

SIRICA SUPPORTS NIXON ON 3 TAPES; BARS THEIR USE

Judge Finds No Relation to Watergate and Backs Plea of Executive Privilege

By LESLEY OELSNER
Special to The New York Times

WASHINGTON, Dec. 19 — Judge John J. Sirica sided with President Nixon today and ruled that nearly all of two of the tapes sought in the Watergate case and part of a third were covered by executive privilege and thus would not be turned over to the special Watergate prosecution.

He said that he had based his ruling largely on his finding, after listening to the tapes in his chambers, that there was nothing on the three segments that related to Watergate.

The ruling sustained, with only slight exceptions, both the descriptions of the contents of tapes and the claims of privilege that Mr. Nixon made in his statement to the court on Nov. 26. It was the President's first real victory in his protracted battle with the prosecution over the tapes, and, perhaps, an assist to his credibility as well.

Data Called Important

Meanwhile, the White House accepted today the service of subpoenas from the Senate Watergate committee for nearly 500 Presidential tape recordings and other documents, the White House press office said tonight. The papers were served on J. Fred Buzhardt Jr., the lawyer in charge of Mr. Nixon's Watergate legal team.

The White House press office gave no indication, however, of whether the President would provide the materials called for in the subpoenas.

According to an aide at the committee, the subpoenas call for tape recordings, electronic and mechanical "reproductions," notes, field telephones and writings relating to meetings and telephone calls "with just everybody." About 46 items are called for, the aide said, including 37 pieces relating to a \$100,000 campaign contribution reportedly made by Howard Hughes, the billion-

aire, to C. G. Rebozo, Mr. Nixon's friend.

Forecast by Prosecution

Judge Sirica's ruling appeared to indicate that the prosecution's subpoena for tapes and notes of nine White House conversations — the cause of months of historic litigation — was yielding somewhat less than the prosecution originally hoped and forecast.

The prosecution issued the subpoena last summer on the ground that tapes and notes of the nine conversations were "relevant and important evidence in the [Watergate] grand jury's investigation."

It backed up its argument by explaining, for each of the nine conversations, what Watergate-related information it hoped to get or, on the basis of testi-

Continued on Page 34, Column 3

Continued From Page 1, Col. 5

mony before the Senate last summer, might be expected to get.

Judge Sirica said today, in effect, that at least some of these conversations did not live up to the prosecution's expectations. Included were the June 20, 1972, discussion between Mr. Nixon and first John D. Ehrlichman and then H. R. Haldeman, his June 30, 1972, conversation with Mr. Haldeman and John N. Mitchell, who resigned later that day as chief of the re-election campaign; and to some extent, Mr. Nixon's Sept. 15, 1972, meeting with Mr. Haldeman and John W. Dean 3d, his former counsel.

Earlier, the White House had announced that two of the other conversations covered by the subpoena were never recorded. It subsequently announced that the Watergate-related segment of Mr. Nixon's June 20 discussion with Mr. Haldeman had been erased by an 18-minute buzzing sound.

The prosecution said this afternoon that it accepted Judge Sirica's ruling and would not appeal it.

Judge Sirica has certified that we are to receive all of the tapes that contain relevant information," a spokesman for the special prosecutor, Leon Jaworski, said in a statement issued after the ruling. "This is all that the special prosecutor's office is entitled to and is all that we sought."

"Judge Sirica has made express finding that the matters as to which executive privilege was claimed do not relate to the Watergate investigation, and we accept these findings," the statement said.

Several of the subpoenaed tapes and notes for which the President did not claim privilege have already been turned over to the prosecution, along with some nonsubpoenaed tape

recordings. Judge Sirica's law clerk, D. Todd Christofferson, said today that the remaining subpoenaed, nonprivileged materials were being copied and should be turned over to the prosecution by Friday afternoon.

The first of the three tapes covered by today's ruling—the June 20 tape, included conversations held in President Nixon's office at the Executive Office Building—just three days after the Watergate break-in. In a memorandum describing the subpoenaed recordings, the prosecution said last summer that the tape "should show the extent of the knowledge of the illegal activity by the participants or any effort to conceal the truth from [Mr. Nixon]."

Today, though, Judge Sirica said that the first portion of that tape—in which Mr. Nixon met with Mr. Haldeman—was covered by privilege because "the recorded conversation consists of advice to the President by his then senior assistant for domestic affairs on official policy decisions then pending before the President."

"It includes conveyance to the President by his assistant of the advice of other identified persons within the Administration on the same matters, and nothing in the conversation relates to Watergate or anything connected therewith," the judge said.

Judge Sirica excluded most of the second portion of the June 20 tape—the Nixon-Haldeman segment—with a similar statement.

The only part that was not excluded was the part that bears the 18-minute buzzing. This has already been played in court. Judge Sirica also noted that because Mr. Haldeman's notes of the meeting have already been introduced in court, the claim of privilege for those notes was waived.

Judge Sirica withheld other notes, though, to the extent that they related to privileged portions of the tapes.

WASHINGTON, Dec. 19 (AP) —The subpoenas were delivered to the White House by attorneys for the committee. Committee aides said there was no indication that White House attorneys had tried to refuse to

accept them. In addition to seeking the tape recordings of White House meetings and telephone calls, the committee subpoenaed 37 specific pieces of information relating to a \$100,000 campaign contribution reportedly made by the billionaire industrialist Howard R. Hughes through President Nixon's close friend C. G. Rebozo.

The subpoenas were delivered little more than a day after Mr. Nixon reluctantly allowed to become law a bill giving the Federal District Court here jurisdiction over Congressional subpoenas.

Also sought were ledgers, books of accounts, receipts, appointment books, checks and check stubs, deposit slips and bank statements and petty cash records.

Seventy requests for information, all of them specific, were made for data concerning alleged Administration favoritism toward the dairy industry in exchange for donations to

Mr. Nixon's 1972 re-election campaign.

The subpoenas also included a demand for the President's daily appointment log from Jan. 1, 1970, to Dec. 19, 1973.

The committee is also seeking copies of credit card vouchers and airline and railroad records relating to dozens of activities of the White House, the President, his chief aides and other Watergate principals.

The White House had no immediate reaction to receipt of the subpoenas. The President's chief Watergate counsel, J. Fred Buzhardt Jr., could not be reached.

The Watergate committee tried unsuccessfully last summer to subpoena certain key Watergate tapes. When the White House refused to turn over the tapes, the committee took the case to court. But Federal District Judge John J. Sirica ruled that he had no jurisdiction over Congressional subpoenas.