office to a peak of power unprecedented in history.

Unrealistic though the Nixon White House often is, however, it would not take the risk without a feeling that Mr. Nixon's popularity is recovering rapidly enough to avoid Senate conviction despite defiance of the court. Behind

that assumption is the President's long-held conviction that the constitutional concept of three equal branches of government is obsolete in the 1970s and that a superior executive branch is now required.

With Supreme Court oral arguments scheduled for July 8, the historic decision might not come until six weeks later. Consequently, Mr. Nixon and his legal counsel, James D. St. Clair, now have up to 10 weeks to hammer home this hardline thesis: Even in the face of a clearly "definitive" decision by the high court, Mr. Nixon's real responsibility to history lies in defense of presidential independence from legislative and judicial dictates.

As the President himself said Sunday at a wildly exuberant pro-Nixon rally stage-managed by the White House: "I shall do nothing that will weaken this office while I am President."

The refusal of St. Clair to say Mr. Nixon would obey an adverse decision has disturbed the judicial branch of government from the high court on down.

In a session with reporters May 30, St. Clair ducked six separate questions asking whether the President would obey the Supreme Court. He called them "hypothetical." But, asked whether the President would obey a Senate verdict of guilty on House impeachment charges, he replied: "I would think clearly so . . . I don't see any serious problem about that."

In contrast, the President himself last year said he would obey a "definitive" judgment of the high court when Archibald Cox, then Special Prosecutor, went to court to force

disclosure of White House tapes. That case was mooted in the pro-impeachment furor that followed Cox's firing. Mr. Nixon bowed to public opinion and gave over the tapes.

But there is feeling among Nixon advisers that, despite the advanced impeachment proceedings, he might get away with defying the court today whereas he could not a year ago. In truth, the steady barrage of Watergate bombshells has left the nation insensitive to almost any new outrage.

Adding to the implications of St. Clair's studied hints that Mr. Nixon might actually rebuff the Supreme Court are private warnings of Nixon partisans. If he obeyed an order to turn over the tapes, so this argument runs, the presidency would be fatally and permanently weakened. Even though the Jaworski case involves only a conspiracy trial, capitulation by Mr. Nixon might open the floodgates to the House Judiciary Committee's more exacting demands for impeachment evidence.

If this resulted in conviction, Mr. Nixon would go down righteously defending the integrity of the presidency for all future Presidents, not as a convicted Watergate conspirator.

But the outcome could be different. Returning from successive triumphs in the Mideast and the Moscow summit, the President might be strong enough to sell the "strong presidency" thesis to the point of justifying defiance of the Supreme Court. That way lies undreamed-of presidential power. It is this possibility, no matter how remote, which is beginning to chill Washington today.