

Pence gave phone call notes to Smith, indictment reveals

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By Terry A. Hurlbut

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Former Vice-President Mike Pence obviously cooperated with Special Counsel Jack Smith and probably did so willingly. A close read of the 45-page indictment of Trump handed down yesterday appears to contain excerpts from handwritten notes Pence took as he conversed with Trump by telephone in the days leading up to January 6, 2021.

Pence informed on Trump

Chris Pandolfo of Fox News filed this report describing “previously unreported” notes Pence took of his telephone conversations with Trump. The first such conversation took place on Christmas of 2020. Pence called Trump to wish him a Merry Christmas, and Trump immediately wanted to talk about the upcoming joint session of Congress, scheduled for January 6, 2021.

At issue is exactly how much discretion a Vice-President has as he presides over an electoral count session. Under the Constitution (Amendment XII) the Vice-President, in his role as President of the Senate, receives “distinct lists of all persons voted for as President, and of all persons voted for as Vice-President, and of the number of votes for each” from Presidential Elector delegations in the several States. (This applies also to the District of Columbia, per Amendment XXIII.) The Vice-President then opens the sealed envelopes, and “the votes [are] then counted.”

Pence told Trump then, and has consistently maintained, that he had no power to do anything but count votes. That stands at variance with the spectacles, in 2001 and 2005, of House delegations challenging the validity of some votes. Nevertheless the indictment describes the Vice-President's "role" as "ceremonial" only. It also suggests any expansion of that role beyond the "ceremonial" would constitute fraud.

Yesterday Simon Ateba of Today News Africa shared what he said was Mike Pence' statement after the indictment. In it Pence accused Trump of "put[ting] himself above the Constitution," saying he "should never be President [again]."

BREAKING – YOUR REACTION: [@Mike_Pence](#) bombs [@realDonaldTrump](#), releases damning statement on Trump indictment, writes, "Today's indictment serves as an important reminder: anyone who puts himself over the Constitution should never be President of the United States.

"I will have... pic.twitter.com/t46X555CeD

— Simon Ateba ([@simonateba](#)) [August 1, 2023](#)

Has he read the indictment?

Pence then said he hadn't read the indictment – a doubtful proposition given Smith's cribbing of Pence' phone call notes. He also grudgingly declared Trump "entitled to the presumption of innocence." But he also suggested if Trump stays in the race, the country will see "more talk about January 6th and more distractions."

This stands in stark contrast to what he was saying around Christmastide 2020, when he pledged to fight until "every illegal vote [was] thrown out." Jack Posobiec has contemporaneous video.

FLASHBACK: In December 2020 at the TPUSA Summit, Mike Pence said he would keep fighting until 'every illegal vote is thrown out'

That was a lie pic.twitter.com/gYXRVzm7Av

— Jack Poso 🇺🇸 ([@JackPosobiec](#)) [August 2, 2023](#)

The former Vice-President has not, at last report, made any further comment. But Mr. Ateba did, observing that the almost 8,000 comments he received in reaction were negative toward Pence.

I didn't know [@Mike_Pence](#) was so disliked here. The nearly 8,000 people who have commented here have virtually all blasted him. I don't really know if he has any political future in the GOP. I doubt. But I can never write anyone off as things always change in politics.

— Simon Ateba ([@simonateba](#)) [August 2, 2023](#)

One of those negative commenters parroted Pence' [statement](#) to Tucker Carlson that the suffering in American cities was “not [his] concern.”

The ex-VP consistently polls in single digits. Gov. Ron DeSantis (R-Fla.) is the only candidate besides Trump polling in double digits. Trump generally polls with 50 percent or more of the vote.