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Tapes Erase All Doubt on Cover-up

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At 11:40 a.m. on Nov. 21, 1974, in Courtroom 2 of the U.S. District Court-house here, assistant Watergate special prosecutor George Frampton flicked a switch on the Shure Audio Master in front of him, shutting off the earphones of the judge, jury, defendants, lawyers and spectators at the Watergate cover-up trial. That simple act closed a unique chapter of American history.

What everyone in the courtroom had heard on White House tape recordings that morning and during two preceding weeks would have been enough to assure the impeachment of Richard M. Nixon, 37th President of the United States, except that he had resigned

three months earlier on the basis of evidence far less conclusive than Nixon's own words on those last tapes to be released.

In the two years that Nixon presided over the Watergate cover-up, the affair was punctuated by periodic

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statements from him promising that at long last the full story was being told. From what is now known from the tapes — the full story may never be known — it is clear those statements were only a calculated part of the cover-up.

Nixon did not give up these tapes

willingly, and for good reason. He realized what their release could do to him. So he conceded nothing in the year-long struggle over them.

His first effort to withhold the tapes, in October, 1973, was so destructive that it was immediately christened "the Saturday Night Massacre." That was when he fired Watergate special prosecutor Archibald Cox for insisting that he, be given the tapes as a federal court had ordered. It is now clear why Nixon risked all in firing Cox.

The climax came July 24, 1974, when a unanimous Supreme Court ordered Nixon to honor a subpoena issued by Cox's successor, Leon Jaworski, for more tapes. Less than three weeks

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after the Supreme Court ruling, Nixon had resigned from office.

Had President Ford not pardoned Nixon, it is difficult to see how prosecution of him could have been resisted in light of the evidence released in the past two weeks. The tapes played the last two weeks, taken together with those made public earlier, present an overwhelming case against him in a conspiracy to obstruct justice.

What was known — as opposed to suspected — about Nixon when he left office on Aug. 9 was this:

- He had approved a plan six days after the Watergate break-in to have the Central Intelligence Agency block the FBI's investigation of the crime.

- He had been told how extensive the cover-up had become by March 21, 1973 and had urged the payment of blackmail money to Watergate conspirator E. Howard Hunt Jr.

- He had told his former Attorney General and former campaign manager, John N. Mitchell: "I want you all to stonewall it, let them plead the Fifth Amendment, cover-up or anything else, if it'll save it — save the plan."

To hear the latest tapes or read the transcripts of them made public since Nixon left office is to see his defense before the House Judiciary Committee's impeachment proceedings fall like a house of cards.

Did Richard Nixon — regardless of his respected assertions that he rejected clemency — contemplate pardoning all the Watergate defendants?

"You get them full pardons," Nixon told his aide, John D. Ehrlichman, on April 14, 1973, speaking of the Watergate defendants, "That's what they have to have, John."

That excerpt, like so many others that have now

become public, was deleted from the White House-edited transcripts as being "material unrelated to presidential action."

The editing process itself, along with the withholding of tapes, became a transparent part of the cover-up. Precisely who deleted what from the transcripts and tapes before they were delivered to the Judiciary Committee has not been clearly established. That at least some of the deletions were material and highly relevant to the impeachment proceedings is now beyond dispute.

What is known about Richard Nixon's role — apart from what others have charged, or what was suspected, or inferred — has been learned from this most remarkable set of presidential documents; these tapes, unprecedented in American history, so contemporary in this electronic age and so devastating in their effect.

The tapes played during the last two weeks show that Nixon was a willing and active participant in a conspiracy to obstruct justice, that he had recognized his own guilt, and that he attempted to use the tapes to prove his innocence by having portions deleted that demonstrated his guilt.

It is all there on the tapes. They are a kind of self-contained Watergate world in which Nixon assays the impact of the whole affair, occasionally turns philosophical about life, concedes his own criminal behavior and hears his impeachment forecast by one of his most trusted aides.

