

Explanation: 2 Conversations That Weren't Taped And a Defective Recording Concern House Panel

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The House Judiciary Committee is ending its initial examination of the Watergate case this week. Its focus is on whether President Nixon joined or acquiesced in a second cover-up of the facts in the case after the first cover-up went awry.

Today, the panel examined evidence of how two of the President's most important conversations that were subpoenaed by the authorities were said not to have been recorded and how the tape of another conversation turned out to be seriously defective.

Insofar as is known, there is no evidence that Mr. Nixon personally tampered with any of the tapes or ordered anyone else to do so. Judge John J. Sirica of the United States District Court here has suggested, however, that someone must have meddled with one of them.

Shortly after the White House recording system was disclosed last July, Mr. Nixon claimed sole custody of the tapes. In a July 23, 1973, letter to Senator Sam J. Ervin Jr. of North Carolina, chairman of the Senate Watergate committee, the President wrote: "The tapes, which have been under my sole personal control, will remain so."

Moreover, there is testimony showing that the President did not disclose to the courts the fact that the subpoenaed tapes were missing or defective until long after he first learned about them.

The questions faced by the Judiciary Committee are these: Was the President, having taken custody of the tapes, responsible for the destruction of evidence? And, if so, is that an impeachable offense?

What follows is an explanation of the evidence about the tapes:

Unrecorded Talks

Despite two court rulings against him, President Nixon refused through the middle of last October to release the nine Watergate tapes that had been subpoenaed by the first special prosecutor, Archibald Cox.

But after Mr. Cox was discharged on Oct. 20, the public outcry was much sharper than had been expected by the White House, and, in response, Mr. Nixon decided to turn over the tapes to the court. The President's new position was announced in Judge Sirica's court by Charles Alan Wright, a White House lawyer, on Oct. 23.

A week later, however, an-

other White House lawyer, J. Fred Buzhardt, told Judge Sirica and representatives from the special prosecutor's office that two of the nine conversations had never been recorded. The next day, Oct. 13, Mr. Buzhardt repeated the announcement in open court.

The White House conceded that President Nixon had known of the missing recordings at least since Sept. 29, more than a month before they were disclosed.

The two conversations were a June 20, 1972, telephone discussion between the President and John N. Mitchell, then his campaign director, and an April 15, 1973, meeting between the President and John W. Dean 3d, then White House counsel.

The White House explanation for why conversations had not been recorded has never been challenged. The Mitchell conversation, the President and his lawyers said, was made from a phone in the residential portion of the White House that was not connected to the recording system. The Dean conversation, it was said, took place late on a Sunday evening, and the recording machine had run out of tape that afternoon.

18½-Minute Buzz

Far more serious in the minds of Judge Sirica and in-

vestigating authorities was the announcement by Mr. Buzhardt on Nov. 21 that an 18½-minute discussion between the President and his former chief of staff, H. R. Haldeman, on June 20, 1972, had been obliterated on the tape by a shrill buzzing sound.

The White House acknowledged that the discussion had been about the Watergate burglary three days before and that the President had known about the existence of the buzz for a week before it was announced in court.

The initial White House explanation was that the President's Secretary, Rose Mary Woods, had accidentally pressed the wrong button while she was transcribing the tape and had erased the segment. However, Miss Woods testified that she could have erased no more than five minutes of the conversation.

A panel of technical experts appointed by the court with the approval of both the White House and the special prosecutor's office filed an extensive report two weeks ago concluding that the erasure had been caused by at least five separate manual "pushings" of the tape-recorder keys.

The panel said it was drawing no "inference" about whether the erasure had been made "accidentally or inten-

tionally" or "by what person or persons."

An electronics expert retained by the White House after the court-appointed panel stated its preliminary conclusions earlier this year issued a separate report saying that he could not rule out "finally and irrevocably" that the erasure and the buzz had not been caused by a faulty machine. He offered no evidence, however, that the machine had caused them.

During the period in which the tape experts said the erasure must have occurred, only a handful of Presidential assistants and, perhaps, the President himself had access to the tape.

Mr. Nixon, in a televised speech last April 29, made the following statement about the gap in the tape:

"Now how it was caused is still a mystery to me, and I think to many of the experts as well. But I am absolutely certain, however, of one thing—that it was not caused intentionally by my secretary, Rose Mary Woods, or any of my White House assistants."

Judge Sirica, however, found that there had been "unlawful tampering" with the tape, and he strongly suggested that the special prosecutor turn over the matter to the grand jury for investigation.

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