

10/29/73 WFO

Will Comply in Full With Court Orders, Sirica Is Promised

By George Lardner Jr.
Washington Post Staff Writer

President Nixon agreed yesterday in an abrupt and historic turnabout to surrender his secret Watergate tapes to the courts.

The decision was announced at a tense courtroom hearing in the face of widespread public demands for Mr. Nixon's impeachment and the first formal steps in the House to consider it.

The President's chief constitutional lawyer, Charles Alan Wright, said Mr. Nixon had hoped that his proposal last Friday to submit a personal, written summary of evidence gleaned from the tapes "would end a constitutional crisis."

But since then, Wright said, it became obvious that the crisis was not over.

Even if chief U.S. District Judge John J. Sirica had accepted the plan, the President's lawyer said, "there would have been those who would have said, 'the President is defying the law.'"

"This President," Wright told Judge Sirica, "does not defy the law and he has authorized me to say he will comply in full with the orders of the court."

Caught by surprise, Judge Sirica broke into a grin and said he was "very happy that the President has reached the decision."

Wright said the tapes would be indexed and submitted "as expeditiously as possible," perhaps in a few days.

The White House must also submit, with sharply limited exceptions, any memoranda, papers, transcripts or other writings related to the nine meetings and conversations at issue between the President and his advisers.

In abandoning Mr. Nixon's plan put forward Friday for a summary of the evidence, the White House left the Senate Watergate committee empty-handed. White House officials said the committee will have to go without even the summary and resume its so-far-unsuccessful attempts to get the tapes and other White House documents it has subpoenaed through the courts.

Judge Sirica had demanded the tapes only in connection with the court action by ousted Watergate Special Prosecutor Archibald Cox, who subpoenaed them on behalf of the Watergate grand jury here.

Under Judge Sirica's Aug. 29 order for the tapes, with refinements added by the U.S. Circuit Court of Appeals here, Mr. Nixon can decline to transmit any portions of the tapes that relate to "national defense or foreign relations" so long as Sirica does not insist on inspecting these segments. Presumably these exceptions also apply to any related White House documents.

See TAPES, A13, Col. 1

TAPES, From A1

But beyond that, the President must produce "all other items" covered by Judge Sirica's blanket order for private judicial review of the recordings. The tapes and documents are to be submitted with a White House index setting out what segments Mr. Nixon believes should be withheld from the Watergate grand jury on other-than-national-security grounds and what segments he thinks can be disclosed without further ado.

The President's sudden shift came only after the dismissal of Cox, the proclaimed abolition of the Watergate special prosecution force, and the resignations of Attorney General Elliot L. Richardson and Deputy Attorney General William Ruckelshaus after refusing to fire Cox.

The Court of Appeals had ruled on Oct. 12 that Mr. Nixon would have to yield the tapes for Sirica's inspection unless the President could reach "some agreement with the Special Prosecutor" out of court.

Cox rejected the President's proposal in secret negotiations, but Mr. Nixon sought to impose it anyway, and said he was ordering Cox "as an employee of the Executive Branch" to cease his attempts to obtain any "tapes, notes or memoranda of Presidential conversations."

The Special Prosecutor immediately challenged the order as a violation of his independent charter. He said at a Saturday press conference that he would keep pressing for the tapes in court, perhaps by asking that Mr. Nixon be held in contempt. Cox was fired that night at Mr. Nixon's direction by hurriedly designated Acting Attorney General Robert H. Bork.

Until yesterday afternoon's dramatic turnabout, Mr. Nixon had been expected to stick to his controversial "compromise." His lawyers had informally submitted a four-page memorandum to Judge Sirica Monday afternoon, including Mr. Nixon's two-page statement of Friday and two pages urging its acceptance by the court.

