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**UNSOUGHT TAPES
REFUSED BY SIRICA**

**He Says Nixon Offer Would
Make Court a 'Depository'
for Extraneous Material**

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Special to The New York Times

WASHINGTON, Nov. 14 — Judge John J. Sirica rejected today President Nixon's offer to give the court several non-subpoenaed tape recordings of Watergate-related conversations, saying that the offer, if accepted, would turn the court into a "depository" and "clearing house" for extraneous material.

The President, Judge Sirica said, should not ask the court to take on so inappropriate a role.

All that the court should do and indeed "wishes" to do, the judge said in a memorandum is "deal with the subject matter before it"—the enforcement of the grand jury subpoena for recordings and other material relevant to nine particular White House conversations.

The White House now contends that two of those nine conversations were never recorded. Judge Sirica said, in a memorandum filed with the clerk of the United States District Court here, that the court's job is simply to determine "the possible justification for this response." It wants evidence regarding the "failure to produce subpoenaed material," he said, not material that

Continued on Page 40, Column 4

Continued From Page 1, Col. 2

has not been subpoenaed.

President Nixon made his offer on Monday, in a statement, as part of his effort to quell the disbelief and criticism brought on by the belated announcement of the tapes' non-existence.

According to Judge Sirica, President Nixon is perfectly free to release, in full or in part, as much extra material as he wishes. He is not free, however, in the judge's view, to enlist the court's assistance in the release.

"If the President thinks it advisable to waive any privilege and make tapes or other material public, he of course is free to do so at any time," Judge

Sirica wrote. "Should he want to provide the grand jury with materials that do not relate to the present hearing or materials that have not been subpoenaed, he should do so through the grand jury's counsel, the special prosecutor and not through the court. It would not be appropriate for the court to usurp the place of the special prosecutor and act as a clearing house for matters relevant to the grand jury's investigations."

Gerald L. Warren, the White House deputy press secretary, said tonight that the White House was "studying" Judge Sirica's memorandum and that it was "considering the possibility of making the material available."

Mr. Warren did not say precisely how the material might be released. He said only that the White House was "considering a number of things."

Two Not Recorded

The conversations not recorded were the June 20, 1972, telephone call between Mr. Nixon and John N. Mitchell, who is now under indictment for perjury and conspiracy to obstruct justice, and the April 15, 1973, discussion between the President and his former counsel, John W. Dean 3d, who has pleaded guilty to obstruction of justice.

On Monday, Mr. Nixon said that he had tape recordings of two conversations with Dean on April 16 and that the content of one of those two was similar to the content of the conversation the night before. He offered to give tapes of both of the April 16 conversations to the court.

Judge Sirica specifically declined these tapes today, however, saying that they "have no connection with the instant subpoena or enforcement thereof and would more appropriately be disclosed publicly or delivered to the special prosecutor if the President desire to release them."

Judge Sirica did not decline all the material that the President discussed in his statement Monday, however.

'Full Reel' of Recordings

The President, in addition to offering all existing recordings and notes of the conversations, as required by the subpoena, also said he was making available the "full reel" of recordings made by the White House on March 20, 1972, and the two reels from April 15, 1973.

These items are directly material to Judge Sirica's inquiry into the President's response to the grand jury subpoena, for they may provide some explanation of why the two disputed conversations were not among the conversations taped on those two days.

In his memorandum, Judge Sirica said he planned to listen to these tapes once he had completed his hearing—currently recessed—into the facts sur-

NOV 15 1973

rounding the tapes' alleged non-existence.

Any other material, though, such as the April 16 tapes, Judge Sirica said, is irrelevant to the issues before him.

The judge said he was writing the memorandum in order to avoid any "possible misunderstanding" about the court's role which may have been caused by either the President's offer Monday or by the testimony given so far in the court's hearing into the President's response to the subpoena.

The court's role, Judge Sirica said, is simply to assist the grand jury in "appropriate circumstances," and the enforcement of the grand jury subpoena was such a circumstance.

"The court would be unjustified, however," he said, "in extending its role beyond these bounds either to launch an investigation of its own regarding material or activities foreign to the present subpoena or to become a depository of non-subpoenaed material."