Barring an act of Congress or the ruling of some court, the great bulk of the American people — those who did not come to the U.S. District Courthouse at 4 in the morning to stand in line to hear the tapes played in the cover-up trial — will get no closer to that private world than the printed word.

They will never hear Richard Nixon breathing heavily into his phone as he ends the long day of April 14, 1973, the day — whether he

realized it or not — that events slid from his grasp. His disembodied voice, bland, without the public bravado, is closer even than what one hears in a normal telephone conversation as he assessed his own prospects and gravely underestimated what could happen: "At least," he told his chief of staff, H. R. (Bob) Haldeman at the other end of the line, "at least I think, I think (laughs) now we pretty much know what the worst is I, I do — I don't know what the hell else they could have that's any worse, you know what I mean, unless you know ... unless there's ... unless somebody's got, uh, some piece of paper that somebody signed or some God damned thing."

No one on April 14 had

any piece of paper or anything else with Richard Nixon's name signed on it. He was apparently very careful about not signing things in an administration where so many officials have been implicated because of their penchant for writing memoranda.

Richard Nixon did it differently. He left no known written record of his crimes because he gave his commands orally.

The "they" of Richard Nixon's fears in that late night phone call on April 14 — the prosecutors — knew that evidence existed linking Mitchell, Haldeman, Ehrlichman, White House Counsel John W. Dean III and others to the cover-up.

"They" did not yet have the most damning evidence of all because they did not yet know of its existence. Even as Richard Nixon was expressing his fears about a piece of paper, he was preparing the evidence to be used against him — his own voice, recorded on celluloid, as he struggled through endless hours trying to get out of the spider's web, all the while ensnaring himself in it more deeply.

The tapes provided Nixon with the most concrete assessment he had of what Dean, his first accuser and

the most damaging witness against him, could testify about concerning Nixon's role in the cover-up, based on Dean's critical March 21, 1973, meeting with him.

Alerted by his top domestic aide, Ehrlichman, on April 25 that "if Dean is totally out of control and if matters are not handled adroitly . . . you could get a resolution of impeachment," Nixon followed Ehrlichman's suggestion to have someone listen to tapes of Dean talking to Nixon.

Haldeman reported back that day that the March 21 meeting had statements on it that Nixon saw as damaging to him.

"It's his word," Nixon told Haldeman during his briefing, "his word against the President's, the uh, the uh (unintelligible), you were there but particularly the President's on that . . ."

And it would have been Dean's word against his—the President's—had Nixon not had tapes.

On April 25, however, the tapes were useful for Nixon, permitting him to recall precisely what Dean had told him and how he reacted.

"I said a million dollars," Nixon repeated, as Haldeman briefed him on the contents of the March 21 tape. "With a million dollars (unintelligible) clemency. You couldn't do it till after the '74 elections. That's an incriminating thing. His, his word against the President's."

Almost a year later, during a nationally televised press conference on March 6, 1974, however, Nixon asserted that whatever the tape might show, "I know what I meant." He meant, regardless of what the tape of March 21 showed his saying about the blackmail and clemency, "the whole transaction was wrong."

But when, on April 25, 1973, he was told by Haldeman of the March 21 tape's contents, Nixon's private, candid reaction was one of anxiety.

"Let me say it's got to be you, Ehrlichman, and I have got to put the wagons around the President on this particular conversation. I just wonder if the son of a bitch (Dean) had a recorder on him. I didn't notice any, but I wasn't looking."

He was obsessed with the idea that Dean might have taped the March 21 conversation, raising the matter twice that day with Haldeman.

Haldeman told Nixon that the possibility of Dean's having recorded the meeting was "remote."

"But the point is that that's uh, that's a real bomb isn't it?"

The tapes and transcript reflect the birth of Nixon's public explanation and justification of his actions.

