

Jaworski Seeks 'Secret' Part of Tapes

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Harassing of O'Brien Cited

Panel May Free Some Evidence

By George Lardner Jr.
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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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Chairman Peter W. Rodino (D-N.J.) said yesterday that there is "general support" among Democrats on the House Judiciary Committee for promptly releasing much of the evidence they have been examining in secret on President Nixon's involvement in Watergate.

Rodino made this announcement after committee Democrats caucused to discuss issues to be taken up at a business meeting of the committee Thursday.

The material includes evidence that the committee's staff has assembled concerning the President's involvement, or lack of it, in the Watergate break-in and

cover-up. This would include the staff's transcripts of tapes of presidential conversations on Watergate and many documents the White House has given the committee. Information given the committee by the Watergate grand jury presumably would be kept secret.

Committee Republicans at a separate closed caucus expressed general opposition to releasing the materials, on the grounds that this could prejudice the right to a fair trial of several former top White House aides who have been indicted on charges connected with the cover-up.

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Asked about this, Rodino said: "I believe we have deep consideration for matters that are going to be tried. We also must consider the overriding public interest" in learning what the evidence is. "Each member must make his own decision."

If the committee decides to release the material it has been examining, the voluminous file probably would be made public within a few days.

On Thursday the committee is also to decide on its response to Mr. Nixon's refusal last week to comply with its subpoena for tapes of his White House conversations on Watergate.

Several Democrats said they expect the committee to send the President a letter informing him that members could properly conclude from his refusal that he has something to hide from the impeachment inquiry. Rodino has been suggesting this in public statements for weeks, but it has never been formally

communicated to the President.

Earlier this month, when the President responded to the committee's first subpoena by furnishing edited transcripts rather than the demanded tapes, the committee sent him a one-sentence letter stating that he had not complied with the subpoena. The issue divided the committee deeply, largely along party lines, and most Republicans still consider a letter a meaningless gesture at best.

But the President's flat refusal last week to offer anything in response to the second subpoena will probably attract some Republican support for a stronger letter this time.

A proposal by some Republicans that the committee try to enforce its subpoena in court appears to have little support. The committee has been firm so far in declaring that the courts have no jurisdiction in an impeachment matter.

The committee is also to decide Thursday whether to begin hearing some evidence in open session next week. So far it has examined Watergate evidence in

seven closed hearings during the past two weeks. An eighth closed Watergate session is scheduled for today.

Next week the committee is scheduled to hear evidence on campaign contributions by the dairy industry and the International Telephone and Telegraph Corp. Some of these sessions are expected to be open, but some of the evidence is from grand jury records and presumably must be closed.

The committee may also decide Thursday whether to issue more subpoenas now for taped White House conversations on the dairy and ITT matters. The White House gave the committee a virtual turndown last week on its requests for tapes of 20 ITT and 46 dairy conversations. The committee may either subpoena these tapes Thursday or wait until it has examined available evidence and decide whether they are crucial to the case.

House Minority Leader John J. Rhodes (R-Ariz.), who had been urging the White House to turn over requested tapes, seemed to change direction yesterday

by calling on the committee to stop being "mesmerized by tapes" and call witnesses to obtain the needed information.

Calling the tapes "hearsay evidence," Rhodes said that the best evidence would be testimony from participants in conversations, taken under cross-examination. But Rhodes would not say that Mr. Nixon should be called to testify before the committee under oath. He considered sufficient the President's offer to be questioned under oath by Rodino and Rep. Edward Hutchinson (R-Mich.), the committee's senior Republican.

House Speaker Carl Albert (D-La.) reiterated his view that the tapes are the best evidence and that the White House should turn them over.

Ronald L. Zeigler, White House press secretary, told United Press International that a recommendation by the committee that the President be impeached "will come as no surprise... considering the nature of the committee and the approach of the staff."

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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 defraud 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."