

Tapes-missing: I have read Lardner's story and the text of Nixon's statement as in today's Post. My purpose is to ask that when you read the Times' story (or any others) dealing with the statement itself, if there is anything other than in Lardner's comment, I'd appreciate it if it interprets or analyzes. I regard this as an important statement, made for reasons that to Nixon and his staff must be more than usually important (or, for one thing, there would have been silence) and not exactly truthful. In my mind, without checking the carbons, I have compared this with my analyses/presumptions as in my letters to Sussman and find nothing to contradict leave alone refute what I then thought was obvious and much to confirm it. The existence of separate recorders for the phones, for example. Indications if not proof that there were separate recorders for buildings if not parts of them. There is also indication that Nixon personally saw to the disappearance of what no longer exists. His comment on his Sunday meeting with Dean makes it hard to believe he did not see to it that there would be a tape, on the system or made in the office. The significance of the meeting was such that he'd not have failed to dictate a memo if he was in the habit and would have depended upon the slower handwritten notes (the time they were written depends entirely on his word). See Dean's memo of his call to Higby on this, before the meeting). The reference to Kleindienst's presence and the tape running out there points to the significance of the meeting with Kleindienst, to which Kl testified before the Ervin committee. What is so conspicuously lacking in this "offer" is an offer to make available the tape including the playing back of a tape, requested and refused in court... That Nixon was impelled to make this offer, regardless of how little or how much it may mean, is indicative of his feeling intense pressure or as much fear. Or both. However, offering the court what has not been sought does not replace what has disappeared. HW 11/13/73

Nixon Says He Can't Find 3d Recording

11/13/73 By George Lardner Jr.
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President Nixon announced yesterday he will release several Watergate tapes that have not been subpoenaed, but said that he cannot find another recording that he was supposed to produce.

Mr. Nixon said he hoped that the steps he was taking would dispel that public doubts prompted by the White House's announcement two weeks ago that two of the Watergate tapes demanded by court orders did not exist.

"It is my hope," the President said, "that these steps will clear up this aspect of the Watergate matter once and for all."

Meanwhile, White House special counsel J. Fred Buzhardt acknowledged in U.S. District Court that another of Mr. Nixon's Watergate recordings—one that Buzhardt promised 12 days ago to produce—cannot be located.

The recording in question was one Mr. Nixon said he thought he made on a Dictabelt machine following a controversial meeting last April 15 with then-White House counsel John W. Dean III.

The President said, however, that he discovered just the weekend before last that his personal diary file for the date in question contained only "personal notes" of his talk with Dean, and not a dictation belt.

He said the notes will be turned over to District Court Judge John J. Sirica under the court orders covering not only the supposed tapes of nine of the President's conversations about the Watergate scandal, but also any memoranda, papers, transcripts or other writings related to those conversations. The dictation belt of the President's recollections of the Dean meeting

would also be covered if it ever turns up.

Among the materials Mr. Nixon said he would furnish Sirica, though they are "not covered by the court order," are the reels of tape covering the dates of the two missing conversations. In that way, the President said, the court could verify that they were never recorded.

One of the missing conversations was a four-minute phone call that Mr. Nixon placed to former Attorney General John N. Mitchell on the evening of June 20, 1972, three days after discovery of the break-in and bugging of Democratic National Committee headquarters here. The other was the April 15

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meeting at which Dean has accused the President of making remarks that implicated him in the Watergate cover-up.

Mr. Nixon said yesterday there was no question in his mind that Sirica would conclude that "these two conversations were never recorded."

The President also expressed some chagrin at the "misconceptions about this matter" that he said have arisen "simply because certain basic facts are not being presented to the American public."

The phone call to Mitchell was apparently the first direct contact the President had with him after the discovery of the break-in three days earlier. The President said he made the call on a phone in the White House family quarters that was not attached to the recording system "and consequently it was not recorded."

He indicated that he, too, had thought the Dean meeting was recorded since he said he had "previously offered to let Assistant Attorney General [Henry E.] Petersen hear" it last spring.

Petersen, the last witness to appear before Sirica yesterday, was initially in charge of the Watergate investigation. He confirmed that it was a tape of the meeting itself that Mr. Nixon seemed to have been talking about. Petersen said he declined to listen to it because he did not want "to get anything except what we are getting from John Dean directly."

White House lawyers have told the judge, and the President reiterated yesterday, that the tape on the recording machine wired to Mr. Nixon's Executive Office Building hideaway suite where he met with Dean last April 15 had already filled up with earlier conversations during the busy weekend.

