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Appeals Court Sends Evidence on Nixon Back to Sirica

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Special to The New York Times

WASHINGTON, March 22—The Watergate grand jury's secret report on President Nixon, locked in its briefcase, was carried back today from the Court of Appeals to Federal District Judge John J. Sirica's chambers to be ready Monday for delivery to the House of Representatives.

Although there was still some time for an appeal to the United States Supreme Court to keep the report from going to House impeachment investigators, it appeared unlikely that such action would be taken.

The briefcase, containing evidence and an index of events bearing on Mr. Nixon's actions during the White House cover-up of the Watergate burglary, had gone late yesterday to the United States Court of Appeals for the District of Columbia Circuit.

Judge Sirica had ordered the report turned over to the House, and the Court of Appeals upheld his decision yesterday, then returned the briefcase at 11:15 A.M. today.

The final hour for any appeal is 5 P.M. Monday.

Decision Due on Subpoena

The transfer of the evidence and the report to the House had been fought by lawyers for two of the seven men indicted March 1 for conspiracy in the cover up of the burglary of the Democratic national headquarters in the Watergate office building. They expressed fear that information might leak out or be used by House investigators in such a way as to stir up prejudicial pretrial publicity about their clients.

The President has not opsecret report, a position that both Judge Sirica and the Court of Appeals noted with some emphasis in their decisions.

The White House also has



United Press International

Rose Mary Woods, President Nixon's personal secretary, on her way to appear before the Watergate committee.

until Monday to decide what to do about a subpoena sent to the President on March 15 for further information in the Watergate investigations.

It is unclear whether Mr. Nixon himself was aware that the wiretap was producing political intelligence on Mr. Muskie. However, a measure of Mr. Nixon's awareness of the

sensitivity of some of the wiretap reports is indicated by one F.B.I. document made available to The Times.

The document is a report of a field interview with Robert C. Mardian, a former Assistant Attorney General who, at Mr. Nixon's insistence, played a central role in removing the records of the Halperin and

other wiretaps from the bureau's files to the White House.

Sometime in July, 1971, Mr. Mardian recalled, he was summoned by William C. Sullivan, who had been in charge of the bureau's end of the wiretap program. Mr. Mardian recalled that Mr. Sullivan told him of information he wanted to turn over to the President because he believed Mr. Hoover could not be trusted to preserve its confidentiality.

At San Clemente

Mr. Mardian said that he passed on the information and was summoned to San Clemente, Calif., where Mr. Nixon ordered him to retrieve the records from Mr. Sullivan, take them to the White House, and compare them with the copies filed there to make certain that none of the documents remained in the bureau's possession.

Mr. Mardian said that he obtained the records and delivered them to Mr. Kissinger and Gene Alexander M. Haig Jr., then Mr. Kissinger's assistant. He and Mr. Kissinger checked the originals against the copies of the early summaries in Mr. Kissinger's files Mr. Mardian said, and a similar check was made with the later summaries in Mr. Halde- man's files.

Mr. Mardian recalled that he then took the material into the Oval Room of the White House and left it there, but he would not say with whom.

"Did you give the bag to Mr. Nixon, the President of the United States?" Mr. Mardian was asked by the F.B.I. agents.

The interview report relates that Mr. Mardian "sat back in his chair, shrugged his shoulders, hesitated and said, 'I cannot answer that question.'"