

NIXON TESTIMONY CALLED UNNEEDED

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Prosecutors Say Conviction
of 4 Aides Should Stand—

Use of Tapes Defended

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WASHINGTON, Oct. 15 (UPI)

—The Watergate prosecutors argued today that Richard M. Nixon's inability to testify at the trial of four officials in his administration who were convicted in the cover-up of the incident did not give the defendants a right to a new trial.

Answering appeals briefs filed by the four former aides, the prosecutors said that there was no evidence that the former President would give testimony favorable to the defendants.

The brief was filed in the United States Court of Appeals, where former Attorney General John N. Mitchell; his deputy, Robert C. Mardian, and two former White House aides, H. R. Haldeman and John D. Ehrlichman, are appealing their convictions.

Mr. Mitchell, Mr. Haldeman and Mr. Ehrlichman were sentenced to 2½ to 8 years for conspiracy, obstruction of justice and lying to investigators. Mr. Mardian was sentenced to 10 months to 3 years for conspiracy.

Testimony Termed Unnecessary

Rejecting the defense appeal arguments, the prosecutors said that Mr. Nixon's testimony was not necessary, that there was no pretrial publicity that prejudiced the jury and that Judge John J. Sirica properly allowed the use of White House tape recordings as evidence.

"There had been no concrete showing that Mr. Nixon's testimony would be favorable... and his testimony could only have been cumulative of other evidence in the record," the prosecutors said.

"The conclusion is inescapable that the jury was unbiased and that the convictions were based solely upon the overwhelming evidence properly admitted at the trial," they said.

The four defendants had alleged that there was no way an unbiased jury could have been chosen in the case.

The prosecutors also pointed out that a fifth defendant, Kenneth Wells Parkinson, a lawyer for the Nixon re-election committee, had been acquitted by the same jury.

"The tape recordings challenged here provided the jury with the best evidence of the conspiracy," they said. "Rarely is such convincing proof available, but when it is, the Government would be derelict is not giving the jury its benefit. Accordingly, since each of the taped conversations involved declarations by co-conspirators in furtherance of the conspiracy... the trial court correctly received them in evidence."