

WXPost Excerpts of Nixon Tapes

NOV 27 1973

Position

Following are excerpts from the analysis and index of, and claims of executive privilege for, subpoenaed materials submitted by President Nixon's Watergate counsel, J. Fred Buzhardt, yesterday in U.S. District Court.

Pursuant to the special court procedures issued on Oct. 30, 1973, the President of the United States through his counsel submits herewith an analysis and an index of the subpoenaed materials, and particularized claims of executive privilege where applicable.

All materials subpoenaed are primarily identified in the subpoena as related to one of a series of specified conversations, one of which was a telephone conversation and the remainder of which were conducted in personal meetings. For each conversation, the subpoena demands production of "1. All tapes and other electronic and/or mechanical recordings or reproductions, and any memoranda, papers, transcripts or other writings, relating to" the specified conversation.

This submission treats each conversation covered by the subpoena separately, in the order of the subparagraphs of Paragraph 1 of the subpoena. (The materials covered by Paragraphs 2 and 3 of the subpoena were voluntarily provided by the President to the special prosecutor for the grand jury's use when the subpoena was issued.)

PART 1

Item 1 (a) of the subpoena relates to "Meeting of June 20, 1972, in the President's Executive Office Building (EOB) office involving Richard Nixon, John Ehrlichman and H. R. Haldeman from 10:30 a.m. to noon (time approximate)."

The President's daily diary log for June 20, 1972 (Exhibit 13) shows that the President met alone with his assistant, John D. Ehrlichman, from 10:25 to 11:20 a.m. in his EOB office. Subsequently, the President met with his assistant, H. R. Haldeman from 11:26 a.m. to 12:45 p.m. in his EOB office.

A. Conversation between the President and John D. Ehrlichman, from 10:25 to 11:20 a.m. in the President's EOB office.

(1) Tape Recording

This conversation was recorded on tape by the sound-actuated recording system described in testimony in the evidentiary hearing held by this court, and the tape recording is being submitted . . .

(a) Analysis

This conversation relates primarily to the Higher Education Bill then under consideration by the Congress. Other subjects discussed include school busing, the Supreme Court decision (U.S. v. U.S. District Court) on national security wiretapping, press conferences and press conference formats, legislative action on proposals for welfare reform and the Stockholm Conference on environment. During the conversation, the President conversed on the telephone with a deputy assistant, Edward L. Morgan,

about the higher education legislation.

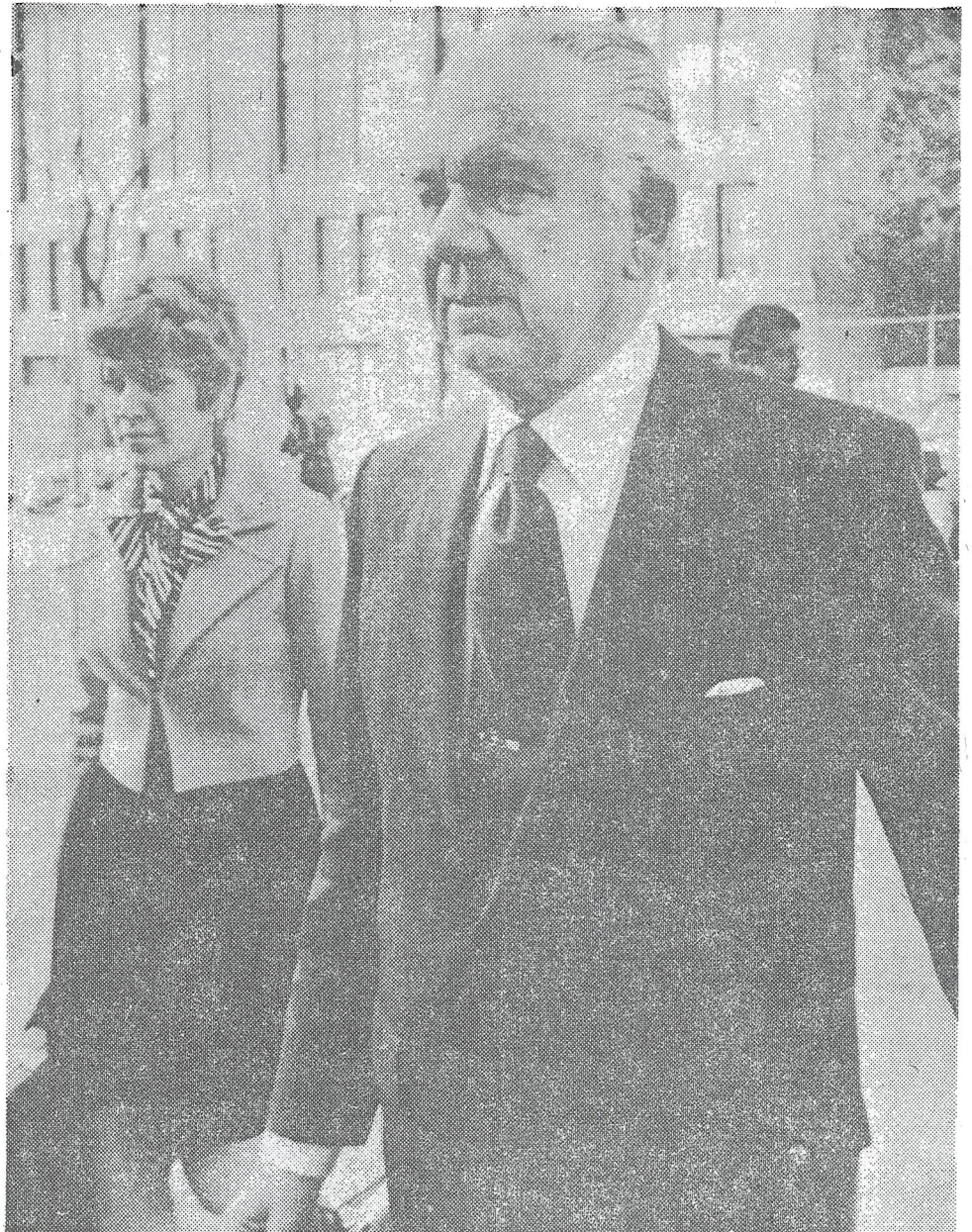
There is no discussion or comment which relates, either directly or indirectly, to the incident at the Democratic National Committee offices at Watergate which occurred a few days prior to the conversation . . .

