

Jaworski Seeks 'Secret' Part of Tapes

Harassing of O'Brien Cited

By George Lardner Jr. 5/29/74
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Watergate Special Prosecutor Leon Jaworski said yesterday he has evidence that the White House illegally tried to initiate an Internal Revenue Service investigation of former Democratic National Committee Chairman Lawrence F. O'Brien.

In pleadings filed in U.S. District Court here, Jaworski said a tape-recorded discussion with Mr. Nixon of the harassment of White House "enemies" including O'Brien was apparently withheld from the Watergate grand jury on the grounds that it was protected by a legitimate claim of executive privilege.

Jaworski said the conver-

sation, between the President, former White House chief of staff H. R. (Bob) Haldeman and former White House counsel John W. Dean II, came at the end of a Sept. 15, 1972, meeting in the Oval Office.

U.S. District Court Judge John J. Sirica ruled last December that most of the subpoenaed tape should be turned over to the grand jury, but he upheld the claim of White House lawyers that the final 17 minutes should be kept confidential.

The President's lawyers maintained that the final part of the meeting was de-

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voted "to other subjects within the President's official cognizance not directly or indirectly related to the Watergate matter."

Sirica agreed, even after listening to the entire recording which he still has in his custody. He also upheld the President's claims of privilege for the notes Haldeman jotted down about the last part of the meeting.

Cautiously suggesting that the judge might have been mistaken, Jaworski asked Sirica yesterday to reconsider and release the rest of the tape, along with Haldeman's notes, for grand jury investigation.

"... It is our view that a claim of executive privilege should be denied when the court encounters evidence of criminal activity on matters even only indirectly related to Watergate," the prosecutor said.

Jaworski pointed out that Sirica had been told last November that the prosecutors were conducting a grand jury investigation of "alleged attempts by senior government officials to de-

fraud the United States and obstruct justice by misusing the Internal Revenue Service for political and personal objectives."

Since then, Jaworski said, additional evidence has come to light that bolsters the request for the rest of the tape.

That evidence, including grand jury testimony, Jaworski said, substantiates allegations:

- "That in September, 1972, the White House presented lists of individuals ("enemies") to the IRS with the direction that they be audited or otherwise harassed."

- "And that, in August and September, 1971, the White House unlawfully attempted to have the IRS investigate Mr. O'Brien."

Jaworski said "this evidence also indicated the likelihood that on Sept. 15, 1972, the President did in fact have discussions with

Mr. Dean and Mr. Haldeman concerning those matters."

The special prosecutor also cited the House Judiciary Committee's transcript of the Sept. 15 meeting which was obtained by The Washington Post earlier this month. Jaworski said it includes remarks at the outset of the meeting—before Dean walked into the room—that "had not been available previously to the special prosecutor."

At one point, in speaking of Dean before his arrival, Haldeman told the President that Dean was "moving ruthlessly on the investigation of McGovern people, Kennedy stuff, and all that, too . . . Chuck [Colson] has gone through, you know has worked on the list, and Dean's working the, the thing through IRS. . . ."

The White House evidently included those remarks in the city of the Sept. 15 tape it sent the House Judiciary Committee for its impeachment inquiry. Judge Sirica, however, apparently did not provide them for Watergate prosecutors because their subpoena called for the conversation starting at the moment that Dean walked into the room.

The only allusion to using government agencies to

harass political opponents on the public, White House-censored transcript of the Sept. 15 meeting comes in an exchange between the President and Dean.

After Dean said that he had started to keep notes "on a lot of people who are emerging as less than our friends," the President replied that "they are asking for it and they are going to get it. We have not used this power in this first four years as you know. We have never used it. We have not used the Bureau and we have not used the Justice Department, but things are going to change now. And they are either going to do it right or go."

Dean: "What an exciting prospect."

The name of O'Brien, who was then chairman of the McGovern campaign, was not mentioned in that exchange. However, in pressing for the tape of the final portion of the meeting, Jaworski pointed to White House counsel J. Fred Buzhardt's summary of the Sept. 15 meeting for Senate Watergate investigators last year. According to Senate documents, Buzhardt told them that "Dean reported on IRS investigation of Larry O'Brien."