

WATERGATE

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Supreme Court tomorrow tackles

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WASHINGTON — As it does on most Mondays, the Supreme Court of the United States will convene at 10 a.m. tomorrow in its severely formal marble-columned courtroom.

And as always, "crier of the court" Bob Wilkens will begin the proceedings by chanting "Oyez, oyez, oyez. God save the United States and this honorable court."

But there, the similarities to routine sessions of the court will end.

For on Monday, the black-robed justices will hear three hours of argu-

ments in what could be one of the most significant disputes over governmental powers in American history.

Simply described, the matter at issue is the case of the famous White House Watergate tapes.

But if it draws a clearcut decision, the tapes case could become an important milestone in constitutional law and also have an explosive effect on President Nixon's chances of remaining in office.

Thus, perhaps the largest audience ever to observe a public session of the court will be crammed into the chamber, where maroon upholstered benches normally

seat a maximum crowd of 250.

Lawyers, court employees and congressional personages have vied for reserved seats allocated by drawing lots. A line of citizens is expected to form Sunday night on the broad steps outside the shining marble courthouse, to be admitted first-come, first-served to the "several score" of public seats at 9 a.m.

At the counsel tables will be two familiar legal protagonists, Special Watergate Prosecutor Leon Jaworski and Presidential Counsel James St. Clair.

Among the eight justices facing them will be three ap-

pointed to the high court by Nixon; Chief Justice Warren Burger, Justices Lewis Powell and Harry Blackmun.

The fourth Nixon appointee, Justice William Rehnquist has withdrawn from the case, apparently because he once served in the Justice Department under Attorney General John Mitchell, whose interests are very much at stake in the proceedings.

This historic constitutional showdown grows out of the special prosecutor's criminal case against former top Nixon Administration figures John Mitchell, H. R. Haldeman, John Ehrlichman and three others

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issue of Nixon's tapes

charged with conspiring to cover up the Watergate burglary after it occurred.

The law specifies that before standing trial, defendants in such a federal criminal case are entitled to review all information the government has about them which could possibly be considered as evidence.

Accordingly, Special Prosecutor Jaworski subpoenaed 64 tapes and documents of conversations between the President and the various defendants, to be shown to the defendants.

In refusing to honor the subpoena, President Nixon escalated this standard pre-trial procedure into a

classic confrontation between the Executive and Judicial branches of the government.

He did this by claiming that a President has an absolute power of "executive privilege" to withhold White House records or information he considers confidential.

This power is so absolute that it cannot be disputed. It is so ironclad that it cannot even be questioned by the courts, assert the White House briefs to the Supreme Court.

Instead, when there is disagreement as to "who decides" a basic argument over the application of exec-

utive privilege, argues presidential lawyer St. Clair, "The answer to that question is that the President decides."

In his briefs, Jaworski has countered that to concede such absolute power to the Chief Executive would so violate the Founding Fathers' intent for checks and balances between the three branches (Executive, Congress, the Courts) as to "stand the Constitution on its head."

Any other interpretation would violate the principle that "the President, like all executive officials as well as the humblest private citizens, is subject to the rule of law," Jaworski argues.