

Agnew's Status Unsettled in Areas of His

He Could Hold Office, Attorney General Says

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Special to The New York Times

WASHINGTON, Oct. 11—

Spiro T. Agnew's plea yesterday of no contest to a tax evasion charge left him, as one of his lawyers put it today, with a "judgment of conviction." But what that conviction means, in terms of any further legal proceedings and what rights he loses or retains, neither the lawyer nor anyone else seemed to know for certain.

The former Vice President gave his plea in return for the Federal Government's promise not to prosecute him further, at least for any allegedly unlawful acts uncovered in the Government's investigation of the Maryland kickback scheme.

But the bargain Mr. Agnew wrought—an unwritten agreement between his lawyers and his prosecutors—left two areas unsettled: his vulnerability to other prosecutions, and his loss of civil rights that is usually tied to conviction.

And in this stunned city, as across the country, there was debate today on a third question as well: whether the former Vice President had been treated too leniently.

Attorney General Elliot L. Richardson attempted to clear up some of the confusion in a news conference this morning. But his remarks and his answers to reporters' questions, given under the glare of television lights reflecting off two huge silvered statues on either side of Mr. Richardson's podium, did little to settle the matter.

Eligibility for Office

Mr. Richardson was asked whether Mr. Agnew would be deprived of any or all of his civil rights, a traditional deprivation for defendants convicted of felonies. The Attorney General responded that, according to the views of others in his department, Mr. Agnew would still be permitted to vote. There would be no loss of property rights and no prohibition against holding office under the Maryland Constitution, he added.

But this afternoon, a lawyer in the department's Office of Legal Counsel said that the questions were still being researched. "There is no provision in the Federal Code or Constitution regarding qualifications for elections, regarding convicted felons," he noted.

Among the questions that "we're going to look into," the lawyer said, were the effects of Mr. Agnew's plea in these areas: the right to vote; the right to hold an elected state office, an appointive state office, and elective Federal office or an appointive Federal office; property right; the right to have firearms; and the right to have other types of licenses.

"Pretty Sure"

Another question that has been raised is whether Mr. Agnew may give sworn testimony. According to the lawyer, "we're pretty sure he can."

To some extent the confusion arises because Mr. Agnew's plea was "no contest" rather than "guilty."

A no contest plea has substantially the same effect as a plea of guilty, the major distinction being that a nolo contendere plea, unlike a guilty plea, cannot be used in a civil proceeding as proof that the defendant actually committed the offense that prompted his plea.

There is some disagreement though whether the nolo plea is in effect the same as pleading guilty. Federal District Judge Walter E. Hoffman, who accepted Mr. Agnew's plea yesterday, said that "so far as this criminal prosecution is concerned, is the full equivalent of a plea of guilty."

Martin London, one of Mr. Agnew's attorneys, said today that the cases of the past indicate that a nolo plea "effectively is an admission of charges for the purposes of that case." But, he said, "it is not the same as a plea of guilty," which is an admission of guilt for all purposes.

"It does result in a judgement of conviction," said Mr. London, "but it is not an admission."

Maryland state officials,

asked today about Mr. Agnew's legal status, responded that because of this distinction between nolo contendere pleas and guilty pleas, they could answer definitely.

The Maryland Constitution, Article I, Section 2, specifies that no person "convicted of a felony or other infamous crime" may vote unless pardoned by the Governor. A previous case, according to the State Attorney General, Francis B. Birch, defined "infamous crime" as one involving "moral turpitude." And to be elected Governor or Lieutenant Governor, a person must be a registered voter.

"We can't tell you whether this would be an infamous crime, Mr. Birch said. "It may well be."

He was not sure that Mr. Agnew would be affected by the phrase "convicted of." He said he thought Mr. Agnew might not.

The second major question was what further proceedings might be brought against Mr. Agnew. The agreement does not prohibit a civil suit for tax fraud. The Internal Revenue Service says it is continuing its investigation.

Nor does the agreement prohibit state prosecutions. Maryland Governor Marvin Mandel said at a news conference today that he believed there should be no additional prosecutions and that he would not order the Attorney General, Mr. Birch, to begin one.

However, the Governor cannot halt investigations by local "State's Attorneys"—the local equivalent of New York's District Attorneys—and today the three States Attorneys of Anne Arundel County, Baltimore County and Baltimore City each said they had not yet decided what to do.

Under Indictment

The State's Attorney of Baltimore County, Samuel A. Green Jr., who is himself under indictment on 21 counts ranging from embezzlement to perjury and carnal bribery—said he would ask United States Attorney George Beall for information about Mr. Beall's case against Mr. Agnew.

It is also possible that Mr. Agnew may be called as a witness in proceedings against others, although Attorney General Richardson indicated today there was no present plan for this.

Closely tied to the question of further prosecutions, of course, is the question of whether Mr. Agnew has or has not been treated too leniently. As Warren B. Duckett, Anne Arundel States Attorney, put it when asked if he would proceed against the former Vice President: "Public sentiment will have some relevance—whether the American people feel Agnew has been punished enough."

Today Mr. Richardson, Mr. Mandel and Mr. Birch all said they thought the punishment had been sufficient. Mr. Birch said, "How much more can you punish a man, having been disgraced, having come down from the pinnacle of success and overnight crushed down to the ground?"

Some attorneys predicted that Mr. Agnew would be disbarred—a procedure that in Maryland is not automatic but that can follow conviction.

Richardson's Intercession

Yet it was clear, as Judge Hoffman indicated yesterday, that Mr. Agnew's sentence was less than that often imposed on persons convicted of tax evasion. The former Vice President was given a \$10,000 fine and an unsupervised probation, told only that he must, for three years, "at all times . . . be of uniform good behavior" and refrain from breaking the law.

Judge Hoffman noted yesterday that had it not been for the Attorney General's recommendation for leniency, he would probably have followed his normal procedure in tax cases and sent Mr. Agnew to prison.

Civil Rights and Any Future Litigation

OCTOBER 12, 1973