

Jaworski Asks Tape On ITT

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Watergate Special Prosecutor Leon Jaworski has asked for production of the tape of President Nixon's 1971 phone call ordering that the Justice Department drop its antitrust appeal against the International Telephone and Telegraph Co.

The presidential phone call, which has been acknowledged by the White House, was made to then Deputy Attorney General Richard G. Kleindienst on April 19, 1971 at a time when ITT officials were lobbying intensively against efforts by the Justice Department to bring the antitrust case to a Supreme Court test.

Kleindienst disclosed the call to then Watergate Special Prosecutor Archibald Cox. Several days before he was fired on Mr. Nixon's order, Cox cited the 1971 call as one of the reasons he could not comply with the President's request that he forgo his right to subpoena additional presidential documents.

There was no comment yesterday from the Watergate Special Prosecutor's office on Jaworski's written request to the White House for the April 19, 1971 tape. Jaworski has ordered that his staff not discuss any requests for evidence on Watergate matters.

Former Attorney General Elliot L. Richardson said yesterday that Cox had raised the issue of the ITT tape three days before Cox was fired at the President's

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order, followed by the resignations of Richardson and Deputy Attorney General William D. Ruckelshaus.

"It was an illustration," said Richardson, "of the sort of evidence that he felt he needed."

Richardson said he discussed Cox's interest in the ITT tape with then chief White House Watergate lawyer J. Fred Buzhardt prior to the Cox firing. Buzhardt's position, said Richardson, was that he saw no need on Cox's part for the tape. The

issue did not come to a head at the time because of Cox's dismissal.

Jaworski's request is now under consideration by the White House.

The issues in the President's phone call to Kleindienst are twofold: (1) what reasons were cited by the President in ordering Kleindienst to abandon a Supreme Court test to the ITT merger case and (2) the possibility that Kleindienst perjured himself in his repeated denials, during his 1972 confirmation hearings, of any White House pressure upon him to drop the appeal.

The call from the President was preceded, according to public accounts, by a phone call to Kleindienst from White House Aide John D. Ehrlichman urging the then Deputy Attorney General to drop the appeal. When Kleindienst refused, he received a second call from the President ordering him in blunt language to carry out Ehrlichman's instructions.

In confirming the President's phone call to Kleindienst following its first public disclosure last Oct. 30, the White House said Mr. Nixon's order to Kleindienst was based on his disagreement with what he believed to be the Justice Department view "that big game preserve was unlawful.

"When the specific facts

of the appeal were subsequently explained in greater detail, the President withdrew his objection and the appeal was prosecuted in exactly the form originally proposed," the White House said.

Actually the merger dispute was never submitted to a Supreme Court test but was settled out of court after a series of conferences between ITT officials and administration officials. The key to the settlement was an about-face by then Justice Department antitrust chief Richard W. McLaren, who had been pushing vigorously for the Supreme Court review. McLaren was subsequently awarded a federal judgeship.

As a result of the out-of-court settlement ITT was permitted to retain the \$2 billion Hartford Fire Insurance Co. but ordered to divest itself of other holdings. Cox has said publicly that he thought there was nothing improper in the President's voicing an opinion in the case and that the gov-

ernment's settlement was a fair one.

Meanwhile, in a heavily guarded, "bug-proof" jury room at District Court yesterday Judge John J. Sirica spent four hours listening to the Watergate tapes. Among the recordings monitored by Sirica was the one with the 18-minute gap.

Sirica wore earphones for privacy and was in the company of his law clerk, Todd Christofferson. He was listening to what were described as "exact copies" of the subpoenaed White House tapes.