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CAMBRIDGE TENANTS UNION

November 12, 1992

Cambridge City Council
Cambridge City Hall
795 Massachusetts Avenue
Cambridge, MA 02139

To the Honorable; the City Council:

The case of Chief Judge Sol Wachtler of the New York State Court of Appeals, the court equivalent to the Supreme Judicial Court in Massachusetts, may offer some guidance to this Council in its deliberation of matters involving City Councillor William Walsh.

Copies of articles from The Boston Globe and The New York Times are attached. Obviously, the Wachtler Case does not offer precise parallels to the situation here. Each case is different. But, in the New York case, the strong concern by all parties for the integrity of a public institution should merit this Council's consideration.

Relevant elements of the New York case:

Judge Wachtler was originally elected. When he was arrested and even before any indictment came down or any formal notification of charges had been received by the Appeals Court, the other members of the New York State Court of Appeals met to consider his case. They expressed sympathy for Chief Judge Wachtler and his family, stated he was not being suspended, but stressed their discussion had been primarily about how the court would function in light of Judge Wachtler's arrest. According to The New York Times, Governor Cuomo was also concerned about "damage to the prestige and operation of the state court system...."

At the bail hearing, many conditions of bail set by the federal judge arose from the nature of the case, but at least three appear similar to those set for Councillor Walsh: travel restrictions, regular reports to authorities, and an instruction to have no contact with witnesses.

Shortly after he returned home from the bail hearing, Judge Wachtler resigned from the court he had served for twenty years. Part of the statement given by his attorney bears repeating: "As much as possible he [Judge Wachtler] wishes to prevent his situation from harming the institution he reveres and the extraordinary judges and staff who serve it."

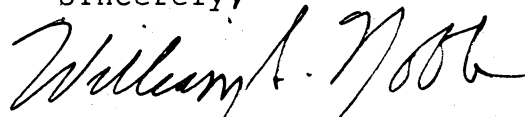
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In an interview with The New York Times, Judge Simons, who now assumes the duties of Chief Judge, responded: "It's been a very stressful time for both the court and for the Wachtler family, but regrettably it had to come to this conclusion. There really was no other solution to the problem if the integrity of the institution was going to be maintained. To his great credit, Chief Judge Wachtler recognized that too."

Despite his personal and legal difficulties, Judge Wachtler was able to distinguish the special responsibilities and trust which go with public office. He resigned rather than impair the functioning, integrity and credibility of the public institution he served.

The enclosed articles are submitted for your information and review. After reading them, you may find elements of the Wachtler case offer a real-world parable for Councillor Walsh and the Cambridge City Council.

Sincerely,

A handwritten signature in cursive script, appearing to read "William S. Noble".

(for) CAMBRIDGE TENANTS UNION
(William S. Noble)

enclosures

Nation p. 3

Accused N.Y. judge won't be suspended

By Marc Humbert
ASSOCIATED PRESS

ALBANY, N. Y. — The associate judges of the state's highest court refused yesterday to suspend Chief Judge Sol Wachtler, who is under a suicide watch at a hospital and charged with threatening a former lover.

"He has not been suspended, he has not resigned ... Nobody has suspended anybody. There is no need," said senior Associate Judge Richard Simons.

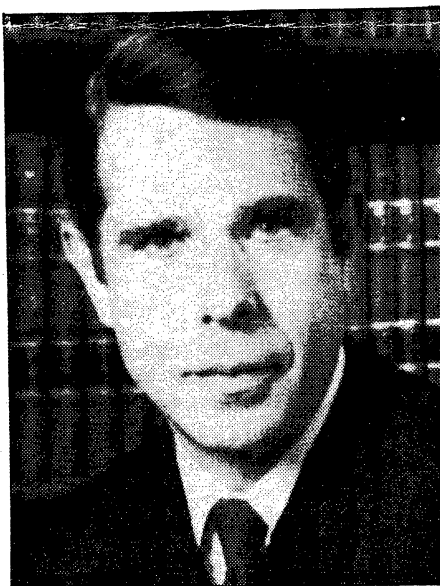
"He will assume the same status as any other judge who is unable to assist in the sessions of the court ... the court will continue to function as if he were ill or whatever," Simons added.