Nixon Agrees to

OCTOBER 24, 1973

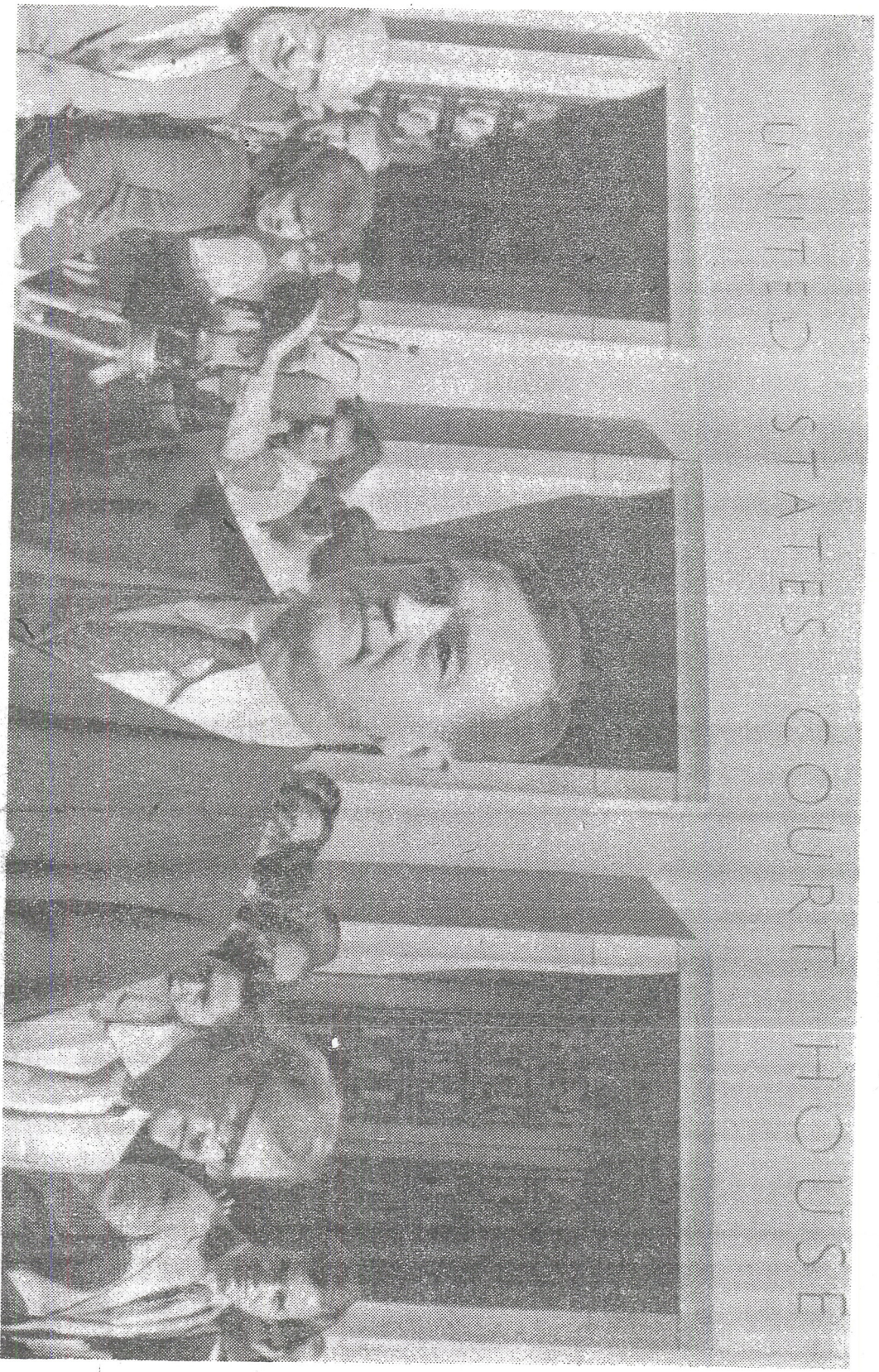
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UNITED STATES COURT HOUSE



Charles Alan Wright, President's constitutional lawyer, leaves court after telling the judge that "this President does not defy the law."

Associated Press

In addition, eleven of Cox's top aides and prosecutors, now under regular Justice Department direction, were waiting at the government lawyers' table, apparently poised to continue arguing for the tapes. The President's announced instructions of last Friday to stop seeking the recordings by judicial process had never been formally transmitted to them or, for that matter, to Cox.

"There's been no such order," the counsel for the former special prosecution force, Philip A. Lacovara, said after the hearing. "If there were one, of course, it's obvious there would be the same consequences as followed on Saturday."

The special force has said that it intends to keep pursuing its investigations involving the Nixon administration so long as it is free to obtain needed evidence.

Lacovara, however, declined to say what the Cox staff would have done in court yesterday if the President had not reversed himself.

Cox himself had just finished saying farewell at the special prosecution force's offices on K street when the President's announcement was made.

"I know that all citizens will be happy, as I am, that the President wisely chose to respect the rule of law," he said.

Judge Sirica's second-floor courtroom was packed when he opened the hearing at 2:07 p.m. At no point during the session did he even acknowledge the existence of Mr. Nixon's "compromise."

Instead, he began with a stern-faced recital of the Court of Appeals' Oct. 12 judgment, which went back to him for enforcement when Mr. Nixon failed to appeal it to the Supreme Court by last Friday midnight's deadline.

Sirica then read his own Aug. 29 order commanding "the respondent, President Richard M. Nixon" to produce the tapes. He finished by quoting the segments of the Court of Appeals' ruling setting out the elaborate procedure to be followed for "in camera" inspection.

Finally, Sirica looked at the White House lawyers sit-

ting before him and asked if they were prepared to file "The response of the President" to his Aug. 29 order as modified by the Court of Appeals.

Wright moved to the lectern and said he was not. Then he electrified the courtroom with his announcement: "I am, however, authorized to say that the President of the United States would comply in all respects with the order of Aug. 29th as modified by the order of the Court of Appeals.

"It will require some time, as your Honor realizes, to put those materials together, to do the indexing, itemizing as the Court of Appeals calls for."

Sirica responded as

though he could hardly believe what he'd just heard.

"As I understand your statement, that will be delivered to this court?" he asked.

"To the court, in camera," Wright assured him.

"You will follow the decisions or statements delineated by me?" Sirica persisted.

"Will comply in all respects with what your Honor has just read," Wright answered.

