

COURT FAILS TO GET TAPES OF 9 TALKS

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St. Clair Tells Sirica That
7 Were Not Recorded and
Others Cannot Be Found

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WASHINGTON, Aug. 7—

President Nixon informed the United States District Court here today that he could not find any tape recordings of nine more of the 64 White House conversations covered by the special Watergate prosecution's subpoena.

The nine include six conversations held by Mr. Nixon with H.R. Haldeman and John D. Ehrlichman in mid-April, 1973, the time when the Watergate cover-up was beginning to fail.

Mr. Nixon was to have given Judge John J. Sirica the final installment of the subpoenaed tapes today, in compliance with the Supreme Court's unanimous ruling July 24 upholding the subpoena.

But James D. St. Clair, Mr. Nixon's chief defense lawyer, told Judge Sirica this afternoon that five of the subpoenaed conversations were telephone calls placed through telephones in the private quarters of the White House that were apparently not connected to the White House taping system.

Mr. St. Clair told the court that another conversation took place in a lodge at the President's retreat at Camp David that had no taping system. Still another, he said, took place in a second lodge at Camp David from which the tape recorder had been removed a month before the conversation took place.

And, Mr. St. Clair said, he could not find tapes of two

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more conversations on the prosecutor's list. He offered, however, to "continue the search."

Yesterday, in a written "index and analysis" of an earlier installment of the subpoenaed tapes, Mr. St. Clair informed the court that a tenth conversation was apparently never recorded.

Judge Sirica listened to Mr. St. Clair's announcement impassively and made no comment. Lawyers from the special Watergate prosecution similarly refrained from comment when asked after the proceedings whether the announcement should be viewed with suspicion.

But Richard Ben-Veniste, an assistant special prosecutor, indicated the prosecution's concern when, during the proceedings before Judge Sirica, he asked whether the White House intended to turn over tapes of conversations that immediately preceded and immediately followed the allegedly unrecorded conversations.

14 Conversations Covered

Mr. St. Clair replied that he was willing to comply with any "reasonable" requests.

Mr. St. Clair did provide the court with some tapes, covering 14 other conversations. He also gave the court the final installment of copies that the White House had made of recorded conversations covered by the subpoena.

As it turned out, however, Mr. St. Clair gave the court one less tape than he originally thought he was giving. He told Judge Sirica that the tape recording of one of the subpoenaed conversations—at a meeting April 19, 1973, between the President and Mr. Ehrlichman—had been broken in the course of transcribing it.

The lawyer said that rather than try to splice it together, he was presenting both portions to the court, each portion on a separate reel in separate box. He presented two boxes to the judge's clerk, D. Todd Christofferson, and continued on to discuss the next conversation on the list.

Something Wrong

Mr. Christofferson, however, opened one of the two boxes. There was no tape in it.

"The two-part tape is now one tape," said Mr. Ben-Veniste, who had been watching Mr. Christofferson.

"You don't mind if I have a slight heart attack," said Mr. St. Clair, his voice sounding only partly jesting.

The situation was more or less resolved a minute later, when Richard Hauser, a White House lawyer, said that the tape recording had in fact been spliced together, with transparent tape.

The reason the two portions were still on the same reel rather than in their separate boxes, he said, was that then it came time to put the two portions in the boxes, the location of the splice could not be found.

Mr. St. Clair had been expected to turn over additional material today as well. He gave Judge Sirica some of the items that had been requested—the President's daily logs for the days on which the subpoenaed conversations took place, and the White House records showing who had access to the tapes between last Dec. 4 and today.

However, the lawyer did not turn over notes that may have been written about the subpoenaed conversations by Mr. Nixon or by any of the four former White House aides with whom the various conversations were held, Mr. Haldeman, Mr. Ehrlichman, John W. Dean 3d and Charles W. Colson.

Mr. St. Clair said that President Nixon had just told him this morning that he had begun to search his personal files for the notes. As for notes that may have been written by the others, Mr. St. Clair said that a "search" had been made but that notes had not yet been found.

'Working Papers' Destroyed

Mr. St. Clair also said that White House "working papers" developed in the course of preparing the edited White House transcripts issued by President Nixon on April 30—containing portions of 20 of the 64 conversations subpoenaed by the prosecution—had been destroyed.

Toward the end of the proceeding, Mr. St. Clair also said that he still had not yet lis-

ened to all of the tapes that the White House was turning over today or even to all of those that had been turned over in earlier installments.

The White House is to submit an "index and analysis" of the subpoenaed tapes, spelling out whatever claims of privilege the President might want to make regarding them. In an earlier proceeding, Judge Sirica had told Mr. St. Clair that he, Mr. St. Clair, was to take responsibility for preparing the index so that he could explain all the claims to the court.

Judge Sirica asked Mr. St.

Clair how he could argue the President's claims without having heard all the tapes. Mr. St. Clair said that he had listened to some of the tapes, that other White House lawyers—including J. Fred Buzhardt Jr., Mr. Hauser, George Williams and Geoffrey Sheppard—had listened to the others, and in nine out of ten cases "the requests for deletions were based on the irrelevance of the material."

The prosecution subpoenaed the tapes for use in the trial of the cover-up conspiracy case. Mr. St. Clair declined to discuss the tapes with reporters later, saying, "I represent the Government and I don't want to do anything to interfere with the Government's prosecution of this case."

In addition to the six conversations between Mr. Nixon and Mr. Haldeman and Mr. Ehrlichman in mid-April 1973, the conversations for which Mr. St. Clair failed to provide tapes today include the following:

On Nov. 15, 1972, at Camp David between Mr. Haldeman, Mr. Ehrlichman and Mr. Dean.

A conversation in late January 1973 between Mr. Nixon and Mr. Colson in which E. Howard Hunt Jr., one of the original Watergate defendants, was discussed.

A conversation on or about Feb. 20, 1973, between Mr. Nixon and Mr. Haldeman in which Jeb Stuart Magruder, the deputy campaign director, was discussed.

Mr. Magruder has pleaded guilty to charges involving the Watergate cover-up and is now in prison.