

A REVIEW IS ASKED ON NIXON EVIDENCE

St. Clair Wants High Court to Inspect Jury's Data in Conspiracy Link

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Special to The New York Times

WASHINGTON, June 20—The White House asked the Supreme Court today to inspect the minutes and evidence of the Watergate grand jury to help decide whether President Nixon should have been named as an unindicted co-conspirator.

If the Court does not weigh the sufficiency of the evidence on which the grand jury based its charge against the President, James D. St. Clair argued, Mr. Nixon will have "fewer rights for pretrial discovery than an ordinary criminal defendant."

Leon Jaworski, the Special Watergate prosecutor, opposed the motion by Mr. St. Clair, the President's chief defense counsel. Mr. Jaworski charged that the White House had no right to raise the issue for the first time on appeal and that the Court could not look behind the Watergate indictment.

Ruling Expected

The Justices will probably rule on the latest White House request at their regularly weekly conference tomorrow. They have already agreed to review two major Watergate issues, with argument on both now set for July 8.

In his motion filed with the high court late yesterday and made public this morning, Mr. St. Clair said for the first time that the grand jury's action in naming the President as a co-conspirator hinged on his alleged complicity in the payment of \$75,000 to E. Howard Hunt for legal fees on March 21, 1973.

A review of the sealed grand jury records, Mr. St. Clair asserted, would "clearly demonstrate that the grand jury was acting outside its authority and those materials are totally insufficient to impute criminal activity to the President."

In his legal reply filed today, Mr. Jaworski maintained that "the grand jury's decision was not based on any particular item of evidence" and that the "overwhelming majority" of the grand jury evidence had been made available to the

House Judiciary Committee for its impeachment inquiry and thus also to Mr. St. Clair.

'Not a Direct Party'

"The President is not a direct party to this criminal prosecution," Mr. Jaworski said, referring to the Watergate cover-up indictment. Hence, he said, Mr. Nixon does not require access to the grand jury transcripts and exhibits to aid in preparing a defense.

"To the extent he wishes access to these materials in order to deal with the impeachment inquiry," Mr. Jaworski continued, "such a request is not properly made in the context of the present proceedings and seems unwarranted in any event in light of the Judiciary Committee's apparent practice of making all evidence submitted to the committee available to the President's counsel."

The White House motion noted that the Court has already agreed to decide whether the grand jury had authority to name the President as an unindicted co-conspirator.

"To allow this review without allowing the President a complete basis upon which to attack the validity of the grand jury's action," Mr. St. Clair charged, "would be a denial of due process."

The Nixon attorney maintained that the President had the same right to evidence that might disprove charges against him as "an ordinary defendant" actually indicted for a crime, even though the President does not need to defend himself because he is not subject to trial.

Jaworski's Objections

Mr. Jaworski made two major objections to the White House effort to add a third issue to the pending Supreme Court case, maintaining that:

¶Mr. St. Clair had not raised the issue of the factual sufficiency of the grand jury's finding when he moved, unsuccessfully, to have the President's name stricken from the indictment. Therefore, the issue was not ruled on by Federal District Judge John J. Sirica and cannot be raised before the Supreme Court for the first time on appeal.

¶The courts have uniformly refused to look behind an indictment to determine whether a grand jury's finding was supported by adequate evidence.

The only evidence that the grand jury abused its authority, Mr. Jaworski said, is Mr. St. Clair's statement to that effect, and "the opinion of any lawyer that the evidence against his client is not persuasive cannot be accepted as a sufficient reason for granting unrestricted access to grand

ing unrestricted access to grand jury proceedings and exhibits. The Supreme Court has already agreed to review whether the President can refuse because of executive privilege to surrender tape recordings of 64 White House conversations for use as evidence in the cover-up trial, and whether the grand jury could name him as an unindicted co-