Wright then alluded to the four-page memo that the White House submitted Monday in defense of the President's plans to withhold the tapes from the courts and submit them instead to Sen. John Stennis (D-Miss.). Stennis was to verify the completeness and accuracy of the White House summary.

"That statement, if it was ever officially filed with the court, is now withdrawn," Wright said.

Grimacing broadly, Sirica drew the 15-minute session to a close with a final question about when the tapes might be expected. Then he retired to his chambers

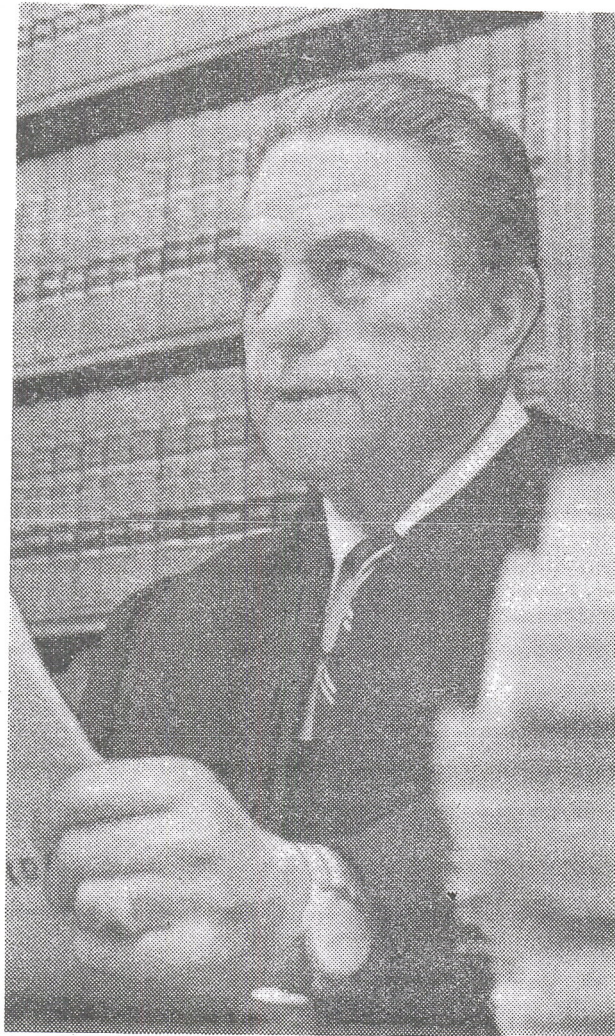
where a flood of letters and telegrams, many urging him to keep the President's feet to the fire, had piled up.

"I'm not going to start gloating over this thing like lot of people," Sirica told reporters. "I'm not that kind. I'm very happy, like any judge would be, about the position taken by the President."

The judge declined to indicate what he would have done if the President had persisted in withholding the tapes.

The recordings include nine of the President's conversations about the Watergate scandal—eight in face-to-face meetings and one by phone—between June 20, 1972, shortly after discovery of the bugging of Democratic National headquarters, and April 15, 1973, when Mr. Nixon had a long talk with then White House counsel John W. Dean III.

Asked whether the Court of Appeals' decision would permit him to enlist electronic experts to make sure the tapes had not been doctored, Sirica said, "I imagine I've been given pretty broad



Associated Press

Judge John J. Sirica, who has won President's compliance.

discretion, but I don't want to speculate about that."

Similarly, he declined to comment on what prosecutor he might invite to listen to the tapes with him now that Cox is gone. The Court of Appeals had authorized the judge to let the Special Prosecutor hear the tapes "for the limited purpose of aiding the court in determining the relevance of the material to the grand jury's investigations."

"I'll cross that bridge when I come to it," Sirica said.

The Senate Watergate committee's hopes for the five tapes it subpoenaed now lie in the Court of Appeals, where committee lawyers filed a motion yesterday morning asking for an expedited hearing.

Chief Committee Counsel Samuel Dash said in the eight-page pleading that there had been "some confusion in the press" about the reported willingness of Chairman Sam J. Ervin Jr. (D-N.C.) and ranking committee Republican, Sen. Howard H. Baker Jr. of Tennessee, to accept the President's summaries.

Despite widespread impressions that the Committee would drop its lawsuit in return, Dash said that no such commitment was made.

Citing what he called an apparent "dispute as to the character of the documentation offered by the President and Cox" "unfortunate firing," Dash said that Ervin had instructed the committee lawyers to go ahead with their appeal. Judge Sirica had rejected the committee's lawsuit for the tapes last week on jurisdictional grounds.

As a consequence, the only tangible results of Mr. Nixon's "compromise" were a shakeup at the Justice Department, the dismissal of Cox and an uncertain future for the investigations involving the Nixon White House.

At a White House press conference following Mr. Nixon's decision to give up the tapes after a three-month fight, Alexander M. Haig Jr., the President's chief of staff, declined to say whether the President would comply with any future subpoenas for other evidence, but he hinted that the White House would resist them.

Haig called the topic "a minefield" which he preferred not to discuss, but he did say that in surrendering the nine secret tapes, Mr. Nixon was making what he regarded as a "single exception" to his general rule of confidentiality for conversations in the Oval Office.