

WXPost

JUL 10 1974

# Jaworski-St. Clair Meeting Put Off

By John P. MacKenzie

By a Washington Post Staff Writer

Special Prosecutor Leon Jaworski yesterday sought to take up the offer of presidential lawyer James D. St. Clair to make available portions of 20 of the 64 tape recordings that are the subject of the Supreme Court battle over executive privilege.

A meeting to clarify the terms of the offer was scheduled for the chambers of U.S. District Court Judge John J. Sirica but was put off because St. Clair was tied up in long House Judiciary Committee proceedings.

Judge Sirica, who is scheduled to preside at the Sept. 9 conspiracy trial of six former top administration and campaign officials, called the meeting at Jaworski's initiative.

St. Clair's thus-far ambiguous offer, made in a Supreme Court brief and repeated during Monday's hearing in the high court, was limited to the conversations already depicted in the edited transcripts released by the White House in May.

The offer, even if acceptable to Jaworski, defense counsel and Judge Sirica, would not settle the Supreme Court dispute over executive privilege, since President Nixon continues to claim the right to withhold evidence in the remaining 44 conversations Jaworski says are needed for the trial.

Jaworski has argued that the President's published transcripts, along with other "selective" public disclosure and granting access to defendant H.R. Haldeman, constitute a waiver of any privilege he has. St. Clair replied that executive privilege, unlike other rights to withhold evidence, can be invoked selectively.

St. Clair told the justices that "whatever has been published to the public we are quite prepared to verify the accuracy of." He said he would verify the accuracy of the printed transcript but added—apparently expanding on the offer—"As soon as the judge approves some method of validating the accuracy of

the tapes, they can have the tapes."

The difference between a verified transcript and the actual tapes could be crucial. In the past the special prosecutor's office has rejected transcripts and contended that under the so-called "best evidence rule," the defense may properly argue that the tapes themselves must be used if available.

Disagreement over this point last fall helped produce the "Saturday night massacre" firings and resignations of Attorney General Elliot L. Richardson, Deputy Attorney General William D. Ruckelshaus and Archibald Cox, Jaworski's predecessor as special prosecutor.

Cox balked at President Nixon's initial refusal to obey court orders to produce nine tapes and at Mr. Nixon's plan to submit transcripts to Sen. John C. Stennis (D-Miss.) for verification. Richardson quit rather than obey the President's order to fire Cox.

St. Clair's offer also resembled the President's April proposal to permit the House Judiciary Committee's two top members to listen personally to the tapes and check the accuracy of the White House-edited version of 43 Watergate-related conversations. The committee rejected the proposal and said the plan failed to comply with the panel's subpoena.

Speaking of the 64 disputed tapes to reporters yesterday, St. Clair said, "More than likely, virtually all of them are in existence, but I cannot guarantee they all are, by any means." He told the high court on Monday that he had not listened to any of them.

St. Clair said no survey had been made of the tapes and it may take days to locate them. Quoting Jaworski, he noted that even if the Supreme Court upholds Judge Sirica's order to produce the tapes, it could take two months to screen them for legally privileged material and prepare them for the trial.