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Excerpts From a Federal Court Hearing on the Tapes

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WASHINGTON, Oct. 23— Following are excerpts from the official transcript of a hearing today in United States District Court, where Chief Judge John J. Sirica read portions of a ruling in the Watergate tapes case by the United States Court of Appeals for the District of Columbia Circuit, and Charles Alan Wright announced that President Nixon would comply with the ruling, and the text of a statement read by Judge Sirica to the two Federal grand juries empaneled to investigate Watergate and other cases:

JUDGE SIRICA: Counsel for both sides, I am starting at page 38 of the opinion in case you want to follow. The [appeals] court said:

"We contemplate a procedure in the district court, following the issuance of our mandate, that follows the path delineated in Reynolds, Mink, and by this court in Vaughn v. Rosen. With the rejection of his all-embracing claim on prerogative, the President will have an opportunity to present more particular claims of privilege, if accompanied by an analysis in manageable segments.

"Without compromising the confidentiality of the information, the analysis should contain descriptions specific enough to identify the basis of the particular claim or claims.

[1]

"Insofar as the President makes a claim that certain material may not be disclosed because the subject

matter relates to national defense or foreign relations, he may decline to transmit that portion of the material and ask the district court to reconsider whether in camera inspection of the material is necessary. The Special Prosecutor is entitled to inspect the claim and showing and may be heard thereon, in chambers. If the judge sustains the privilege, the text of the Government's statement will be preserved in the court's record under seal.

[2]

"The President will present to the DISTRICT court all other items covered by the order, with specification of which segments he believes may be disclosed and which not. This can be accomplished by itemizing and indexing the material, and correlating indexed items with particular claims of privilege. On request of either counsel, the district court shall hold a hearing in chambers on the claims. Thereafter the court shall itself inspect the disputed items.

"Given the nature of the inquiry that this inspection involves, the district court may give the special prosecutor access to the material for the limited purpose of aiding the court in determining the relevance of the material to the grand jury's investigations. Counsel's arguments directed to the specifics of the portions of material in dispute may help the district court immeasurably in making its difficult and necessarily detailed decisions.

"Moreover, the preliminary

indexing will have eliminated any danger of disclosing peculiarly sensitive national security matters. And, here, any concern over confidentiality is minimized by the Attorney General's designation of a distinguished and reflective counsel as Special Prosecutor. If, however, the court decides to allow access to the special prosecutor, it should, upon request stay its action in order to allow sufficient time for application for a stay to this court.

"Following the in camera hearing and inspection, the district court may determine as to any items (a) to allow the particular claim of privilege in full; (b) to order disclosure to the grand jury of all or a segment of the item or items; or, when segmentation is impossible, (c) to fashion a complete statement for the grand jury of those portions of an item that bear on possible criminality. The district court shall provide a reasonable stay to allow the President an opportunity to appeal."

Appeal by President

There is a reference to footnote 100. I will read the footnote:

"Since the subpoenaed recordings will already have been submitted to the district court, the opportunity to test the court's ruling in contempt proceedings would be foreclosed. And any ruling adverse to the Special Prosecutor would clearly be a pre-trial "decision or order suppressing or excluding evi-

dence in a criminal proceeding."

Thus the district court's ruling on particularized claims would be appealable by the President as final judgments under 28 U.S.C., Section 1291."

And it cites three Federal cases.

In case of an appeal to this court of an order either allowing or refusing disclosure, this court will provide for sealed records and confidentiality of presentations.

Now, are counsel for the President prepared at this time to file with the court the response of the President to the modified order of the court?

MR. WRIGHT: Mr. chief judge, may it please the court: I am not prepared at this time to file a response. I am, however, authorized to say that the President of the United States would comply in all respects with the order of August 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.

JUDGE SIRICA: As I understand your statement, that will be delivered to this court.

MR. WRIGHT: To the court in camera.

JUDGE SIRICA: You will follow the decisions or statements delineated by me.

MR. WRIGHT: Will comply in all respects with what your honor has just read.