(c) Particularized Claim of Executive Privilege

The conversation recorded on this tape consists of advice to the President by his then senior assistant for domestic affairs on official policy decisions then pending before the President, and the conveyance to the President by his assistant of the advice of other identified persons within the administration on the same matters. Nothing in the conversation relates to Watergate or anything connected therewith.

The President believes that the conversation is subject in its entirety to a claim of executive privilege in order to protect the confidentiality of advice given the President. . . .

B. Conversation between the President and his assistant, H. R. Haldeman, from 11:26 a.m. to 12:45 p.m. in the President's EOB office.



Associated Press

Watergate Special Prosecutor Leon Jaworski and assistant Jill Volner arrive at court.

(1) *Tape Recording*

This conversation was recorded on tape by the sound-actuated recording system described in testimony in the evidentiary hearing held by this court, and the tape recording is being submitted

(a) *Analysis*

This conversation relates primarily to scheduling and travel. For a portion of this recording, in lieu of any audible conversation there is a constant hum. At one point during the meeting, the President spoke on the telephone to his daughter, Julie. None of the recorded conversation relates to Watergate

(c) *Explanation of "hum"*

It is believed that the hum which occurs approximately 3 minutes and 40 seconds from the beginning of this conversation between President Nixon and H. R. Haldeman, and which continues for approximately 18 minutes and 15 seconds was caused by the depression of a record button during the process of reviewing the tape, possibly while the recorder was in the proximity of an electric typewriter and a high intensity lamp.

The incident was detected and reported when made to the President, and shortly thereafter to White House counsel, J. Fred Buzhardt, as having occurred on a portion of the tape recording subsequent to that of the meeting between the President and John Ehrlichman, which at that time and until Nov. 14, 1973, was believed to be the only part of that recording subpoenaed. The incident was therefore believed to be inconsequential.

The delay in discovering that the incident affected a portion of the tape containing a subpoenaed conversation was due to the ambiguity of the language of the subpoena . . .

(d) *Particularized Claim of Executive Privilege*

The conversation on the tape recording of the meeting between H. R. Haldeman and the President consists of advice to the President by a senior adviser on official decisions then pending before the President. None of the conversation recorded relates to Watergate.

The President believes

that the conversation is subject in its entirety to a claim of executive privilege in order to protect the confidentiality of advice given to the President. . . .

PART II

Item 1(b) of the subpoena relates to "telephone conversation of June 20, 1972, between Richard Nixon and John N. Mitchell from 6:08 to 6:12 p.m."

