

Senate Committee Backs Jaworski Moves; Magruder Sentenced for Watergate Role

By a WALL STREET JOURNAL Staff Reporter
WASHINGTON — Senate protectors of special Watergate prosecutor Leon Jaworski formally took his side in his court battle with President Nixon over subpoenaed White House tapes.

The Senate Judiciary Committee approved a resolution saying the special prosecutor "is acting within the scope of his authority" in demanding that the President give him tapes of 64 recorded White House Watergate conversations. The committee also said it "commends" Mr. Jaworski "for his fidelity to the duties imposed upon him" by his unusual charter to get to the bottom of Watergate without White House interference.

The committee action doesn't require any follow-up by the full Senate, and hasn't any binding effect on anyone. It was the rather cautious reaction of Senators to Mr. Jaworski's complaint to them Monday night that the President is making a "farce" of Mr. Jaworski's prosecution of seven indicted former White House aides for conspiring to cover up Watergate crimes.

Separately yesterday, Jeb Stuart Magruder was sentenced to a prison term for his role in the Watergate break-in and cover-up while he was a Nixon aide.

For a while yesterday, some members of the Senate committee thought a big new fight with Mr. Nixon was coming, even involving a replay of last October's firing of Archibald Cox, the first special prosecutor. But White House deputy press secretary Gerald Warren said, when asked, that Mr. Nixon isn't considering firing Mr. Jaworski. On Capitol Hill, the Senate committee decided the dispute appeared to be confined to the federal courtroom, where Mr. Jaworski is winning anyway. By the end of the day, things appeared to have calmed down.

Reaction to St. Clair

On Monday, federal district Judge John Sirica ruled in Mr. Jaworski's favor by ordering the President to surrender by May 31 the 64 recorded conversations. The President's lawyer, James St. Clair, said he would appeal the decision to the federal appeals court. What alarmed Mr. Jaworski was a St. Clair legal argument that the courts can't intervene in a dispute between the special prosecutor and the President, because both are part of the Executive Branch. Mr. Jaworski said this claim infringed on his independence. Judge Sirica rejected Mr. St. Clair's argument, which presumably will be used again in the White House appeal.

Mr. Jaworski turned to the Senate Judiciary Committee for support and reassurance, because that group of Senators helped set the terms of his investigating charter when he was appointed to replace Mr. Cox last fall. The committee told him if he ran into any trouble he should let the panel know.

Chairman James Eastland (D., Miss.) called a closed meeting of the committee for yesterday afternoon, with Mr. Jaworski waiting in an anteroom to answer questions if he were called. While he waited, the committee decided a resolution would be a sufficient show of support, and approved it 13 to 1.

The dissenter was Sen. Edward Kennedy (D., Mass.), who said he agreed with the resolution but voted against it to protest the committee's nine-to-five vote against holding public hearings on the dispute. This would have led to a splashy fight that some of the committee liberals wanted, but which a majority felt wasn't necessary. The resolution, however, was a signal that the committee would try to come to Mr. Jaworski's rescue if his trouble gets worse. Still in reserve are bills setting up an independent special prosecutor's office that wouldn't be subject to presidential interference.

Impeachment Panel's Tape

Meanwhile, the House Judiciary Committee listened to the tape recording of a conversation of March 21, 1973, involving the President and White House aides John Dean and H. R. Haldeman, in which Mr. Nixon discussed the payment of hush money to Watergate defendants.

Rep. Edward Mezvinski (D., Iowa) said later that hearing the tape itself "raises even more questions about the President's participation" in the Watergate cover-up than arose from reading the White House-edited transcript of that tape. Another Democrat, Rep. George Danielson of California, said listening to the actual tape didn't change his earlier conclusion that the White House transcript was "very damaging to the President."

But Republican Rep. Robert McClory of Illinois said the tape suggests "at least in part" that Mr. Nixon was simply playing the devil's advocate, as he has contended, rather than ordering obstruction of justice.

Chairman Peter Rodino (D., N.J.) asserted the White House transcript of a March 17, 1973, meeting between the President and John Dean apparently is incomplete. The tape of another meeting—on June 4, 1973, between the President and his press secretary, Ronald Ziegler, indicates that at the earlier March 17 meeting the President and John Dean discussed "the Watergate matter, and possible involvement of White House personnel and others," Rep. Rodino told reporters.