Richard Zander, a spokesman for the Court of Appeals, said Wachtler will continue to be paid his \$120,000-a-year salary. And he said that if the chief judge is released on bail, he could theoretically take his center seat in the Albany courtroom.

The tribunal's six associate judges met privately for about one hour behind heavy wooden doors in the courthouse.

Afterward, Simons said the judges never even talked about suspending Wachtler, only discussing how the court would function in his absence. While the case has been front-page news across the state, Simons said the court has not received any formal notification of charges against Wachtler.

Before his arrest, Wachtler, 62, was touted as a possible candidate for the governor's office in the state Capitol just up the street from the court he had run for seven years. The liberal Republican had also been mentioned as a possible US Supreme Court nominee.



SOL WACHTLER
Charged with threatening former lover

Simons, a Republican from Rome, N.Y., said he would function as chief judge in Wachtler's absence. The court is due back in session Nov. 17 for four days of arguments on 20 cases.

Wachtler has not yet entered a plea in his case.

The judge was arrested Saturday by FBI agents on charges that he harassed a Manhattan socialite and Republican fund-raiser, tried to blackmail her and threatened to kidnap her 14-year-old daughter. The woman was identified in news reports as Joy Silverman.

Law enforcement officials said the harassment began earlier this year after the woman broke off a lengthy affair with

Wachtler.

Wachtler was scheduled for a bail hearing today in federal court in Manhattan.

As chief judge of the seven-member Court of Appeals, Wachtler has presided over all state courts and more than 5,000 judges. In New York state, only the Court of Appeals, or the state Legislature through impeachment, can remove state judges from the bench.

Wachtler was elected to the court in 1972 and appointed its chief judge by Gov. Mario Cuomo, a Democrat, in 1985 for a 14-year term.

Flip Lorenzoni, chief deputy US marshal in New York City, said yesterday that Wachtler was confined to a small room at Long Island Jewish Hospital and was under 24-hour guard for fear he might kill himself.

"That is one of the concerns we have," the deputy marshal said.

Whether Wachtler would be suspended or suspend himself as chief judge has been an open question ever since his arrest.

The Appeals Court had issued a statement Sunday night announcing Wachtler was removing himself temporarily from the bench, but the statement was retracted 15 minutes later.

Wachtler, married for more than 40 years and the father of four, has been accused of making threatening calls since April to his former girlfriend and sending sexually explicit letters to her and her daughter.

In one call, authorities said Wachtler demanded \$20,000 in exchange for "embarrassing" tapes and photographs, purportedly of Silverman and a new boyfriend. According to the complaint, the caller warned, "I'm a sick and desperate man."

CHIEF JUDGE QUILTS POST IN NEW YORK IN EXTORTION CASE



The New York Times
Judge Sol Wachtler in 1990.

DETAINED AT HOME

Wachtler Cites Concern
for Court — Cuomo
to Pick Successor

By JOSH BARBANEL

Sol Wachtler, the Chief Judge of New York State's highest court, resigned yesterday, hours after a Federal judge ordered him detained in his home, monitored by electronic surveillance and private security guards. He is to remain under guard until his Federal trial on charges of trying to blackmail a woman who broke off an affair with him.

The resignation came from Judge Wachtler in a telephone call at 1:30 P.M. to the senior associate judge of the State Court of Appeals, Richard D. Simons, who has assumed the duties of administering the state's court system in Mr. Wachtler's absence. But until Gov. Mario M. Cuomo appoints a successor, the court will operate without a chief judge.

