

LEGAL CONFLICT SPANNED 3 MONTHS

Routine Bid by Prosecutor
for Nixon Data Became
Politically Volatile

By LINDA CHARLTON

Special to The New York Times

WASHINGTON, July 24—The legal battle whose outcome was decided today by the Supreme Court was joined three months ago in United States District Court here, when a lawyer from Texas filed a fairly routine type of motion asking that certain material be subpoenaed for possible use in a forthcoming criminal trial.

While the procedure was commonplace, the substance was legally and politically volatile.

For it was Leon Jaworski, the Special Watergate prosecutor, who was seeking the subpoenas, and it was President Nixon, who had appointed him to his post last November, from whom he sought the material. Between the President and the prosecutor lay the complex, ill-defined and sensitive constitutional issue of executive privilege.

What Mr. Jaworski wanted, and what the Court ruled today he might have, were all the tapes and other electronic and/or mechanical recordings or reproductions, and any memorandum, papers, transcripts and other writings, relating to 64 conversations that took place between June 20, 1972, and June 1, 1973.

List of Talks

President Nixon was involved in 63 of the 64 conversations, some of which took place in face-to-face meetings, some by telephone. White House aides involved in the talks included John W. Dean 3d, H. R. Halderman, John D. Ehrlichman, Charles W. Colson and Ronald L. Ziegler.

The schedule attached to Mr. Jaworski's motion noted that some of the conversations were held in Mr. Nixon's Executive Office Building suite, others were held at Camp David and that some of the telephone calls were placed "from residence portion of the White House."

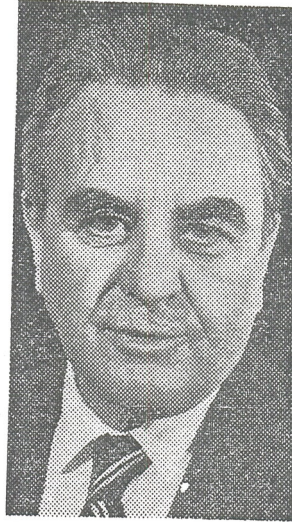
Portions of some 20 of the conversations have been made available, in edited transcript form, by the White House.

All of the conversations relate in one way or another to the Watergate cover-up, for they are for possible use as evidence in the September trial of John N. Mitchell, Mr. Ehrlichman, Mr. Halderman and three others on charges of conspiracy and obstruction of justice that Mr. Jaworski sought the material.

Order by Sirica

Federal District Judge John J. Sirica considered Mr. Jaworski's motion for more than a month. Then, on May 20, he ordered that the material be turned over by the President to the special prosecutor.

Only a few hours before the deadline for appealing the decision, the White House submitted a motion to set aside the subpoena. The motion was filed "in camera," or in secret, with the United States Court of Appeals for the District of Columbia Circuit. At the same time, Mr. Jaworski petitioned the Supreme Court to review Judge Sirica's opinion directly.



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Judge John J. Sirica,
whose order that President Nixon surrender tapes was upheld by the Supreme Court.

His request was granted, both sides filed briefs late in June, and there were three hours of oral arguments before the Court on July 8. Today's ruling ended two weeks of speculation about how the Court would decide, it could not, of course, answer the other question, as to whether Mr. Nixon would obey the Court's order.

Effect in Congress

Beyond its immediate effect, the decision is expected to have a bearing on the course of the Congressional proceedings. The House Judiciary Committee, which was not a party to the case decided today, issued eight subpoenas between April 11 and June 24, demanding the tapes of 147 conversations that it considered to be relevant.

Mr. Nixon has refused to comply with the committee subpoenas except to release edited transcripts of 43 Presidential conversations. But the committee has insisted that the transcripts do not constitute compliance with the subpoenas, and the ruling today makes it possible that the committee may renew its demands.

In addition, a refusal by Mr. Nixon to comply with the Supreme Court's order would almost certainly be taken into account by the committee as it debates the Articles of Impeachment.

Broad Contention

Throughout the three months of legal proceedings, the White House position has been based on a broad claim of executive privilege, or the right to maintain the confidentiality of Presidential conversations.

James D. St. Clair, Mr. Nixon's attorney, has also contended that Mr. Jaworski's motion was, in effect, "a discovery tool for the impeachment proceedings" because "any information that might bear on" the proceedings would be turned over to the House Committee.

Mr. Jaworski maintained that the White House's interpretation of executive privilege was too broad and that no President had an "absolute right" under the Constitution to refuse to make public confidential conversations. "In our view," he told the Court during his oral argument earlier this month, "this nation's constitutional form of government is in serious jeopardy if the President—any President—is to say that the Constitution means what he says it does, and that there is no one, not even the Supreme Court, to tell him otherwise."