As the court is aware, the President yesterday filed

and Text of Statement by Sirica to Grand Juries

with the clerk of the court a response along different lines, along the lines indicated in the statement to the country on Friday. That statement, if it was ever officially filed with the court, is now withdrawn.

The response that was made yesterday, the President's statement on Friday, was what we hoped would be a satisfactory method of accommodating the needs that led your honor and the court of appeals to rule as they did; while minimizing the danger to confidentiality, we had hoped that that kind of a solution would end a constitutional crisis.

The events of the week-end, I think, have made it very apparent that it would not. Even if I had been successful, as I hoped I would be in persuading you, Mr. Chief Judge, that this did adequately satisfy the spirit of the Court of Appeals ruling there would have been those who would have said the President is defying the law.

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

JUDGE SIRICA: Mr. Wright, the court is very happy the President has reached this decision. I appreciate the efforts in that.

Can you give the court some idea approximately when the court might expect the matters and things called for in the subpoena duces tecum pursuant to the decision of the court of appeals?

MR. WRIGHT: Mr. Chief Judge, I honestly can't do so except to say it will be done as expeditiously as possible, and I would hope it would be a matter of a few days. But I am not myself familiar with the materials in question. I do not know how much time is required. We will proceed as quickly as we can.

JUDGE SIRICA: All right. Thank you very much. Anything further, gentlemen? The court is adjourned.

Sirica Statement

Members of the grand juries:

I thought it prudent to call you here this morning to explain, insofar as possible, your present status. I imagine that in view of events that have recently transpired, many or perhaps all of you may be experiencing some anxiety regarding your role as grand jurors and the role of the grand juries themselves. My brief remarks perhaps, may alleviate some of that anxiety. Such, at least, is my intent this morning.

You are advised first, that the grand juries of which you serve remain operative and intact. You are still grand jurors, and the grand juries you constitute still function. In this regard you should be aware that the oath you took upon entering this service remains binding. You must all be especially careful at this time to fully and strictly adhere to that oath which states:

"You and each of you as

a member of the grand jury for the District of Columbia, do solemnly swear that you will diligently, fully, and impartially inquire into and true presentment make of all offenses which shall come to your knowledge and of which the United States District Court for the District of Columbia has cognizance; that you will present no one from hatred or malice nor leave anyone represented from fear, favor, affection, reward, or hope of reward; that the counsel of the Attorney of the United States, your fellows and your own, you will keep secret and that you will to the best of your ability perform all the duties enjoined upon you as grand juror, so help you God."

Praise for Past Work

As I instructed you at the time you took this oath, "Your deliberations, as well as the business before you, you will treat as absolutely sacred and secret; and you will, of course, permit no one, one the outside to talk with you concerning any matter relating to the discharge of your duties. You are at liberty to apply to the court for any needed further instructions."

To my knowledge, each of you has been true to your oath and the trust reposed in you as grand jurors. You are to be commended for the orderly, efficient and honorable manner in which you have conducted your affairs. I implore you to carry your work forward in the future as you have in the past.

This brings me to my second point, these two grand juries will continue to function and pursue their work. You are not dismissed and will not be dismissed except as provided by law upon the completion of your work or the conclusion of your term. Your service to date, I realize, has occasioned personal sacrifices for many of you and inconvenience for all of you.

You did not choose this assignment; it is an obligation of citizenship which it fell your lot to bear at this time, and you have borne it well. The court and the country are grateful to you. Nevertheless, you must be prepared to press forward. We rely on your continued integrity and perseverance.

Finally, I urge you to be patient while the various problems surrounding your investigations are resolved. I understand that the August, 1973, grand jury will be meeting this morning to hear testimony, and that the June, 1972, grand jury will similarly convene tomorrow.

I hope you will proceed in your regular fashion. In due course, the questions which now plague us will be answered, and you may rely on the court to safeguard your rights and to preserve the integrity of your proceedings. Meanwhile, you must steadily and deliberately pursue your investigations.

Thank you for being here this morning. You may now be excused.