Both Mr. Wachtler's lawyer, Charles Stillman, and Federal prosecutors said the former Chief Judge's resignation was not part of any bail negotiations with Federal prosecutors.

"As much as possible, he wishes to prevent his situation from harming the institution he reveres and the extraordinary judges and staff who serve it," the statement said. "Chief Judge Wachtler is therefore resigning from the court."

Although Judge Wachtler has not admitted any crimes — and, indeed, is yet to be formally indicted — his resignation from the post he holds dearest is in effect a recognition that he is unlikely to emerge from his difficulties undamaged.

Mr. Stillman said that at this point Judge Wachtler's family is simply looking for a "resolution of this that enables him to live out his life in peace."

'Must Be the Very Best'

Governor Cuomo, concerned about damage to the prestige and operation of the state court system, said he would speed as much as possible the selection process, which could routinely take four months or more.

"It is the greatest court in the country," Mr. Cuomo said. "The objective now must be to replace him. We need a lawyer who is a great judge. It must be the very best."

Among the names mentioned yesterday as possible replacements were Judge Simons; Associate Judge Judith S. Kaye, the first woman to serve on the court; Associate Judge Joseph W. Bellocosa, an old friend of Mr. Wachtler's;

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Chief Judge, When Ordered Detained, Decides to Resign

Continued From Page A1

a New York City deputy mayor, Fritz W. Alexander, who had been the first black member to be appointed to the court for a full term, and Milton Mollen, the former presiding justice of the State Appellate Division in Brooklyn and a former deputy mayor.

As Chief Judge, Mr. Wachtler was regarded as one of the most politically sophisticated and effective leaders in public life in New York State, the unifying force behind the Court of Appeals and a forceful administrator of the second largest local court system in the country.

But he has been held under guard at Long Island Jewish Medical Center, at times manacled to his bed, since his arrest on charges of attempting to extort \$20,000 and threatening to kidnap the daughter of the woman with whom he had a long affair, Joy A. Silverman, a wealthy Republican fund-raiser and onetime candidate to be Ambassador to Barbados.

Yesterday, Mr. Wachtler appeared in Federal District Court in Manhattan wearing the same dark gray suit he wore when arrested and seeming nervous and somber as his case, the United States v. Sol Wachtler, was called before Magistrate Sharon E. Grubin.

He sat silently, without expression, as the prosecutor, Michael Chertoff, the United States Attorney in Newark, and Mr. Stillman laid out the arduous terms of home confinement that they had worked out in the last day or so.

Monitoring Agreement

Under the agreement, he will pay for a private security company to monitor his activities and wear an electronic ankle bracelet to monitor his movements. Prosecutors are to get a list of all visitors who are not family members, and Mr. Wachtler is to remain at his home in Manhasset, L.I., except to see his lawyer or undergo medical treatment.

Mr. Chertoff said that it was unusual to monitor a suspect through both private security guards and electronic equipment, but that the



Budd Williams for The New York Times

After a hearing in Federal District Court yesterday, Sol Wachtler rode in a van to his home in Manhasset, L.I., where he will be confined until prosecutors decide how to proceed with the case against him.

extra precaution was necessary to protect Mrs. Silverman and her daughter. The prosecutor said it was not extraordinary for a suspect to hire his own security guards to insure his detainment at home and thus avoid imprisonment.

Mr. Wachtler arrived at his home in a dark blue minivan, riding past three Nassau County police cars, several Federal marshals and a group of 20 or so photographers. Within minutes, he was on the telephone with Judge Simons, informing him of his resignation.

Soon after, Judge Simons issued a statement from the Court of Appeals, saying that he had received the phone call, and a faxed statement from Mr. Stillman and would begin the elaborate state nominating process as soon as the details of the resignation, including the receipt of a written resig-

nation letter, were worked out.

"The members of the court accept this news reluctantly but necessarily," his statement said. "In the meantime, the remaining judges of the court will devote every effort to dispatching of the court's business to the best of our availability."

