

Nixon Testifies 11

Talks to 2 Grand Jurors in California

By Timothy S. Robinson
Washington Post Staff Writer

Former President Richard M. Nixon testified for 11 hours in California earlier this week before Watergate prosecutors and two Watergate grand jurors, ending his refusal for nearly two years to submit to extended questioning under oath about his role in Watergate-related affairs.

The extraordinary grand jury session, which will be transcribed and presented to the 18 other grand jurors, comes less than a week before the last of three Watergate grand juries is scheduled to disband. Although the grand jury will be discharged next Thursday, the prosecutors could continue to present information to a new grand jury if they believe further investigation is warranted.

Nixon, who voluntarily submitted to the questioning, has been pardoned by President Ford for any criminal acts he may have committed while President. However, prosecutors said he could be charged with perjury or any other criminal violations committed after he resigned the presidency on Aug. 9, 1974, if such violations are found to exist.

Nixon's testimony will remain sealed because it is part of a grand jury proceeding, according to U.S. District Chief Judge George L. Hart Jr.

Hart approved the unique arrangement of sending a small segment of a grand jury to another jurisdiction to take testimony from a witness, and legal observers said they knew of no precedent for such an action.

The sessions, conducted Monday and

Tuesday, are believed to be the first time a former chief executive has given sworn testimony to a grand jury, according to researchers at the Library of Congress.

Nixon's attorneys, Herbert J. Miller and Raymond G. Larroca, said the examination "covered a wide range of subjects . . . relative to the grand jury's ongoing investigations."

Other persons familiar with the questioning said Nixon was asked specifically about his relationship with C. G. (Bebe) Rebozo and Rebozo's possible handling of campaign contributions, the deletions of portions of White House tape transcripts sent to Congress during the impeachment inquiry that led to Nixon's resignation, and the 18½-minute gap on a White

See TESTIFY, A4, Col. 1

Hours on Watergate

Prosecutors Get Data for Last Chore

By George Lardner Jr.
Washington Post Staff Writer

As far as individuals in high office were concerned, Watergate prosecutor-to-be Archibald Cox assured Congress more than two years ago, "all the facts with respect to them ought to be out."

That understanding, reached in hard bargaining with the Senate Judiciary Committee, lay at the heart of the last assignment given to the special prosecution force: the submission of "a final report to the appropriate persons or entities of the Congress."

Now with just a few months to go before the prosecutors are expected to wind up their work, the testimony of former President Nixon on "a wide range of subjects" has finally been obtained, under oath, at what used to be a

part of the western White House in San Clemente.

But the prospect of its ever becoming public remains highly uncertain. Short of more indictments and trials that might produce glimpses of it, the testimony apparently will remain under seal, protected by the strict rules of secrecy accorded grand jury proceedings.

"The only way it can be released is by court order," a spokesman for the prosecutor's office said yesterday. He refused to say whether an effort to secure such an order was even being considered, but former colleagues said they doubted it in light of the propensities of the current Watergate special prosecutor, Henry S. Ruth Jr.

By far the most secretive of the three men to hold the office, Ruth has

already publicly opposed congressional proposals to provide for eventual release of all the evidence concerning Nixon and has even succeeded in blocking the release of voluminous Senate testimony on the Watergate scandal and related misdeeds.

The transcripts, taken in executive session by the now defunct Senate Watergate committee, remain locked up on Capitol Hill at Ruth's request.

"I doubt that anybody in the prosecutor's office is burning to find a way to make this public," a former member of the prosecution force said yesterday of Nixon's account. "It just seems out of character," he said, alluding to Ruth.

Lawyers for at least two of the Watergate cover-up defendants, however,

See PROSECUTOR, A4, Col. 3

Two Jurors Take Nixon's Testimony

TESTIFY, From A1

House tape subpoenaed as evidence in the Watergate cover-up investigation.

There was no immediate indication of the content of Nixon's testimony in any area.

Nixon's appearance before the two grand jurors and the prosecutors was announced yesterday morning in an agreement released by Hart and signed by Miller and Watergate Special Prosecutor Henry S. Ruth Jr.

Nixon asked for the fact that he testified to be made public "because inquiries have been made concerning this matter," the agreement said.

Nixon's attorneys said in a statement released in Washington that "it was the former President's desire to cooperate with the office of the special prosecutor in the areas which that office desired to interrogate him and it was Mr. Nixon's feelings in the view of the anticipated length of his testimony, the present state of his health, and the complications unavoidably attendant to extended travel, his examination would be most efficiently conducted in California."

Nixon's decision to testify "followed consultation with his medical advisers," the attorneys said.

