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**JAWORSKI SEEKS
COURT SUBPOENA
FOR NIXON TAPES**

**He Wants 64 of President's
Talks With Aides for Trial
in Watergate Cover-Up**

PROSECUTOR RELUCTANT

**Says He Asks for Subpoena
Only After Failure to Get
Data in Informal Way**

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WASHINGTON, April 16—

The Watergate special prosecutor, Leon Jaworski, asked the United States District Court here today to issue a subpoena directing President Nixon to turn over tape recordings and other documents relating to 64 conversations between Mr. Nixon and four of his former top aides.

It was the first step in what could be another major confrontation between the President and the Watergate prosecution, and Mr. Jaworski made

*Text of the Jaworski letter
to St. Clair, Page 28.*

it clear that he would have preferred to avoid the confrontation.

In a set of legal papers filed with the clerk of the court this afternoon, the prosecutor said that he was asking for the subpoena only after trying in vain for months to obtain the tapes and materials from the White House in an informal manner.

He told the court that he needed the materials for the forthcoming trial of the seven defendants indicted in the Watergate cover-up case. He said that "information now available to the Government" indicated that each of the items he was seeking contained evidence that either could be used by the Government or that "might be helpful" to one or more defendants.

Impeachment Inquiry

Meanwhile, in the House Judiciary Committee's impeachment inquiry, it was learned from Administration sources that the White House was preparing to give the committee portions of subpoenaed tapes that the President's lawyers believed would serve as evidence.

Portions dealing with national security or matters felt to be irrelevant to the President's conduct will be screened out but identified in a statement being prepared for the committee, the sources added. (Details on Page 28.)

Mr. Jaworski told the court that despite requests made "as early as" Jan. 9 to James D. St. Clair, the President's chief defense counsel, for much of the material, "I have as yet received no definitive response" whether the material would be made available.

Mr. Jaworski took an even more frustrated and angry tone in a letter to Mr. St. Clair on April 11—disclosed today—informing the President's lawyer that a subpoena would be sought.

"I have delayed seeking a subpoena in the hope that the

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President would comply with our request voluntarily," he said in the letter. "Indeed, I have sought no more at this time than an assurance that the materials would be provided sufficiently in advance of trial to allow thorough preparation."

The White House had no immediate comment on Mr. Jaworski's move. At Key Biscayne, where the President was concluding his Easter vacation, a spokesman for Mr. Nixon said that there would be no comment until the lawyers had had a chance to study the prosecution's request.

Previously, as Mr. Jaworski has noted in the past, the White House has sometimes made available some of the other tapes that the prosecution has requested informally. On other occasions, the White House has contended that a tape was irrelevant but has given Mr. Jaworski an opportunity to listen to the tape to hear for himself.

Mr. Jaworski's motion to the court is expected to be granted quickly, probably without a hearing.

Judge John J. Sirica, the trial judge in the case and thus the judge to whom the motion would ordinarily be directed, is on vacation but is in touch with his office and has been informed that the prosecution's motion has been filed.

The 64 conversations listed by Mr. Jaworski in the schedule attached to his motion are conversations between Mr. Nixon and, variously, John W. Dean 3d, his former counsel; Charles W. Colson, a former special counsel; H. R. Haldeman, Mr. Nixon's former chief of staff, and John D. Ehrlichman, Mr. Nixon's former chief domestic adviser.

The last three are among the defendants in the cover-up trial, which is scheduled to begin Sept. 9. Mr. Dean has pleaded guilty to obstruction of justice and is expected to be the key Government witness at the trial.

'An Arduous Task'

Normally, subpoenas issued in connection with a trial, unlike those issued in connection with a grand jury investigation, are processed almost automatically. Generally, papers must simply be submitted to, and signed by, the court clerk.

Such subpoenas, however, are not returnable until the trial begins. To obtain material by subpoena before the opening of a trial, a motion, such as Mr. Jaworski made today, must be made to the court asking the court to order the issuance of a subpoena.

Mr. Jaworski told the court in an affidavit that he was asking for a subpoena that was returnable before trial "solely for the purpose of preventing any postponement of the trial or delay during the conduct of the trial."