A Private Session

On Monday, the six associate justices met in an extraordinary private session to consider the fate of the Chief Judge. But they decided to do nothing, allowing him to remain in office for another day and treating his incarceration as they would a temporary illness.

In an interview yesterday, Judge Simons said: "It's been a very stressful time for both the court and for the Wachtler family, but regrettably it had to come to this conclusion. There really was no other solution to the problem if the integrity of the institution was going to be maintained."

"To his great credit, Chief Judge Wachtler recognized that too," he

Judge Wachtler's resignation triggers an elaborate screening process for a successor. A State Commission of Judicial Nomination, made up of appointees of the Governor, the Chief Judge and the legislative leaders, has 120 days to solicit nominations and provide the Governor with a list of seven candidates.

The Governor then must pick a name from the list in at least 15 days and no more than 30 days after the list is received, and his nomination then goes to the State Senate for confirmation. If Mr. Cuomo decides to promote an associate judge to the chief judge's spot, he will then be faced with another vacancy to fill, for the post of associate judge. Under the State Constitution the court can continue to hear cases with as few as five judges.

Judge Wachtler's arrest on Saturday, on the Long Island Expressway near the border between Queens and Nassau County, brought to an end a career in public that spanned three decades and that had been devoid of scandal. He was often mentioned as a potential candidate for Governor.

A Former Councilman

He was a rising politician in Nassau County in the 1960's, serving as a Councilman and Supervisor of the Town of North Hempstead. But after a bruising defeat in a race for Nassau County Executive, he was appointed to fill a vacancy on State Supreme Court in 1968 and has been a judge ever since.

Elected to a term on the Court of Appeals in 1972, he was appointed Chief Judge in 1985, by Governor Cuomo, in part it was said to remove him as a potential rival.

Since then, he has been an aggressive administrator of a court system with 1,075 state judges, 2,400 town and village justices and more than 12,000 employees. New York has a larger court system than any state except for California, where the courts are largely decentralized.

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But the Federal complaint drawn up against Judge Wachtler paints a portrait of a very different individual. He is accused over many months of sending harassing, sometimes lewd, notes to Mrs. Silverman and her 14-year-old daughter, including a card to the daughter that contained a condom, threatening to kidnap the daughter.

He also demanded \$20,000 payment in exchange for compromising photographs of Mrs. Silverman with her new boyfriend, David Samson.

The complaint charging Mr. Wachtler with extortion said that he had been undergoing outpatient treatment for the last two years at Long Island Jewish Hospital. An official in the Newark office of the Federal Bureau of Investigation, who spoke on the condition of anonymity, repeated yesterday his understanding that Mr. Wachtler was being treated for cancer, saying that the assessment was based on what he had been told by top F.B.I. officials. He did not elaborate, nor did he make clear how the officials knew the information.

Yesterday both Mr. Chertoff, the prosecutor, and Mr. Stillman, the defense lawyer, declined to comment on Mr. Wachtler's medical condition. But friends and some relatives have said that he is not physically ill.

In a letter to the court, Dr. Sanford Solomon, a psychiatrist who examined Judge Wachtler at Long Island Jewish Medical Center, suggested that Judge Wachtler was under medication.

The letter states flatly that the judge did not pose a threat to others, "in particular the alleged victim and her family." But when addressing the risk of suicide, Dr. Solomon said Judge Wachtler was not at risk "given his cooperation with the therapeutic and medicinal treatment regimen I have recommended."

THE NEW YORK TIMES EDITORIALS/LETTERS WEDNESDAY, NOVEMBER 11, 1992

Sol Wachtler's Fitting Departure

P. A24

Almost from the moment of his shocking arrest last weekend, Chief Judge Sol Wachtler's swift departure from New York State's highest court seemed inevitable. Yesterday the judge resigned. His action was sad but highly appropriate. Whatever factors influenced the resignation, his lawyer could credibly say that Judge Wachtler wanted to spare further harm to the State Court of Appeals.

