

17 Lawyers Discuss What May

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The case of the Brown Bag vs. Nixon was a court-room classic, a legal dispute in which most of the lawyers literally did not know what they were talking about.

That did not inhibit them. Seventeen willing advocates filed into the federal courtroom of Judge John J. Sirica yesterday to argue over what he should do with the bulging brown briefcase the Watergate grand jury dropped in his lap last Friday.

The grand jury wants it delivered to the House Judiciary Committee, which is considering the impeachment of President Richard M. Nixon. Ipso facto, everyone figures the contents are

bad news for the President. But only the Watergate prosecutors, and maybe the judge, know for sure.

The others haven't seen the contents, but their clients all have a strong interest in what happens to the briefcase. Every branch of government was represented; the the White House, the House of Representatives, the Watergate grand jury, plus lawyers for seven defendants, indicted last week for the Watergate cover-up.

Judge Sirica, who seemed uncomfortable with the choice confronting him, had to move the hearing upstairs to the larger ceremonial courtroom in order to accommodate the overflow barristers. They sat at three

long tables, facing the courtroom's larger-than-life statues of the four ancient lawgivers of Western civilization. Hammurabi et al, who might have winced at the congested bar.

"No other judge in this country in 197 years has had this matter before him," said Albert Jenner, minority counsel for the House committee. "It is sui generis."

Jenner doesn't know what's in the bag. "We are led to believe—just by osmosis that it comes within the duty of the House of Representatives just to examine it," Jenner said with a pixie smile. "To see maybe if that suitcase is empty, empty in the sense that there is nothing pertinent to our duty."

Lawyer John J. Wilson, who represents former Nixon counselors Haldeman and Ehrlichman, also doesn't know what's in the bag. But he wants it de-

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stroyed or at least suppressed as an illegal expression of opinion from the grand jury that might damage his clients if it became public before their trial.

"If I had to speculate," Wilson said, "and it's sheer speculation, the very tape on which my client Mr. Haldeman was indicted for perjury or at least a free transcription of that conversation is in that bag. If it isn't

or May Not Be in the Bag

in that bag, I'd like to be told it isn't in that bag."

Sending it to the House of Representatives, Wilson complained, would be like sending it to the newspapers.

Assurances of secrecy from Jenner and his colleague, majority counsel John Doar, were meaningless, Wilson insisted. "The leaks up there are big enough to drive a truck through," he said.

That subject aroused Judge Sirica, who had one of his own confidential memos turn up in print the other day. "I hope I find out who it is because his job isn't worth a nickel, his or hers," the judge said of the unknown courthouse leak-

er. "I'm glad you gave me an opportunity to say that."

Don't hesitate to interrupt me," Wilson replied cheerily.

The lawyers for the other inditees chorused Wilson, arguing for a tight lid on whatever the grand jury wants to say about the President, fearing that the publicity will injure their clients, too.

"As tempting as it is," huffed Sidney Dickstein, lawyer for Charles Colson, "we will refrain from participating in what has become America's favorite guessing game in the last week."

The President's lawyer, however, declined to attack the brown bag. Instead, James D. St. Clair announced that it's fine with him and the President if the unknown

contents are carted up to Capitol Hill. "The President would not be in favor of delaying the impeachment proceedings," he said.

The White House, he announced, is going to forward similar documentary evidence of its own, anyway. That, St. Clair explained, "no doubt includes some of the same material that's in that bag, though I don't know what's in that bag. In this sense, and I hope in other senses, Mr. Doar and I stand together."

Well, the judge asked, what about that, Mr. Wilson?

"Now you've put me on the spot," Wilson replied. "I don't care what the position of the White House is. I'm not working for the White House."

The only lawyer who spoke yesterday with a full knowledge of what's inside the briefcase was Philip Lacovara, counsel for the Special Prosecutor Leon Jaworski. He provided a lengthy defense of the bag and the grand jurors who assembled it, without tipping anything much about the contents.

"We believe it would be unthinkable under our system of government," Lacovara asserted, "for this court to hold that this grand jury or any other grand jury must remain mute."

Judge Sirica, who has the key to the briefcase, announced that he would ponder the issues before deciding whether the House of Representatives has the right to take a peek.