

Dispute on Sirica's Ruling Is Taken to Appeals Court

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WASHINGTON, March 20—Federal Judge John J. Sirica refused today to grant more than 24 more hours' delay in sending a secret grand jury report to impeachment investigators at the House of Representatives, and the matter was taken immediately to Appeals.

The appeals court scheduled a hearing at 10:30 A.M. tomorrow.

Though the secret report bears on President Nixon's possible role in covering up the Watergate affair, the appeal was made by lawyers for three of the seven men indicted in the cover-up and not by President Nixon's lawyers.

The lawyers, John J. Wilson and Frank H. Strickler, who represent H. R. Haldeman and John D. Ehrlichman, and John M. Bray, representing Gordon C. Strachan, asked for a temporary restraining order or writs prohibiting Judge Sirica from releasing the secret report to the House.

Warning on Publicity

Their appeals were based largely on the ground that the report might generate excessive pre-trial publicity. This, they argued, might harm their clients' rights to a fair trial.

President Nixon has not opposed turning over the secret report. This fact was duly noted by the special Watergate prosecutor, Leon Jaworski, in a legal memorandum filed today opposing the appeal. He stated:

"It is particularly important that the President—the focus of the grand jury's report and recommendation—has not opposed delivery and favors the earliest possible resolution of the impeachment inquiry.

"The President, last night in his nationally televised press conference, stated that he personally acquiesced in the delivery of the materials to the House Committee on the Judiciary.

"The objections come only from defendants, whose interests in opposing delivery at this stage are largely theoretical and barely sufficient to give them standing to object.

"Under these circumstances, the public interest requires immediate delivery of the materials."

Mr. Wilson and Mr. Strickler went to Judge Sirica's chambers today to ask for a stay in delivering the secret report. The judge turned them down but gave them 24 more hours to appeal.

The two lawyers immediately went from Judge Sirica's second floor chambers to the fifth floor of the Federal courthouse and filed their appeal. They were joined later by Mr. Bray, who filed a separate appeal.

In their petition to the Court of Appeals Mr. Wilson and Mr. Strickler tried to tie more closely to Mr. Haldeman the

contents of the grand jury report, which deals with President Nixon.

The concentrated on the tape recording made in President Nixon's office on March 21, 1973, involving Haldeman, Mr. Nixon and John W. Dean 3d, former counsel to the President.

Mr. Dean has said that he told the President at the meeting that one of the men in the original Watergate trial was pressing for cash payments to guarantee his silence on other White House activities.

Mr. Haldeman later told a Watergate grand jury that the President had said it would be easy to raise \$1-million for hush money but "it would be wrong."

Mr. Haldeman, former White House chief of staff, was indicted for perjury for saying he was "absolutely positive" he heard the President saying "it would be wrong."

Lawyers Warn of Leak

Mr. Haldeman's lawyers said they had "reason to believe" that among the documents in the secret report was a transcription of the March 21 tape.

If the report goes to the House, they argued, it might leak out because "any sophisticated person knows that 'leaks' are a way of life in Washington."

Why, the lawyers asked, should the judge "take the risk" that Mr. Haldeman and the other defendants may not get a fair trial?

In his argument for Mr. Strachman, Mr. Gray cited the secrecy of grand jury proceedings and possible adverse publicity.

Mr. Jaworski's argument restated Judge Sirica's opinion on Monday that the mention of the seven defendants in the secret report was "incidental" and that considerations of possible mature and speculate.

Only at jury choosing, Mr. Jaworski argued, "can the court determine with measured assurance whether defendant has been prejudiced because it has become impossible to select an impartial jury."

There are, he said, "appropriate remedies available such as a delay of the trial, or change of the trial setting.

Mr. Haldeman, Mr. Ehrlichman, who was assistant to the President for domestic affairs, and Mr. Strachan, an aide to Mr. Haldeman, were all named March 1 in a 50-page indictment on the cover-up.

Others indicted that day included Charles W. Colson, former special counsel to the President; John N. Mitchell, former Attorney General; Robert C. Mardian, former aide to Mr. Mitchell, and Kenneth W. Parkinson, lawyer for the Committee for the Re-Election of the President.

The secret report was handed up to Judge Sirica the same day they were all indicted.