New York and its courts have cause for relief that the Chief Judge, facing criminal charges of extortion and threats against his former woman friend, was able to recognize the predicament he had caused. Less worthy options were available, like clinging to office until the state's removal machinery could operate.

His resignation limits any taint on his impressive achievements. This Chief Judge can still be remembered for able opinions and aggressive campaigning for a fairer, more efficient state justice system. He undoubtedly understood the bewilderment of his colleagues and feared that his long search for higher judicial standards would suffer if he stalled and bickered.

Judge Wachtler now faces heavy criminal charges. Perhaps eventually he can account for his streak of bizarre and threatening private behavior. New Yorkers and a national legal community that admired his accomplishments can wish for a return of calm to those he may have injured, and hope that he too can someday gain peace for himself.

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Returning to the Court In an Uncommon Role

Air of Collegiality at Wachtler Hearing

By RONALD SULLIVAN

Standing quietly in the packed Federal courtroom in lower Manhattan, his expression solemn, his fingers entwined, the defendant still looked very much the Chief Judge.

From the moment Sol Wachtler walked in to the moment he rose from his seat, he was the picture of judicial composure. He looked like a judge out of central casting in his dark gray suit, white shirt and dark tie. His dark, gray-streaked hair appeared to have just been combed. But his deeply-set eyes never seemed to focus on anything in court.

Outside, several would-be film makers were speculating on whether there would be a long trial (good, from their perspective) or a plea bargain (not so good) and wondering

A criminal defendant whose peers sit behind the bench.

how quickly they could turn the Wachtler story into a made-for-television movie. And television camera crews and newspaper photographers were scurrying from one door of the courthouse to another, hoping to be in position to catch a glimpse of Mr. Wachtler when the hearing was finally over and he left the building.

A Collegial Atmosphere

Inside, Mr. Wachtler was trading smiles with his lawyer, Charles A. Stillman, as they waited for Judge Sharon E. Grubin to enter the courtroom and call the hearing to order.

Once she did, it was clear that this was no adversarial proceeding, with

one side shouting at the other. It was all very polite. Mr. Stillman referred to the prosecutors "as my friends at the front table." They did not comment on the crimes the judge is accused of committing.

A Different Perspective

Then, after approving an arrangement under which Mr. Wachtler is to be confined to his Long Island home under 24-hour surveillance by private security guards, Judge Grubin addressed Judge Wachtler, who seemed close to tears as he rose from his place in the courtroom — not his accustomed high-backed, leather-cushioned cherry judge's chair, but a plain wooden one at the defense table.

"Do you understand the agreement?" Judge Grubin asked.

"Yes, I do," Mr. Wachtler said.

"You're to keep a list of all visitors and provide it to the government daily," she said.

"Yes."

"And you're to have no contact with the alleged victims, do you understand?" Judge Grubin asked.

"Yes, I do," Mr. Wachtler replied.

"If you violate any of these conditions, you will have bail revoked and a warrant issued for your arrest?" she asked.

"Yes," he said.

"And if you have any contact with witnesses, it will be a violation of bail and you will be charged with obstructing justice," she concluded.

But if the hearing was largely a formality — both sides had agreed in advance to the 24-hour guards as part of a deal that will keep Mr. Wachtler out of the Federal Metropolitan Correctional Center — Judge Grubin's remarks were not.

"If my decision in releasing you reflects even a small amount of the wisdom you have shown from the bench," she said, "we will have done all right here."

Mr. Wachtler nodded at the compliment, and then the hearing was over.

Consent Comm. # 10

S-938

Comm. from William S. Noble for the
Cambridge Tenants Union, transmitting
information which may help to guide
the City Council in the matters concern-
ing Councillor Walsh.

In City Council,

November 16, 1992

Placed on file