

Nixon Denies Tapes, Data to Jaworski Public Interest, Privilege Cited

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President Nixon personally refused yesterday to produce the tapes and documents subpoenaed by Special Prosecutor Leon Jaworski for the Watergate cover-up trials.

Formally invoking executive privilege in a one-page statement submitted to U.S. District Court Judge John J. Sirica, Mr. Nixon said that he had decided that disclosure of any more of his conversations "would be contrary to the public interest."

In a long, uncompromising memo that was submitted with the President's own brief statement, White House lawyers renewed last year's hard-line arguments that "a President is not subject to compulsory process from a court" and strongly hinted that they were prepared this time to carry the dispute to the Supreme Court.

White House special counsel James D. St. Clair contended, however, that the new subpoena was so thinly supported that a protracted court fight should not be necessary.

He maintained that Watergate prosecutors were plainly embarked on a "fishing expedition" for more evidence to strengthen the conspiracy charges against seven of the President's former top aides and campaign advisers.

Demanding that the subpoena be quashed "in all respects," St. Clair asserted that "absolutely no attempt has been made by the special prosecutor to establish either the admissibility or relevancy of any of the requested items."

Sirica directed issuance of the subpoena April 18 at Jaworski's request. It calls for the recordings, and any related documents, of 64 post-Watergate phone calls and conversations, most of them involving Mr. Nixon himself.

The meetings touch on the President's dealings
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with former White House special counsel Charles W. Colson, meetings believed to bear on alleged attempts to use the Central Intelligence Agency to block the Watergate investigation, conferences around the time that Watergate conspirator E. Howard Hunt Jr. was demanding \$120,000 in "hush money," and high-level sessions in April of 1973 when John W. Dean III and Jeb Stuart Magruder started talking to government prosecutors.

St. Clair stressed that in seeking the tapes, Jaworski simply stated that the conversations "in all probability" would be needed for the upcoming cover-up trial this September. The White House lawyer called it "evident that the special prosecutor is unable to make the necessary showing" for each of the recordings.

In his statement, Mr. Nixon noted that White House-edited "portions of 20 of the conversations" Jaworski had subpoenaed had already been made public this week in connection with their submission for the House Judiciary Committee's impeachment inquiry. The President said he was making "no claim of privilege" for these.

A White House spokesman indicated later, however, that this did not mean that Mr. Nixon was prepared to give up the tapes of those 20 conversations. Mr. Nixon was said to be abandoning any claim of privilege simply for the transcripts, which lawyers say are not admissible in court.

Citing the court rulings that led to the President's surrender last fall of several crucial tapes for the Watergate grand jury, St. Clair argued that the new subpoena falls far short of the standards laid down then.

The U.S. Circuit Court of Appeals here, in upholding the grand jury subpoena, held last October that presidential conversations were "presumptively privileged," but struck the privilege down because Watergate prosecutors had made a "uniquely powerful showing" of the grand jury's need for the tapes.

Since an indictment in the

Watergate scandal has been returned by that same grand jury, St. Clair said, "the special prosecutor must have been satisfied that the evidence then available to him was enough to make a prima facie showing of guilt against the persons who were indicted. Thus the need for additional incriminating evidence, even if the items presently sought were in fact evidentiary, can at best only be classified as merely cumulative or corroborative—certainly not vital or particularly necessary."

Jaworski has also argued that the tapes will be needed for the prosecution to meet defense demands for evidence that might be favorable to those indicted.

St. Clair denied that the defendants are entitled to any evidence that is "constitutionally unavailable to the prosecutor" in the first place. He told newsmen at a White House briefing yesterday morning that the President saw no reason for going beyond the voluminous transcripts already made public.

"I do not believe," St. Clair said, "that we, on behalf of the President, are required to listen to thousands of hours of tapes to be sure that there is nothing in them that is exculpatory or examine every file in the executive branch of the government to find out if there is anything exculpatory in them."

Sirica will hold a hearing at 10 a.m. today in the new dispute. He may call on Jaworski as well as defense lawyers to submit written responses before making any ruling.

Yesterday afternoon, after an unusually light day, the President left by helicopter to spend the night at his Camp David retreat.

From the moment of his decision to release the transcripts, Mr. Nixon has been concerned with the possible public response to the "blemishes" they reveal. St. Clair addressed himself to this concern yesterday at his briefing in the Executive Office Building, when he was asked whether the transcripts do not revive the allegations of "Tricky Dick" Nixon.

St. Clair responded that the decision to release the transcripts was "a tough call" but one that the President felt necessary because "people were beginning to think far worse things than were in fact so."

"And there they are, the good and the bad of it," St. Clair said.