NYTimes OCT 11 1973

# Texts of Statements Read in U.S. District

Special to The New York Times

*BALTIMORE, Oct. 10 — Following are the texts of remarks made in United States District Court here today by Attorney General Elliot L. Richardson, Vice President Agnew and Federal Judge E. Hoffman in connection with the sentencing of Mr. Agnew:*

## Richardson Statement

May it please the court, I am, like every other participant in these proceedings, deeply conscious of the critical national interests which surround them. The agreement between the parties now before the court is one which must be just and honorable, and which must be perceived to be just and honorable, not simply to the parties but above all to the American people.

From the outset of the negotiations which have culminated in these proceedings, the Department of Justice has regarded as an integral requirement of any agreement a full disclosure of the surrounding circumstances, for only wi knowledge of these circumstances can the American people fairly judge the justice of the outcome. One critical component of these circumstances is the Government's evidence. In accordance, therefore, with the agreement of counsel, I offer for the permanent record of these proceedings an exposition of the evidence accumulated by the investigation against the defendant conducted by the office of the United States Attorney for the District of Maryland as of Oct. 10, 1973. Because this exposition is complete and detailed, it is sufficient for present purposes simply to state that this evidence establishes a pattern of substantial cash payments to the defendant during the period when he served as Governor of Maryland in return for engineering contracts with the State of Maryland. Payments by the principal in one large engineering firm began while the defendant was County Executive of Baltimore County in the early nineteen sixties and continued into 1971. The evidence also discloses payments by another engineer up to and including December, 1972. None of the Government's major witnesses as been promised immunity from prosecution, and each of the witnesses who would testify to having made direct payments to the Vice President has signed a sworn statement subject to the penalties of perjury.

In the light of the serious wrongdoing shown by its evidence, the Government might have insisted, if permitted by the court to do so, on pressing forward with the return of an indictment charging bribery and extortion. To have done this, however, would have been likely to inflict upon the nation serious and permanent scars. If would have been the defendast's right to put the prosecution to its proof. The Department of Justice had conceded the power of Congress, once an indictment had been returned, to proceed by impeachment. The Congress could well have elected to exercise this constitutional power. If the Congress chose not to act, the defendant could, while retaining office, either have insisted upon his right to a trial by jury or have continued to contest the right of the Government to try an incumbent Vice President. Whichever of these courses were followed would have consumed not simply month but years—with potentially disastrous consequences to vital interests of the United States. Confidence in the adequacy of our fundamental institutions would itself have been put to severe trial. It is unthinkable that this nation should have been required to endure the anguish and uncertainty of a prolonged period in which the man next in line of succession to the Presidency was fighting the charges brought against him by his own Government.

On the basis of these considerations, I am satsified that the public interest is better served by this Court's acceptance of the defendant's plea of nolo contendere to a single count Information charging income tax evasion.

There remains the question of the Government's position toward the sentence to be imposed. One possible course would have been to avoid this difficult and painful issue by declining to make an affirmative recommendation. It became apparent, however, in the course of the negotiations that without such a recommendation no agreement could be achieved. No agreement could have been achieved, moreover, if that recommendation did not include an appeal for leniency.

I am firmly convinced that in all the circumstances leniency is justified. I am keenly aware, first, of the historic magnitude of the penalties inherent in the Vice President's resignation from his high office and his acceptance of a judgment of conviction for a felony. To propose that a man who has suffered these penalties should, in addition, be incarcerated in a penal institution, however briefly, is more than I, as head of the Government's prosecuting arm, can recommend or wish.

Also deserving of consideration is the public service rendered by the defendant during more than four and one-half years as the nation's second highest elected official. He has been an effective spokesman for the executive branch in the councils of state and local government. He has knowledgeably and articulately represented the United States in meetings with the hads of other governments. He has participated actively and constructively in the deliberations of the Government in a diverse range of fields.

Out of compassion for the man, out of respect for the office he has held, and out of appreciation for the fact that by his resignation he has spared the nation the prolonged agony that would have attended upon his trial, I urge that the sentence imposed on the defendant by this court not include confinement.

## Agnew Statement

My decision to resign and enter a plea of nolo contendere rests on my firm belief that the public interest requires swift disposition of the problems which are facing me. I am advised that a full legal defense of the probable charges against me could consume several years. I am concerned that intense media interest in the case would district public attention from important national problems—to the country's detriment.

I am aware that witnesses are prepared to testify that I and my agents received payments from consulting engineers doing business with the State of Maryland during the period I was Governor. With the exception of the admission that follows, I deny the assertions of illegal acts on my part made by the Government witnesses.