Alerted by Petersen to the apparent existence of a tape, former Watergate Spe-

cial Prosecutor Archibald Cox asked for it in a letter to Buzhardt last June 11. Buzhardt responded on June 16 that "the tape to which the President referred in his discussion with Mr. Petersen was a tape on which Mr. Nixon dictated his recollections of that conversation after it was finished. It would, of course, not be appropriate to produce that tape."

Mr. Nixon said that this had been his impression when Buzhardt wrote the letter. Before responding to Cox, Buzhardt said he had checked with the President, who told him "there was a Dictabelt" of his recollections of the Dean meeting.

The President said he did this without reviewing his personal diary file "to confirm that it contained the belt." He said he was in the habit of dictating such memos, which are then placed in that file by his secretary and "sealed under specific instructions that they not be transcribed."

Mr. Nixon indicated that he did not check this file until the Nov. 4-5 weekend when he was at Key Biscayne. Buzhardt said he was not told until Nov. 5—by White House chief of staff Alexander M. Haig Jr.—that the Dictabelt could not be found. Meanwhile, that same day, deputy White House press secretary Gerald L. Warren was telling newsmen in Miami the recording did exist and that the information on it would be made available to the court.

The President said he had found other dictation belts, including one containing his recollections of the Mitchell phone call and another recounting meetings with Dean last March 21. Both of these, he said, will be supplied to Sirica along with the tapes of seven Watergate conversations that Cox had subpoenaed in addition to the missing two.

Mr. Nixon said he would also voluntarily submit to the court the tapes of two conversations he had with Dean on April 16, the first in the Oval Office and the last in the Executive Office Building. The President said he recently reviewed those conversations and found that the Oval Office meeting with Dean on April 16

"covered much the same subject matter" as they had discussed the evening before.

The first time Mr. Nixon said he listened to his Watergate tapes was last June 4 when presidential assistant Stephen Bull took out 26 of them, according to Secret Service records, from their vault in the EOB. The records show that the tapes checked out included all the recordings at Mr. Nixon's EOB office from Feb. 28 to April 20.

Mr. Nixon spent 10 to 12 hours listening to tapes that Bull brought him, but he said yesterday that "all of the conversations to which I had listened that day had taken place prior to March 21, 1973."

He said he did that "to confirm my recollection that he [Dean] had not reported certain facts to me prior to March 21, 1973."

Under cross-examination by assistant special prosecutor Richard Ben-Veniste in court, meanwhile, Buzhardt said he couldn't recall even asking the President later in

June whether the Dean meeting had been recorded.

The White House special counsel's testimony on that issue had been held up in mid-stream Friday when the President's other lawyers indicated they wanted to consider whether to assert the attorney-client privilege. They decided not to do so over the weekend, according to acting White House counsel Leonard Garment, and Buzhardt resumed his testimony yesterday morning while the White House issued the President's statement.

In it, Mr. Nixon said it was only in late September "that I first became aware of the possibility" that the Mitchell call and the Dean meeting had not been recorded.

He was alluding to the Sept. 29-30 weekend at Camp David where his personal secretary, Rose Mary Woods, began trying to transcribe the subpoenaed recordings.

White House aide Bull, who accompanied Miss Woods to the presidential retreat where Mr. Nixon later joined them that weekend, said he was unable to

find the April 15 conversation on the tape where he thought it should be. He said he marked it "Part One" since it stopped in mid-sentence during an earlier April 15 meeting the President had with Attorney General Richard G. Kleindienst.

Bull said he also informed the President then that the conversation was missing and hazarded the guess that it might never have been recorded. Bull said the President told him of remembering that weekend that the call to Mitchell had been on a White House family phone not hooked up to the recording system.

It was apparently that same weekend, by Mr. Nixon's account yesterday, that he decided to come up with an out-of-court compromise in the fight over the tapes.

The President offered no explanation of why the White House waited until Oct. 31 to disclose that two of the conversations Cox had subpoenaed were at least missing. Mr. Nixon ordered the special prosecutor's dismissal Oct. 20 after Cox challenged the President's order to stop fighting in the courts for the Watergate tapes or any other recordings of presidential conversations.

The ouster brought a swell of demands for Mr. Nixon's impeachment. The President then abandoned his plan to give Sirica and the Senate Watergate committee a personal "summary" of the tapes and announced through his lawyers that he would "comply in all respects" with the court orders Cox had obtained for all nine conversations. It was not until the next week that the White House told Sirica that it had "determined" that two of the recordings never existed.

Mr. Nixon said yesterday that following his late September discoveries, he "ordered a further search for recordings of the two conversations in question and an investigation into the circumstances which caused the conversations not to be recorded." He said "the search and investigation were not finally completed until Oct. 27."