

President's Release of the Transcripts May

NEW PROCEEDINGS ARE ALSO POSSIBLE

Legal Experts Believe That Civil Suits Based on Libel on Defamation Could Result

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WASHINGTON, April 30 — Whatever else President Nixon may have accomplished or failed to accomplish in releasing his carefully edited transcripts of Watergate conversations, he

has opened up a vast trove of evidence that may affect a number of criminal cases now pending in the courts. His action may also lead to additional proceedings not previously contemplated, criminal as well as civil.

It may lead as well to further proceedings against Mr. Nixon himself—to disbarment proceedings, for instance, whether or not Mr. Nixon is impeached, or even, some legal experts said today, to civil suits based on defamation or libel.

The first time that the release of the transcripts may affect another legal proceeding is just two days from now: At 10 A.M. Thursday, Mr. Nixon must respond, in Federal court, to a Watergate prosecution subpoena for tapes and other materials relating to 64 White House conversations involving the Watergate cover-up.

James D. St. Clair, the President's chief defense counsel, said today that the White House planned to ask the court to quash the subpoena.

'Best Evidence' Needed

The Watergate prosecution has already made clear its intention to insist on the tape recordings themselves. Because the materials are being sought for use at trial rather than by a grand jury, the prosecution has a strong case; evidence presented at a trial must be the "best evidence," the original, rather than a copy or a summary.

But beyond that, Mr. Nixon, in making public the transcripts he released today, has destroyed the main argument he has previously made in resisting subpoenas. He was resisted such subpoenas on the ground that the matter is covered by executive privilege, and that a key reason for the privilege is the need to keep Presidential conversations "confidential." In making public transcripts of Presidential conversations, he has destroyed that confidentiality.

The trial of the six defendants charged with the burglary of the office of Dr. Daniel Ellsberg's former psychiatrist is scheduled to begin in June; the

transcripts released today may have an impact in that proceeding as well. For one conversation included in Mr. Nixon's collection could be interpreted as a flat contradiction of a key defense contention in the Ellsberg break-in case.

Those defendants contend that they were motivated by legitimate concerns of national security. The transcripts show, however, that the matter came up during a conversation between Mr. Nixon, and two of his aides on March 21, 1973, and that Mr. Nixon commented, thus, on the White House involvement in the break-in: "I don't know what the hell we did that for!"

Another Trial Involved

The Presidential release today may also affect the outcome of the forthcoming trial of the seven defendants charged with the Watergate cover-up—although in this case, the effect may be harmful to the prosecution rather than to the defense. For John W. Dean 3d, the President's former counsel, is expected to be a key prosecution witness in the cover-up case. And the material released by Mr. Nixon today—particularly the 50-page legal brief attached to the transcripts—tend to portray Mr. Dean as less than totally forthright.

Mr. Dean's credibility, of course, has also been cast into some doubt in the wake of the acquittal in the Mitchell-Stans trial in New York in which he was a key prosecution witness. On the other hand, much of the testimony that Mr. Dean has given in previous proceedings had been corroborated.

Both the cover-up trial and the Ellsberg break-in trial may also be affected in another way: By the heavy publicity that is already being generated by the President's transcripts. The law is firmly established that defendants are entitled to trial by an unbiased jury; pre-trial publicity can sometimes prejudice jurors.

The law, thus, requires courts to take steps to mitigate the prejudicial effect or, if that is impossible, to dismiss the charges. Yale Kamisar, a constitutional expert at the University of Michigan law school, noted today that dismissal was almost never used as a remedy. He added, though, that the defendants would probably be able to get a six month delay in the start of their trial.

And so every court buff knows, defense attorneys like as much delay as they can get—on the off chance that witnesses' memories may grow hazy, for instance, or that witnesses may change their minds

about testifying or perhaps even die.

The special Watergate prosecution already has tapes of some of the conversations included in today's transcripts and has used them to obtain indictments. If the Nixon transcripts accurately reflect the conversations allegedly recorded, though, they may provide material for other prosecutions as well. For in some instances, conversations apparently could be construed to be either parts of crimes themselves, such as part of a conspiracy, or to include references to past crimes.

The transcripts may also provide grist for civil law suits. Aryeh Neier, the director of the American Civil Liberties Union, said today that the release of the transcripts was a violation of the privacy rights of some of the participants in the conversations as well as of some persons whose statements were quoted by participants in the conversations.

Affect Some Pending Criminal Cases

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