"They were discussions in which I was probing to find out what had happened," Nixon said in a televised speech on April 29, 1974, the

night before he released the White House-edited transcripts. "Who was responsible, what were the various degrees of responsibilities, what were the legal culpabilities, what were the political ramifications, and what actions were necessary and appropriate on the part of the President."

And here is Haldeman a year earlier, on April 25, 1973, telling Nixon how the March 21 meeting could be handled—by asserting that Nixon's potentially incriminating comments were attempts to draw out Dean:

"You're trying to see how far it goes. You said (to Dean), 'Is that your recommendation?' You ask people questions on the basis of — to try and see what direction they're going. That's . . . they're leading questions. But that doesn't mean that your statement is (unintelligible)."

One of Nixon's tactics in the Watergate cover-up was to elaborate an assertion with detail to give it a heightened air of reality. On April 30, 1973, Nixon told the American people in a televised speech that "on March 21, I personally assumed the responsibility for coordinating intensive new inquiries into the matter, and I personally ordered those conducting the investigations to get all the facts and to report them directly to me, right here in this office."

When Sen. Lowell P. Weicker Jr. (R-Conn.) attempted to corroborate that statement during the Senate Watergate hearings, he could find no one connected with the Watergate investigation who had received such an instruction from Nixon on March 21 or any other date.

Nixon's assertion had the air of being a public relations ploy, and the tapes confirmed that that, in fact, is what it was.

In the previously released tape of April 17, 1973, moments before he announced "major developments in the case," Nixon rehearsed with Ehrlichman what he would say.

Nixon: "I began new inquiries into this matter as a result of serious charges which were reported publicly and privately. Should we say that?"

Ehrlichman: "Publicly, comma 'which in some cases were reported publicly.'"

Nixon: "Four weeks ago we, Why don't we say, shall we set a date? That sounds a hell of a lot stronger if we set a date."

Ehrlichman: "All right."

Nixon: "'On March 21, I began new inquiries . . .'"

March 21, according to Nixon's public version of the Watergate affair, was when he learned for the first time, from Dean, of the cover-up. The truth is that Nixon was involved at least nine months before, on June 23,

1972 — six days after the Watergate break-in — when he in effect ordered the cover-up.

The occasion was the discovery by the FBI of \$114,000 that it had traced to the sources through the bank account of Watergate conspirator Bernard Barker. Unless the FBI was stopped, it was going to contact the sources and would find that the money had come from the Nixon re-election committee.

Haldeman warned Nixon that the FBI "is not under control" and that its investigation "goes in some directions we don't want it to go."

Haldeman proposed that

"the way to handle this now is for us to have (Deputy CIA Director Vernon) Walters call (Acting FBI Director) Pat Gray and just say, 'Stay the hell out of this . . . this is uh, business here . . . we don't want you to go any further on it.' That's not an unusual development . . ."

"Mm, huh," Nixon agreed.

"And, uh, that would take care of it," Haldeman concluded.

Nixon then proposed alternatively asking one of the sources of the money, Kenneth Dahlberg, to lie about it.

"Well, if they will," Haldeman replied. "But then we're relying on more and more people all the time. That's the problem. And uh, they'll stop if we could, if we take this other step."

"All right. Fine," Nixon replied.

This single tape played publicly for the first time two weeks ago, was the last straw for Nixon. Its release to prosecutors last Aug. 5 preceded his resignation by four days.

But the tape also contains confirmation of a widely held view that Nixon ordered his aides to carry out the cover-up without involving him.

"I'm not going to get that involved," Nixon told Haldeman.

"No, sir. We don't want you to," Haldeman replied.

Nixon also had denied discussing clemency for Hunt.

Yet a tape played for the first time last week of a Jan. 8, 1973, conversation with White House special counsel Charles W. Colson showed Nixon having just such a conversation on the day the original Watergate trial began.

Time and again, Nixon's public defense of himself is contradicted by his own statements on the tapes.

