

Delay in Cover-Up Trial Held Likely; Nixon's Legal Status Is Still in Doubt

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WASHINGTON, Aug. 12—A delay in the trial of the Watergate cover-up case appeared increasingly likely today, in large part because of President Nixon's resignation last week.

Judge John J. Sirica of United States District Court here continued to process the subpoenaed White House tape recordings for use at the trial, ruling this afternoon that recordings of three more conversations by the former President be turned over in full to the prosecution.

But former Attorney General John N. Mitchell, one of the six defendants in the case, asked Judge Sirica today to postpone the trial from its scheduled start on Sept. 9. In legal papers filed by his attorney, William Hundley, Mr. Mitchell argued that Mr. Nixon's resignation had "heightened the public view" that the former President and such former aides as Mr. Mitchell were "criminal conspirators" in the Watergate cover-up case.

Another defendant, John D. Ehrlichman, who was once Mr. Nixon's chief adviser on domestic affairs, had previously filed a similar request. The four other defendants are expected to follow suit.

Hearing Planned

Judge Sirica said he would hold a hearing on the question as soon as the other defendants had filed their requests.

Beyond that, though, there was also the problem of Mr. Nixon's legal status, the grand jury that returned the indictment in the cover-up case named Mr. Nixon an unindicted co-conspirator. Presumably, now that the former President

has lost whatever immunity he had from prosecution during his incumbency, the grand jury can issue a superseding indictment that will include Mr. Nixon as a defendant.

And, while a spokesman for the special Watergate prosecutor's office continued today to say that it still planned on a Sept. 9 start to the cover-up trial, he also said, "As far as the [former] President is concerned, a decision is a ways off."

"It's going to take time," the spokesman, John Barker, said.

There have been persistent reports that the tape recordings submitted to Judge Sirica by the White House, in compliance with the recent Supreme Court decision upholding the prosecution subpoena, contain still more damaging evidence against Mr. Nixon.

Question of Liability

Even without additional evidence, however, the prosecution already has so much—in the form of Mr. Nixon's released transcripts—that it is generally believed the prosecution cannot simply ignore the question of Mr. Nixon's liability.

One way of resolving the problem would be for the prosecution to agree with Mr. Nixon that it would drop the charges against him in return for a full admission of his wrongdoing.

Congressional efforts to pass a resolution favoring immunity for the former President now appear to be dormant, in large part because of Mr. Nixon's failure to date to give a full public accounting of his actions.

There are other unresolved questions as well, including the

role of James D. St. Clair, who was Mr. Nixon's chief defense attorney, and the status of the Presidential tape recordings still at the White House.

J. F. terHorst, the new White House press secretary, said the tapes were "intact" and in the custody of the White House legal department. He added that White House lawyers, including J. Fred Buzhardt Jr., and Justice Department lawyers were studying the question of what to do with the tapes. Mr. terHorst also said the special Watergate prosecutor would probably have a role in deciding the outcome of the matter.

As for Mr. St. Clair, an aide said today that the lawyer was still at the White House in his official position as "special counsel to the President." But that he would probably not remain more than a few weeks. "It's essentially a winding down process," the aide said.

The three conversations covered by Judge Sirica's ruling today include two conversations between Mr. Nixon and H. R. Haldeman, his former White House chief of staff and one of the defendants in the case, on June 4, 1973, when Mr. Nixon listened to some of his tapes of previous Watergate-related conversations. The third is one of the Nixon-Haldeman conversations on June 23, 1972, whose public disclosure by Mr. Nixon last week precipitated his resignation.

Judge Sirica said he was also preparing to turn over additional tapes to the prosecution. He added that he had upheld some of Mr. Nixon's claims of privilege for portions of the tapes, and disallowed other claims.