

11 Sep 73 (1)

Tapes - Wright tells Court of Appeals there are no circumstances under which Nixon can be forced to release the tapes; proposes that the court simply "suggest what it feels should be done" and rely on "the President's good judgment" to follow through voluntarily; hints that Nixon might release excerpts of the tapes if he wins the court test. (See entry on Goldwater, this date.) Wright ~~says~~ says it is "conceivable" that Nixon might choose to give a deposition about the conversations in question.

Wright warns that an adverse ruling would leave "no limit on the extent to which presidential privacy can be invaded" because release of even limited segments of the tapes would entitle defendants indicted on the basis of that information to the complete tapes, even if they included national security discussions. Cites a 1969 Supreme Court ruling to support this.

Cox, in answer, maintains that the ruling Wright cited dealt only with conversations improperly overheard by the government to begin with,\* that any future demands by defendants could also be resolved by <sup>additional</sup> ~~more~~ in camera ~~in camera~~ auditions; that speculation about what the defense might get later on should be no bar to the grand jury's access now to relevant information. \*OVER- 3

The court accedes to Wright's request for more time to file final briefs, sets evening of 14 Sep ~~for~~ as deadline for Cox to file his brief, and gives WH a week to respond.

WXP 12 Sep 73 \*

OVER-  
A

Mitchell, Stans trial set for today was postponed by Judge Gagliardi, after ruling by Second U.S. Circuit Court of Appeals that it favored a postponement although it does not have the power to order this. The ruling is taken to indicate that, should the trial go ahead immediately and Mitchell and Stans are convicted, the convictions would possibly be overturned on appeal, on the grounds the defendants had not been given a fair opportunity to prepare their case.

WXP 12 Sep, Greer

\*Wright returns to Texas - see entry 13 Sep 73

(2)

(A) NYT says that after WH submits its reply (presumably by 21 Sep) it will probably be a week before the court hands down its decision. This would bring it to 28 Sep. Supreme Court reconvenes 1 Oct 73.  
SFC [NYT] 12 Sep 73

(B) ~~and said~~ that in that decision the Court denied that "any defendant will have an unlimited right to rummage in the files of the Department of Justice," and that subsequent decisions made it clear that extraneous or national security material could be excised by the trial judge;  
NYT 13 Sep 73, Weaver

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(2)

Goldwater, in <sup>first of three</sup> articles for NYTimes, suggests that Nixon/ voluntarily release selected portions of the tapes, but does not say how these sections should be chosen or who, besides Nixon and his aides, should be allowed to hear the remainder. Also suggests a nationally televised debate between Ervin and Nixon on contested portions of Watergate testimony.

SFC [AP] [NYT] 12 Sep 73

Ehrlichman testifies for fourth time before Watergate grand jury and will continue for two or three days more; Wilson says he will testify about the 17 Jun 72 break-in at the Watergate, Fielding break-in and the ITT anti-trust case.

SFC [UPI] 12 Sep 73

Kissinger - With members of Senate Foreign Relations Committee threatening to delay action on his nomination, Richardson reverses his position and allows Sparkman and Case to read a secret report on wiretaps on officials and newsmen; they are allowed half an hour to study 30-page document. Sparkman says he found nothing which would delay Kissinger's confirmation.

OVER - A

SFC [NYT] 12 Sep 73, ~~filed Nix Ad~~

Nixon discusses with Connally plans to send the latter on a foreign tour later in the year; Warren evades all questions about the possibility that this means Nixon is shifting support from Agnew to Connally as his choice for the 1976 nomination.

SFC [UPI] 12 Sep 73

Agnew - Joseph Kraft: "Speculation suggests that Agnew's lawyers now see a promising line of defense in the impeachment-first argument. For one thing, there is the matter of time. Congress is not organized for an impeachment proceeding and it would probably take months, and maybe even years. Rather than face such an ordeal, the instinct of many congressmen would be to forget the whole matter."

WXP 11 Sep 73, Kraft

(3)

\* See also William V. Shannon, "On His Own Terms," NYT 13 Sep 73  
William Safire, "Advise and Condone," NYT 13 Sep 73

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Nixon/taxes - The Nixons appear to have claimed enough tax deductions in 1970, and possibly in 1971, to have wiped out all of their taxable income for federal income-tax purposes. Many details in story; original in NYTimes omits paragraph carried by SFC on gift of <sup>Vice-</sup>Presidential papers to National Archives, including sentence saying they were not received by the Archives until a year after a new law concerning such gifts went into effect, and that the deed was not signed by Nixon. WXP 13 Sep gives more details.

NYT 12 Sep 73, Shanahan

SFC [NYT] 12 Sep 73, filed Nixon, real estate; WXP 13 Sep

Montoya's office says no response has been received from Secret Service to his request for information on tapping of Donald Nixon's phone. (Entry 6 Sep.)

NYT 12 Sep 73, Rosenbaum