The statement of information filed on behalf of Nixon before the House Judiciary Committee concerning the Watergate cover-up asserted, "The President was unaware prior to March 21, 1973 (when Dean briefed him) that (deputy Nixon campaign manager Jeb Stuart) Magruder and (Nixon campaign aide Herbert L.) Porter perjured themselves to a grand jury."

A tape of a March 20 conversation between Nixon and Haldeman, however, suggests that Nixon did know of Magruder's perjury:

Haldeman: "I know, yeah, but see, they're protecting the wrong people... Cause think people who are gonna go for perjury already have and will do it again and are going to be up there anyway?"

Nixon: "You mean like Magruder?"

Nixon's defense before the Judiciary Committee was based on the premise that he knew nothing about the

cover-up until Dean told him. The latest tapes released in court destroy that defense.

Rather than Dean withholding information from Nixon, the latest tapes demonstrate that Nixon withheld his own knowledge of the cover-up from Dean.

The attempt to withhold information from the public, courts and the Congress continued even as the White House began relinquishing its grasp on the tapes. Early last November, during hearings on the tapes before U.S. District Judge John J. Sirica, the White House revealed first that two, and then that three, tapes subpoenaed by the special prosecutor did not exist.

On Nov. 21, 1973, the White House revealed that 18 minutes from a critical tape of Nixon's June 20, 1972, conversation with Haldeman had been obscured by an audible tone. A panel of experts commissioned by Sirica studied the tapes and later reported that it had been deliberately erased.

When the tapes were finally released in April 1974, an unofficial analysis of the White House version of the transcripts showed that approximately 1,670 portions of conversations had been omitted as being "inaudible" or "unintelligible."

In addition, the transcripts of 49 conversations turned over by Nixon to the

Judiciary Committee revealed 35 omissions of segments said to be unrelated to the Watergate investigation.

Tapes played to the federal grand jury hearing evidence on the Watergate cover-up in late 1973 and early 1974 showed that a substantial portion of the deletions were, in fact, material to the Watergate investigation, such as Nixon's discussion with Haldeman and Ehrlichman on April 14 of his intention to pardon the Watergate defendants.

Other deletions, however, showed Nixon's preoccupation with Watergate and how the scandal had forced him to rearrange his priorities.

On April 14, for example, as Nixon was discussing his Watergate problems with Haldeman and Ehrlichman, he digressed momentarily to assert that earlier plans to replace then Secretary of State William P. Rogers with presidential national security affairs adviser Henry A. Kissinger would have to be delayed.

"It is essential that, uh, Rogers' departure be delayed until this is over," Nixon told his two aides. "Now the hell with Henry on this. the point is, any member of the Cabinet, except (then Attorney General Richard G.) Kleindienst, leaving during this—there's no way that Dick is going to leave anyway—and uh, now you gotta talk to Hen-, you

gotta just, 'And Henry it's not appealable.' You just gotta say that, 'Henry, there are bigger things here.'"

Nixon recognized that this seventh crisis could be enduring and perhaps climactic for him. "Ya see," Nixon told Ehrlichman in the same conversation on April 14, "Rogers is gonna leave on the first of June, and uh..."

"We may be, we may be out of the woods by... it might be over by then," Ehrlichman interjected.

"Out of the woods," Nixon said. "No."

Eleven days later, with Dean clearly "out of control" from Nixon's point of view, Nixon had become fatalistic about the affair, grasping at the slender reed that sustained him in office for another 16 months.

"Bring it out and fight it out and it'll be a bloody goddam thing," he told Haldeman in a telephone conversation. "You know, in a strange kind of way that's life, isn't it (unintelligible) probably be understood and be rough as a cob, and we'll survive and some people you'll even find (unintelligible) in Mississippi you'll find a half a dozen people that will be for the President. Who knows?"

"Despite all the polls and all the rest, I think there's still a hell of a lot of people out there, and from what I've seen, ... they want to believe, that's the point, isn't it?"