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**Jaworski Is Called Unfair
In Nixon's Brief to Court**

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WASHINGTON, June 21—The White House accused Leon Jaworski today of interweaving the Watergate criminal prosecutions and Congressional impeachment proceedings in a way that was "manifestly unfair" to President Nixon.

In legal briefs filed with the Supreme Court, the President's lawyers charged that if they

Excerpts from briefs filed with court, Page 14.

surrendered 64 more tape recordings to the special Watergate prosecutor for trial evidence the House Judiciary Committee would, as a result, get fresh information that it could not otherwise obtain.

James D. St. Clair, the Nixon defense attorney, declared: "The courts may not be used, either deliberately or inadvertently, as a back-door route to circumvent the constitutional procedures of an impeachment inquiry and thus be intruded into the political thicket in this most solemn of political processes."

Countering in his own written argument to the Justices, Mr. Jaworski conceded that the evidence he sought was involved in impeachment as well as pending criminal prosecutions but said this only strengthened his case.

"The President, the prosecutor maintained, "cannot be a proper judge of whether the greater public interest lies in disclosing evidence subpoenaed for trial when that evidence may have a material bearing on whether he is impeached and will bear heavily on the guilt or innocence of close aides and trusted advisers."

Together, the White House and the special prosecutor filed more than 450 pages of legal arguments and supporting documents with the Supreme Court today. The material is designed to help the Justices prepare for oral argument of the first two Watergate questions to reach the high court. The argument is scheduled for July 8.

At issue in the historic proceedings are whether the President must surrender the tape recordings of White House conversations for use in the Water-

Continued on Page 14, Column 1

Continued From Page 1, Col. 6

gate cover-up trial in September and whether the Grand Jury had the right to identify Mr. Nixon without indicting him as a member of the Watergate conspiracy.

The White House brief charged the special prosecutor with trying to strengthen the "fusion" between Watergate and impeachment "by the unsubstantiated, unprecedented and clearly unconstitutional device of naming the President as an unindicted co-conspirator in the criminal cases."

Mr. Jaworski devoted only a long footnote of his 153-page principal brief to defending the grand jury's acting, saying it was "reasonable" for the jurors "to designate all participants in the conspiracy as co-conspirators" and "there is no constitutional impediment to such action."

"In deference to the office of the Presidency and sensitive to the practical difficulties in indicting an incumbent President," the prosecutor explained, "the grand jury named him as an unindicted co-conspirator."

The Supreme Court was still deliberating whether to add a third issue to the Nixon cases, at the request of the White House: Whether the high court should review Watergate grand jury records to determine if there was enough evidence to name Mr. Nixon as a co-conspirator.

Executive Branch Dispute

In his 149-page brief, Mr. St. Clair expanded on the basic legal argument that the White House made unsuccessfully before Federal District Judge John J. Sirica. This was that the dispute between the President and Mr. Jaworski was a private executive branch matter in which the courts had no right to intervene, that the case involves "a political question" the courts should avoid and that Mr. Nixon has the right to decide what information is privileged and cannot be made available as criminal evidence.

Judge Sirica's ruling that the President improperly invoked executive privilege, the White House lawyers said, "is constitutionally impermissible and violates the basic tenets of the separation of powers. Moreover," they continued, "it is a determination beyond judicial abilities, since the Court simply cannot substitute its judgment for that of the President."

Mr. St. Clair said that even a President who abuses executive privilege is not reachable by the courts because "the proper remedy is not to reduce the office but to deal with the offense, and to do so in accordance with the Constitution," presumably by impeachment.

The White House worked its latest political theme into the close of the brief, complaining of "the escalating confusion and torrent of prejudicial leaks generated by the concurrent involvement of the President in criminal proceedings as a so-called 'third party' and in an impeachment investigation as the putative respondent."

Mr. Jaworski, on the other hand, argued that giving the President an option to refuse to produce evidence would allow Mr. Nixon "to accomplish indirectly what he cannot do directly—secure the abandonment of the Watergate prosecution."

Even if the tapes at issue were once protected by privilege, the prosecutor maintained, President Nixon has waived it by making public 1,200 pages of transcripts from 43 of them. "Where there is no longer any substantial confidentiality on the subject of Watergate because the President has made far-reaching but expurgated disclosures, the Court may use its process to require all relevant evidence to lay before the jury," the prosecutor said.

Mr. Jaworski contended that he had an authority independent of the President from constitutional delegations of power by the Congress through the Attorney General. He is not, he said, "the mere agent-at-will of the President."

The prosecutor said the Supreme Court would have to answer these questions: "Shall guilt or innocence in the criminal trials of former White House aides be determined upon full consideration of all the evidence found relevant, competent and unprivileged by due process of law? Or, shall the evidence from the White House be confined to what a single person, highly interested in the outcome, is willing to make available?"