

Sirica Is Asked To Excuse Nixon

Washington

A lawyer for Richard M. Nixon yesterday asked that the former President be excused from testifying in the Watergate cover-up trial.

U.S. District Judge John J. Sirica said he will postpone any decision on whether Mr. Nixon would be compelled to appear until a jury is selected.

The Judge predicted the 12 jurors and six alternates might be chosen by Monday or Tuesday.

The jury selection process continued yesterday at a snail's pace, however. Sirica interviewed only ten persons over more than six hours. He is attempting to find enough people unbiased by the wave of Watergate publicity surrounding the trial.

Sirica acknowledged receiving two motions to quash subpoenas for Mr. Nixon's testimony, but withheld their contents. The result is to keep secret the reasons cited by Mr. Nixon's lawyer, Herbert J. Miller, in asking that the former President not be required to testify.

A source familiar with the case said that besides health, the motions also cited national security. Mr. Nixon is expected to be released from a Long Beach hospital by this weekend after treatment for a blood clot.

The subpoenas were issued — for widely different reasons — by special prosecutor Leon Jaworski and defendant John D. Ehrlichman, formerly a member of the White House inner circle under Mr. Nixon.

Sirica said he will keep all of the material relating to Mr. Nixon's health secret for now, even from defense attorneys. The Judge said he is afraid of leaks to newsmen.

In another development, Sirica ruled out the broadcasting of about 35 White House tapes, which the prosecutors plan to introduce into evidence. Turning down a request from reporters for the three major television networks, Sirica said that allowing the tapes to be broadcast on radio or television news shows would open up questions of why the entire trial could not be electronically recorded and then broadcast.

Under court rules, tape recorders and cameras of all kinds are barred.

Ehrlichman's attorneys subpoenaed Mr. Nixon to obtain testimony on the origins of the cover-up itself. Ehrlichman's attorneys reportedly will paint the former White House domestic affairs chief as a partially unknowing participant.

The prosecutors need Mr. Nixon to authenticate the tapes, which reportedly will

comprise a major part of their evidence. "Under a legal doctrine called 'chain of custody,' persons who handled tape recordings or were participants in taped conversations must verify their authenticity.

If Mr. Nixon is excused from testifying for the prosecution, it is unlikely he would be called by the defense until at least November and perhaps December, after the prosecutors have rested their case.

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