I admit that I did receive payments during the year 1967 which were not expended for political purposes and that, therefore, these payments were income taxable to me in that year and that I so knew. I further acknowledge that con tracts were awarded by state agencies

# Court by Richardson, Agnew and Hoffman

in 1967 and other years to those who made such payments, and that I was aware of such awards. I am aware that Government witnesses are prepared to testify that preferential treatment was accorded to the paying companies pursuant to an understanding with me when I was the Governor. I stress, however, that no contracts were awarded to contractors who were not competent to perform the work and in most instances state contracts were awarded without any arrangement for the payment of money by the contractor. I deny that the payments in any way influenced my official actions. I am confident, moreover, that testimony presented in my behalf would make it clear that I at no time conducted my official duties as County Executive or Governor of Maryland in a manner harmful to the interests of the county or state, or my duties as Vice President of the United States in a manner harmful to the nation, and, further assert that my acceptance of contributions was part of a long-established pattern of political fund-raising in the state. At no time have I enriched myself at the expense of the public trust.

In all the circumstances, I have concluded that protracted proceedings before the Grand Jury, the Congress and the courts, with the speculation and controversy surrounding them, would seriously prejudice the national interest.

These, briefly stated, are the reasons I am entering a plea of nolo contendere to the charge that I did receive payments in 1967 which I failed to report for the purposes of income taxation.

## Hoffman Statement

For the past two days counsel for the defendant and the representatives of the Department of Justice have engaged in what is known as "plea bargaining," a practice which has received the judicial approval of the Supreme Court of the United States. As the judge of the court, I have refrained from making any recommendation to the parties involved as I was unaware of the facts involving the alleged charges. The agreement finally reached between the parties, and which has been fully set forth by Mr. Topkis, one of the attorneys for the defendant, and Mr. Richardson, the distinguished Attorney General of the United States, was the result of some relinquishment of rights on both sides. We are all aware of the fact that some persons will criticize the result and the sentence to be imposed but, in a case such as this, it would be impossible to satisfy everyone.

Once the agreement was reached between the parties, it had to be submitted to the judge for his approval or disapproval. It was late yesterday afternoon when I learned the final details of the negotiations. I insisted that all details would have to be submitted in open court and in the presence of the defendant before any formal approval or disapproval could be given. Such has now been accomplished and it becomes my duty to proceed.

The judge must accept the final responsibility as to any sentence, but this does not mean that he should disregard the negotiations and advices of the parties who are far more familiar with the facts, the national interest, and the consequences flowing from anysentence to be imposed.

As far as the court is involved, the defendant is on trial for willful evasion of income taxes for the calendar year 1967, which charge is a felony in the eyes of the law. He has entered a plea of nolo contendere which, so far as this criminal prosecution is concerned, is the full equivalent of a plea of guilty. Such a plea frequently is acdepted in income tax evasion cases as there are generally civil consequences flowing therefrom and the criminal court is not interested in the precise amount of taxes which may be due. The plea of nolo contendere merely permits the parties to further litigate the amount due without regard to the conviction following such a plea.

A detailed statement has been filed by the Department of Justice and refuted by th defendant, all of which are wholly unreleated to the charge of income tax evasion. These statements are the part of th understanding between the parties and are submitted merely because of the charges and countercharges which have received so msuch advance publicity. Of course, the agreement further provides that the Federal Government will take no further action against the defendant as to any Federal criminal charge which had its inception prior to today, reserving the right to proceed against him in any appropriate civil action for moneys allegedly due. Furthermore, neither this Court nor the Department of Justice can limit the right of any state or organization to take action against the defendant. Since the Department of Justice, pursuant to its agreement,will be barred from prosecuting the defendant as to any criminal charge heretofore existing, the truth of these charges and countercharges can never be established by any judicial decision or action. It would have been my preference to omit these statements and end th vrbal warfar as to this tragic event in history, but I am not inclined to reject the agreement for this reason alone.

There is a fundamental rule of law that every person accused of a crime is presumed to be innocent until such time as the guilt is established beyond a reasonable doubt. It is for this reason that I must disregard, for the purpose of imposing sentence, the charges, countercharges and denialswhich do not pertain to the single count of income tax evasion. I have so advised counsel for the parties and they are in agreement that this is my duty.

We come then to the charge of income tax evasion which, as I stated, is a felony and a most serious charge in itself. In approving the plea agreement between the parties, I have not overlooked my prior writings and sentences in other income tax cases. Generally speaking, where the defendant is a lawyer, a tax accountant, or a business executive, I resort to the practice of imposing a fine and a term of imprisonment, but provide that the actual period of confinement be limited to a period of from two to five months, with the defendant being placed on probation for the balance of the term. The reason for taking such action is that our method of filing income tax returns is fundamentally based upon the honor of the individual reporting his income, and a sentence of actual confinement serves as a deterrent to others who are required to file their returns.

But for the strong recommendation of the Attorney General in this case, I would be inclined to follow the same procedure. However, I am persuaded that the national interests in the present case are so great and so compelling—all as described by the chief law enforcement officer of the United States—that the ends of justice would be better served by making an exception to the general rule.

I, therefore, approve the plead agreement between the parties.