If the White House complies with the subpoena and turns over the material the prosecution is seeking, Mr. Jaworski



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Leon Jaworski

said, it will have to be carefully examined and analyzed.

Then, he said, transcripts will have to be made for the judge and jury of the tapes that are to be used at trial—"an arduous and time-consuming task," he said, basing his assessment on "our experience with tapes of other Presidential conversations."

"Moreover," he said, raising the prospect of another constitutional clash between the White House and the judiciary, "if litigation should ensue with respect to the subpoena, it would be best for all concerned that such litigation be initiated promptly in order to avoid the possibility of postponing the trial."

Last summer, in the only other instance in which the Watergate prosecution has gone to the courts to seek access to Presidential information, the prosecution subpoenaed tapes and memorandums relating to nine conversations. That subpoena led to months of unprecedented litigation. The dismissal of Archibald Cox, Mr. Jaworski's predecessor, and the resignation of Attorney General Elliot L. Richardson.

The Court of Appeals here ruled in October that Mr. Nixon must comply with the subpoena. At first, the President, who had contended that the courts did not have the power to force him to answer the subpoena, announced that he would not comply; then, after massive public reaction, he reversed himself. But then the White House announced that two of those conversations had never been recorded, and that the tape of a third conversation had an 18½ minute gap. Those announcements led to further, still unresolved, legal proceedings.

Panel Issued Subpoena

Last week, the House Judiciary Committee issued a subpoena directing President Nixon to turn over tape recordings and other records of more than 40 conversations.

Of the 64 conversations for which Mr. Jaworski is seeking tapes and documents, 24 were listed in the Judiciary Committee's subpoena.

Mr. Jaworski did not refer in his affidavit or motion either to impeachment or to the committee's subpoena.

The first of the 64 conversations listed by Mr. Jaworski took place June 20, 1972, three days after the break-in at the Democratic National Headquarters at the Watergate complex; the last conversation took place on June 4, 1973, the day that the President is said to have listened to some of the Watergate-related tape recordings.

Most of the conversations, however, occurred in February, March and April of 1973, the period in which Mr. Nixon has said that he first learned of the cover-up and directed an inquiry.

The fact that many of the conversations were with Mr. Colson struck some observers as significant, because his name has not figured largely in pre-

vious requests, from the prosecution or other groups, for Presidential materials.

Mr. Colson has said that he told the President, during that period, that Mr. Nixon must force John N. Mitchell—his former Attorney General and a defendant in the cover-up indictment—to admit that he had played a role in planning the Watergate burglary.

However, he did refer to the Judiciary Committee in his letter to Mr. St. Clair, recounting that Mr. St. Clair had previously informed the prosecutor that the White House would not consider the prosecution's request "until the President decided what to provide the House Judiciary Committee."

"I have emphasized repeatedly that our request is in no way tied to the requests of the House Judiciary Committee," Mr. Jaworski said in the letter. "The requests are distinguishable both factually and legally." A spokesman for the prosecution, asked today whether Mr. Jaworski would turn over to the impeachment inquiry any material that he obtained through his subpoena, said that the matter had not yet been considered.

Six of the conversations on Mr. Jaworski's schedule occurred April 14, the day on which Mr. Ehrlichman has said that he gave the President his first detailed report on Watergate. Seven of the conversations occurred on April 16, the day on which, according to Mr. Dean, Mr. Dean told the President that he would not be a "scapegoat" for Watergate.

Six other conversations occurred on April 25. President Nixon has said that on that date he was told of the involvement of E. Howard Hunt Jr., one of the original Watergate defendants, in the break-in at the office of Dr. Daniel Ellsberg's former psychiatrist. According to Mr. Nixon, he directed this fact to be disclosed "immediately" to the judge in Dr. Ellsberg's trial.

Four of the conversations on Mr. Jaworski's schedule took place April 17. That was the day that President Nixon announced that, after "serious charges" were brought to his attention on March 21, he had ordered a new "intensive" investigation that had produced "real progress" in "finding the truth" about the Watergate break-in.