Last October, when Nixon was subpoenaed to testify at the Watergate cover-up trial, court-appointed doctors said he was too ill to travel because of recent surgery for phlebitis and resultant pneumonia.

The interrogation of Nixon, conducted in the former presidential offices in San Clemente, is the second time he has ever commented under oath about a Watergate-related issue.

The only other sworn testimony came when he answered in written form six brief questions submitted to him by U.S. District Judge Gerhard A. Gesell during the trial of White House aide John D. Ehrlichman and others in connection with the break-in at the office of Daniel Ellsberg's psychiatrist.

TR ADD FIVE

The special prosecutor's office and the original Watergate grand jury had called for Nixon's appearance as a witness before the grand jury early in 1974, but Nixon had declined to appear "on constitutional grounds," he told a press conference on Feb. 25, 1974.

He said at the time that he had offered to respond to written questions or to answer questions directly to a prosecutor, but that the prosecutor "indicated he did not want to proceed in that way."

The grand jury subsequently named Nixon as an unindicted co-conspirator in the Watergate cover-up by a 19-to-0 vote, after being told by Special Prosecutor Leon Jaworski that a sitting President could not be indicted for crimes.

The information gathered by the grand jury was submitted to the House Judiciary Committee, which based its vote to impeach the President on that evidence and other evidence it gathered.

Since resigning as President, Nixon also has been asked to give testimony in some of the approximately 20 civil suits filed against him for various acts while in office.

It is unclear what effort his testimony before the grand jury might have on future attempts to take depositions from the former President.

Discussions have been in progress for the past several months between the prosecutor's office and Nixon's attorneys concerning his possible grand jury appearance, according to informed sources.

The sources pointed out the prosecutor's desire to take Nixon's testimony before the special prosecutor's office was disbanded, probably by this fall.

Neither side wanted to enter a possibly protracted legal battle over the issuance of a subpoena for Nixon's testimony, the sources said.

Then, a little more than two weeks ago, the prosecutors came to Judge Hart and said the arrangement had been made for two grand jurors to accompany members of the prosecution staff to California for the sworn Nixon testimony.

Hart signed an order approving the session, and making it an official grand jury proceeding.

Hart asked U.S. District Chief Judge Edward J. Schwartz of San Diego to go to San Clemente to administer the oath to Nixon. He was reportedly selected for the rather routine chore in an attempt to keep the sessions as secret as possible before they occurred.

Schwartz said yesterday that he administered the oath about 9:45 a.m. (PDT) Monday. The testimony sessions, which were not attended by Schwartz, lasted about five hours on Monday and six hours on Tuesday.

Schwartz said yesterday that Nixon "was nicely dressed, looked in fine shape, and asked me how things were in San Diego." The former President was "friendly and affable," and shook hands with those present, Schwartz added.

The Watergate Special Prosecutor's Office would not comment yesterday on how the two specific jurors were selected, or why the prosecutors agreed to question Nixon in California instead of in the grand jury room of the federal courthouse here.

The agreement concerning the Nixon grand jury appearance was signed late Thursday, but was not released until the court clerk's office opened here yesterday morning.

Prosecutors Get Data for Last Chore

But Disclosure of Nixon Testimony Is Highly Uncertain

PROSECUTOR, FROM AI

vowed to fight for access to the former president's secret testimony, which they sought in vain last fall and winter during the prolonged cover-up trial that led to their conviction.

"It seems very strange," protested one of the defense attorneys, "that now, at the end of the ball game, they bring in the principal player."

The counsel for former White House aides John D. Ehrlichman and H. R. (Bob) Haldeman both said they intended to seek access to Nixon's account in appealing the convictions Jan. 1 of the two men. Ehrlichman's lawyer, William S. Frates of Miami, said he thought it ought to be made public in any event.

"Irrespective of the litigation involved, I personally feel, as we contended at the trial, that he (Nixon) was the main participant in all those activities," Frates said of the tangled events collectively labeled Watergate. "I think the people have a right to know, not just John Ehrlichman."

The Nixon testimony was taken in ostensible pursuit of investigations still under way, such as the 18½-minute erasures in one of Nixon's key Watergate tapes, the deletions of incriminating remarks from the transcripts of other conversations that the Nixon White House provided the House impeachment inquiry, and the handling of various Nixon campaign contributions and cash funds, including \$100,000 from billionaire Howard

Hughes, by the former President's close friend, C. G. (Bebe) Rebozo.

The prosecutor's office was flummoxed about whether any indictments might result from their ongoing investigations. Former insiders, all admittedly guessing, were divided on the question of whether any indictments were likely.