But the transcript supplied by the White House is only three pages long and relates only to Donald Segretti, a political dirty trickster, and to the break-in at the office of Daniel Ellsberg's psychiatrist. Rep. Rodino said Special Committee Counsel John Doar will "seek clarification" as soon as possible from Mr. Nixon's lawyer, Mr. St. Clair.

Yesterday, Mr. St. Clair told the commit-

tee that the President hadn't given him any instructions concerning the committee's request for more than 60 taped conversations relating to allegations Mr. Nixon did favors for dairymen and for International Telephone & Telegraph Corp. in return for campaign contributions. Rep. Rodino said he was "sure" the committee wouldn't wait beyond early next week to issue a subpoena for these tapes, if Mr. Nixon persists in his silence.

In another Watergate development, Jeb Stuart Magruder, the deputy director of President Nixon's 1972 re-election campaign committee, was sentenced yesterday to 10 months to four years in prison for his role in the Watergate break-in and cover-up. Magruder, who began co-operating with prosecutors in April 1973, pleaded guilty last August to one count of conspiracy to obstruct justice.

"My ambition obscured my judgment," Magruder told Judge John Sirica prior to his sentencing. The judge ordered him to begin serving his prison term June 4 and recommended that he be assigned to the federal minimum security institution at Allenwood, Pa.

Meanwhile, two of Mr. Nixon's former top aides charged in connection with the 1971 burglary of Daniel Ellsberg's psychiatrist made little headway in their attempt to justify the action as a national security project.

During the second day of arguments on pretrial motions in the "Plumbers" case, federal district Judge Gerhard Gesell said there was a "threshold problem" with the national security argument raised by John Ehrlichman, Charles Colson and three other defendants. "I have no indication of any kind in any way, shape or form that the

President authorized" the break-in, Judge Gesell declared. The President's statement, in a letter to the Judge, that he intended that "the fullest authority of the President under the Constitution and the law should be used if necessary" to halt unauthorized national security disclosures clearly didn't constitute such an indication, the Judge said. He said a President ordering an exception to the Fourth Amendment guarantee against unreasonable search and seizure "must do so explicitly and specifically."

National Security Data

Judge Gesell repeatedly expressed skepticism that White House suspicions about Mr. Ellsberg, who at the time of the burglary had already been indicted for leaking the Pentagon Papers to the press, justified violating his psychiatrist's constitutional rights. And the Judge worried aloud about the consequences if everyone who acted on "good faith" beliefs, however twisted, were excused from criminal prosecution.

The judge said he intends to rule "before the week is out" on motions by the defendants to force government prosecutors to provide all information that might be pertinent to the national security issue for the June 17 trial. His "present disposition," Judge Gesell said, "is to stop a general romp through the intelligence agencies of this country to find documents to show the President had a rational basis to do what he didn't do."

Instead, the judge suggested that he

might authorize subpoenas for specific evidence the defendants want, to help explain the reasons behind their action. "I'm not trying to stop their defense," he told Mr. Ehrlichman's attorney. But he complained: "You're trying to wrap them in the mantle of the Presidency when the President didn't act."

Attorneys for the Watergate special prosecution force indicated they wouldn't object to letting the defendants subpoena specific documents or tape recordings from the White House and Executive agencies. Items proposed for subpoena, Judge Gesell warned, would be carefully scrutinized to be sure they were "germane" to the defendants' assertions as to their intent in planning the burglary.

At the start of yesterday's court hearing, Judge Gesell denied about a dozen motions for dismissal of the indictment, including one claiming that the break-in had been ordered by President Nixon. He did grant one motion, dismissing all charges against Felipe de Diego, one of three Miami, Fla., men accused of carrying out the burglary. Mr. de Diego had been given immunity in exchange for testimony to California, Florida and federal officials and the judge ruled that it would be impractical for the special prosecution force to show they hadn't used any of the immunized testimony in their case against Mr. de Diego.

Also yesterday, the Senate voted to extend the life of its special Watergate committee for another month, to June 30, and even beyond then if there hasn't been a final court decision on its suit to obtain five tapes from the White House. The deadline for the committee to file its report has already been extended once, from Feb. 28, and there was some opposition from Republicans to the further extension.