A. Dictating belt of Presidential recollection.

The only material relating to this conversation is a dictating belt of his recollections dictated by the President as a part of his personal diary on June 20, 1972, at 8:30 p.m., in which the President referred to his tel-

ephone conversation with John N. Mitchell. That portion of the dictating belt to and including the reference to the telephone conversation with John N. Mitchell is being submitted

(1) *Analysis*

That portion of the dictating belt on which the President dictated recollections of the conversation with John N. Mitchell does contain references to Watergate

(3) *Particularized Claim of Executive Privilege*

No claim of executive privilege is asserted with respect to that portion of the dictating belt on which are dictated the President's recollections of and comments on his telephone conversation that day with John N. Mitchell.

PART III

Item 1(c) of the subpoena relates to a "meeting of June 30, 1972, in the President's EOB office, involving Messrs. Nixon, Haldeman and Mitchell from 12:55 to 2:10 p.m."

A. Tape Recording

This conversation was recorded on tape by the sound-actuated recording system . . . and the tape recording of this conversation is being submitted

(1) *Analysis*

This conversation occurred at a luncheon in the President's EOB office, attended by President Nixon, John N. Mitchell and H. R. Haldeman, on June 30, 1972, immediately prior to the announcement of the resignation of John N. Mitchell as chairman of the Committee to Re-elect the President and the appointment of Clark MacGregor as his successor. The conversation relates primarily to the reasons for, the timing of, and the procedures for, Mitchell's announcement of his resignation, and the choice and announcement of his successor. There are a few passing and collateral references to Watergate which are not substantive. There is an incoming telephone call just prior to the conversation. At the end of the conversation, the President indicates his intention to take a short nap

(3) *Particularized Claims of Executive Privilege*

The conversation recorded consists of advice to the President by his senior staff assistant and his former Attorney General relating to matters which had a direct bearing on the President's ability to operate his office and conduct his official business at that time. The conversation includes discussions of highly personal matters. The President believes that the conversation is subject in its entirety to a valid claim of executive

privilege in order to protect the confidentiality of the matters discussed

PART IV

Item 1 (d) of the subpoena relates to a "meeting of Sept. 15, 1972, in the President's Oval Office involving Mr. Nixon, Mr. Haldeman and John W. Dean III, from 5:27 to 6:17 p.m."

A. Tape Recording

This conversation was recorded on tape by the sound-actuated recording system described in testimony given in the evidentiary hearings held by this court, and the tape recording of this conversation is being submitted. . . .

(1) *Analysis*

John W. Dean III, then counsel to the President entered the President's Oval Office at approximately 5:27 p.m. on Sept. 15, 1972, during a meeting then in progress between the President and his assistant, H. R. Haldeman. He remained in the Oval Office, as did the President and Mr. Haldeman, until approximately 6:17 p.m., at which time the President left by automobile for the Washington Navy Yard. Earlier in the day, the grand jury had returned indictments on seven persons in connection with the entry into the Democratic National Committee offices at the Watergate Apartments. For the first approximately 33 minutes and 9 seconds after Dean entered the Oval office, the conversation involves subjects directly or indirectly related to the Watergate matter. Included are discussions of the indictments, the time of the pending trials, the civil cases connected with the incident and potential congressional committee inquiries into the matter, as well as press coverage of the matter. After the first approximately 33 minutes and 9 seconds of the conversation, the conversation turns to other subjects within the President's official cognizance not directly or indirectly related to the Watergate matter. . . .

(3) *Particularized Claim of Executive Privilege*

No particularized claim of executive privilege is asserted to the conversation recorded on the first approximately 33 minutes 9 seconds of playing time of the tape

The conversation recorded subsequent to that point on the tape consists of discussions with and advice from the President's senior assistant and his counsel on matters relating to the President's conduct of his official duties and are unrelated to Watergate matters.

The President believes that the conversation . . . following the first 33 minutes 9 seconds of playing time is subject to a claim of executive privilege in order to protect the confidentiality of the advice and counsel provided to the President.

This particularized claim of executive privilege

should be sustained following the first 33 minutes 9 seconds of playing time of the tape, and this latter portion of the tape should not be submitted by the court to the grand jury. . . .

PART V

Item 1(e) of the subpoena relates to a "meeting of March 13, 1973, in the President's Oval Office involving Messrs. Nixon, Dean and Haldeman from 12:42 to 2:00 p.m."

A. Tape Recording

This conversation was recorded on tape by the sound-actuated recording system described in testimony in the evidentiary hearing held by this court, and the tape recording of this conversation is being submitted. . . .

