

Sirica Imposes Secrecy on Battle Between Nixon and Jaworski Over Tapes

WONDAY HEARING
MAY BE CLOSED

Judge Seals Prosecution's Statement on Why It Seeks White House Recordings

By LESLEY OELSNER

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WASHINGTON, May 10 — Judge John J. Sirica imposed today a strict gag rule that apparently forbids even President Nixon to comment on the latest developments in the battle between Mr. Nixon and the Watergate prosecution over subpoenaed White House tape recordings.

Judge Sirica also placed "under seal" a written report in which the prosecution explains in detail why it wants the subpoenaed material.

In another surprise move, the judge indicated that the court hearing into the subpoenaed tapes, scheduled for 2 P.M. Monday, might be closed to the public.

Judge Sirica outlined these steps this afternoon in a brief statement to reporters. He gave no explanation for the secrecy, and concluded his statement by saying that "no questions by reporters on this subject should be directed to chambers."

Obtained by Prosecution

The circumstances surrounding the statement, however, suggested that his moves were prompted at least in part by the type of information that the prosecution has already obtained about the 64 White House conversations covered by the subpoena.

The statement was issued after a meeting at the courthouse in which Leon Jaworski, the special Watergate prosecutor, submitted a memorandum explaining the relevance of the subpoenaed material to prosecution of the Watergate cover-up case.

All but one of the 64 conversations involved the President and one or another of four of his former top assistants. The exception was a discussion by some of those aides in which the President apparently did not participate.

The four aides are John W. Dean 30, the dismissed White House counsel who is expected to be the major prosecution witness in the cover-up trial; and H. R. Haldeman, John D. Ehrlichman and Charles W. Colson, who are defendants.

Suggestion of "Accommodation"

Portions of 20 of the conversations were included in the typed transcripts that Mr. Nixon released last week. But the President, through his attorneys, asked the court to quash the subpoena, which called for tape recordings as well as written memoranda of the conversations.

His attorneys, headed by James D. St. Clair, contended that the prosecution had failed to show that the subpoenaed materials were either relevant or admissible as evidence, and that the prosecution had failed to demonstrate any compelling need for the materials.

Earlier this week, Mr. St. Clair strongly suggested that the President was willing to reach an "accommodation with" Mr. Jaworski on the subpoena that led Judge Sirica to delay the proceedings and to explain the delay by stating that there is a possibility of compliance. But the President subsequently decided to press ahead with his motion to quash the subpoena, and so, at noon today, Mr. Jaworski made his response.

The normal procedure is for legal papers to be filed with a clerk of the court, as part of the public record that all can see. Mr. Jaworski, however, apparently submitted his in person to Judge Sirica—at a meeting, arranged by the judge, with lawyers for the seven defendants in the cover-up case and lawyers for Mr. Nixon.

The number and identities of the participants at the meeting suggested that something crucial was happening. For the prosecution, there were, in addition to Mr. Jaworski, five other lawyers: James Neal, Richard Ben-Veniste, Jill Winegradner, Philip Lacovara and Peter Kreindler. For the White House, both Mr. St. Clair and Fred Buzhardt.

At the close of the meeting each attorney brushed aside reporters' inquiries, citing the judge's order to remain silent.

Previous Instructions

Judge Sirica had previously told the prosecution and the defendants in the cover-up case to make out-of-court statements about it. He had also told the prosecution and the White House not to discuss the current proceedings regarding the 18½-minute gap in a key White House tape. Today's gag rule, however, appeared far broader than his previous instructions.

As for the prosecution memorandum, Judge Sirica said simply that "for the time being" would be held under seal, on the subject of the court

hearing Monday, he said only that "it may be necessary to make the hearing an in camera proceeding," and that a decision would be made Monday morning.

In another development, several of the defendants filed an appeal of Judge Sirica's decision in which he refused

their request to disqualify himself.

Judges have inherent discretion to take such steps as "sealing" court papers. This discretion, several court observers said today, stems from the common law rather than statute and may be used whenever the court feels that such a step is necessary to protect rights of persons before the court. Often, these observers said, the judge makes such a move at the behest of the prosecution.

Some observers suggested that the judge felt it necessary to keep the memorandum private in order to avoid prejudicial pretrial publicity.