Some thought Ruth was just "dotting the i's and crossing the t's" by obtaining Nixon's testimony as an obligatory

last step before ending the inquiries.

Others felt the prosecutor would not bother to obtain grand jury testimony—as distinct from a routine deposition or statement that could be made publicly—unless there were live investigations under way.

Indictments aside, the issue of what the final report will say has already caused disagreement within the prosecutor's office, with some predicting that it is likely to say very little

beyond what is already on the public record.

Such a report, according to this point of view, might not provide the public with enough information to judge whether all leads had been fully pursued and all the relevant evidence brought to light.

That was not what Congress or Cox evidently had in mind when the special force was set up in May, 1973.



RICHARD M. NIXON
... witness under oath



HENRY S. RUTH JR.
... special prosecutor



HERBERT J. MILLER
... Nixon lawyer



GEORGE L. HART JR.
... U.S. District chief judge

Nixon's Two-Year Cloak of

By William Greider

Washington Post Staff Writer

The stone wall that Richard M. Nixon built finally has crumbled.

A few days ago in California, the former President of the United States swore an oath to tell the truth and, in the privacy of a Coast Guard station next to his home, testified before federal authorities.

It took two years for them to get him to talk. From the spring of 1973, when Justice Department sources first hinted that the testimony of the President himself was needed by a grand jury, Nixon had resisted.

"It would be constitutionally inappropriate," his press secretary, Ronald L. Ziegler, argued. "It would do violence to the separation of powers."

From that point on, Nixon pleaded "executive privilege," political harass-

ment and ultimately his poor health after a phlebitis attack to avoid sitting down with the prosecutors or other investigators.

He invoked Jefferson and John Marshall and Harry Truman to defend his position.

Reluctantly, he provided the tape recordings and documents that led to his downfall. He offered to answer written questions and, in one instance, actually did. But he wouldn't talk.

"I will do nothing to weaken the office of the President," Nixon told a presidential press conference last year, "and to submit to cross-examination under circumstances that would, in effect, put the President in the box if he went to the Senate, I think would be improper."

He declined to appear before the

Watergate grand jury or the Senate Watergate committee. He fought a losing battle to keep those investigations from getting the documentary evidence that would contradict his public denials of complicity in the Watergate cover-up.

Thomas Jefferson was summoned as his witness on one occasion, cited for refusing to turn over presidential papers to an investigation in the early days of the republic.

"Now why did Jefferson do that?" Nixon asked aloud. "Jefferson didn't do that to protect Jefferson. He did that to protect the presidency. And that is exactly what I will do in these cases."

The way things developed, his testimony was not needed to resolve the most crucial question: Whether he should continue as President. The more he denied complicity in his pub-

Silence Finally Is Pierced

lic statements, the more he stood refuted by his own voice—the Oval Office tape-recordings of presidential conversations that formed the conclusive evidence against him.

After Nixon reluctantly turned over transcripts to the House impeachment inquiry and the Judiciary Committee received actual tapes from the Watergate grand jury, the value of his own first-hand testimony depreciated. The Judiciary Committee did not seek his

Nixon did provide courtroom testimony on one occasion as President, though not in person. Last July he answered a brief written interrogatory in the Ellsberg break-in trial of John Ehrlichman. He answered four questions about the White House "plumbers" unit, saying that he had established the secret squad to plug information leaks but, had not told it to commit a burglary.

After Nixon resigned from the Presidency in August, it became clear that he might be more valuable as a witness to his former associates, who faced criminal charges in the Watergate cover-up, than to the special prosecutor handling the case against them.

On Sept. 19, Special Prosecutor Leon Jaworski issue a subpoena for Nixon's appearance at the cover-up trial.

In the end, he never made it. The ex-President, a recluse at his San Clemente, Calif., home, was suffering from blood clots in his leg and as the trial got under way in October, his health declined.

Defendant Ehrlichman protested. Nixon could clear him, Ehrlichman's lawyer insisted. Judge John J. Sirica sent court-appointed doctors out to see for themselves how sick the former President was. They reported that

Nixon might be well enough to testify by January, but no sooner.

The judge wasn't interested in waiting. He wanted a verdict by New Year's Day and he got one on Jan. 1.

When Sirica declared that the trial would proceed without Nixon's testimony, some defense lawyers complained, but the judge himself discounted how much reliable information Nixon could give the jury about the Watergate affair.

"The value of Mr. Nixon's testimony to the defendants should not be unrealistically overestimated," Sirica said. "Mr. Nixon himself has been named by the grand jury as an undicted coconspirator in this case."

In short, the judge said: "His testimony would be subject to an instruction to the jury that it should received with caution and scrutinized with care."