(1) Analysis

The initial participants in this conversation were the President, H. R. Haldeman and John Dean. Mr. Haldeman's participation is limited to the very early portion of the conversation. Among the subjects of discussion were the employment of former members of the White House staff as consultants, questions and answers for a scheduled presidential press conference, comparative performance of the Federal Bureau of Investigation (FBI) in the former and present administrations, the nomination hearings on Mr. Gray as director of the FBI, prospective witnesses for the Senate select committee, the possible knowledge by potential witnesses of the Watergate matter and the potential sentencing of the defendants in the Watergate case. . . .

(3) Particularized Claim of Executive Privilege

Although the conversation . . . contains advice to the President from his counsel on official responsibilities, the subject matter of the conversation so frequently relates directly or indirectly to the Watergate matter that it cannot be separated from the conversation without destroying the meaning and comprehensibility of the overall conversation. Accordingly, the President asserts no particularized claim of executive privilege. . . .

PART VI

Item 1(f) of the subpoena relates to a "meeting of March 21, 1973, in the President's Oval Office involving Messrs. Nixon, Dean and Haldeman from 10:12 to 11:55 a.m."

A. Tape Recording

This conversation was related in its entirety to the sound-actuated system described in testimony given in the evidentiary hearing held by this court, and the tape recording is being submitted. . . .

(1) Analysis

This conversation was related in its entirety to the Watergate matter. The participants at the beginning of the meeting are the President and John Dean. H. R. Haldeman joined them shortly after the midpoint of the discussion.

(2) Index

The playing time for the tape recording of this conversation is approximately 1 hour 38 minutes and 38 seconds.

(3) Particularized Claim of Executive Privilege

None.

B. Cassette Recording of Presidential Recollections

A search of the presidential daily diary files disclosed a cassette recording on which the President had dictated at 9 p.m. on March 21, 1973, his recollections of events and conversations of that day, including references to his conversation with John Dean. This cassette recording is being submitted. . . .

(1) Analysis

The portion of material dictated on this cassette recording which refers to the President's conversation with John Dean is relevant to Watergate matters. . . .

PART VII

Item 1(g) of the subpoena relates to a "meeting of March 21, 1973, in the President's EOB office from 5:20 to 6:01 p.m. involving Messrs. Nixon, Dean, Ziegler, Haldeman and Ehrlichman."

A. Tape Recording

This conversation was recorded on tape by the sound-actuated recording system. . . and the tape recording of this conversation is being submitted. . . .

(1) Analysis

The President's log shows that Ronald Ziegler was in the room before H. R. Haldeman, John Ehrlichman and John Dean entered and that he remained for approximately five minutes after they entered. The recording, however, reveals no voice identifiable as that of Mr. Ziegler. The conversation appears to relate in its entirety to Watergate matters. . . .

(3) Particularized Claim of Executive Privilege

None.

PART VIII

Item 1(h) of the subpoena relates to a "meeting of March 22, 1973, in the President's EOB office from 1:57 to 3:43 p.m. involving Messrs. Nixon, Dean, Ehrlichman, Haldeman and Mitchell."

A. Tape Recording

This conversation was recorded on tape by the sound-actuated recording system. . . and the tape recording of this conversation is being submitted. . . .

(1) Analysis

A major portion of this conversation relates to the Watergate matter. . . .

(3) Particularized Claim of Executive Privilege

None.

B. Memorandum (Notes of H. R. Haldeman)

A search of the files disclosed handwritten notes of H. R. Haldeman. From identifying marks and content it appears that the notes were made during the meeting with the President, John Ehrlichman, H. R. Haldeman, John Dean and John Mitchell on the afternoon of March 22. The notes are on a page of paper from a yellow legal pad. The notes are being submitted. . . .

(1) Analysis

The notes appear to relate to Watergate in their entirety. . . .

(3) Particularized Claim of Executive Privilege

None.

PART IX

Item 1(i) of the subpoena relates to a "meeting of April 15, 1973, in the President's EOB office between Mr. Nixon and Mr. Dean from 9:17 to 10:12 p.m."

A. Memorandum (Notes of President Nixon)

A search of the President's personal diary file disclosed handwritten notes made by the President during his meeting with John Dean on April 15, 1973. The notes were made on four pages of paper from a yellow legal pad. These notes are being submitted. . . .

(1) Analysis

These notes all relate to Watergate matters in their entirety. . . .

(3) Particularized Claim of Executive Privilege

None.