

Weinberger Trial Sides Battle Over Preamble to Indictment

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Top officials of the Reagan administration might have been indicted for covering up the Iran-contra scandal if notes about the affair belonging to former defense secretary Caspar W. Weinberger had been made available five years ago, a federal prosecutor said yesterday.

John Q. Barrett, an associate independent counsel, suggested the possibility of such a criminal conspiracy case during an argument in federal district court here. His statement came in response to a motion by Weinberger's lawyers to delete some of the wide-ranging allegations in a 15-page preamble to the five-count indictment against the former Reagan administration Cabinet member.

Weinberger, 75, has been charged with perjuring himself before Congress and a federal grand jury and hiding from Congress and Iran-contra prosecutors almost 1,700 pages of daily diary notes, some of which related to Iran-contra events.

Discovery of the Weinberger notes in mid-1991 triggered a renewed inquiry by independent counsel Lawrence E. Walsh into whether a broad, high-level conspiracy had existed to cover up the scandal in 1986 and 1987 when it was being looked into by federal and congressional investigators.

The prosecutors offered to allow Weinberger to plead to a lesser charge if he would implicate former President Ronald Reagan in such a conspiracy, according to sources. He refused and was indicted in June.

Weinberger's lawyers argued yesterday that the long introduction to the charges against the former defense secretary contained many allegations not directly associated with case and could be prejudicial against him when read to a future jury.

U.S. District Judge Thomas F. Hogan

appeared to accept part of this argument, saying a jury hearing the 45-paragraph preamble, which mentions actions by Reagan, then-Attorney General Edwin Meese III, then-Secretary of State George P. Shultz, and then-White House Chief of Staff Donald T. Regan, would get the "impression [the prosecutors] are alleging a conspiracy among the highest levels of government."

Hogan, while postponing a decision, said there was "an awful lot in here that could influence a jury well beyond the charges."

Both the judge and the defense cited a paragraph that discussed a statement Prince Bandar bin Sultan, the Saudi ambassador, allegedly made to Weinberger to the effect that First Lady Nancy Reagan viewed Shultz as disloyal to the president and would prefer Weinberger in the secretary of state's job.

Barrett said the information came from Weinberger's notes, which "regularly reflected that being secretary of state was one of his [Weinberger's] goals." It was included in the preamble, the prosecutor said, to show part of Weinberger's "motivation" and what "he has at stake" in hiding Iran-contra information from investigators.

Robert S. Bennett, Weinberger's chief defense lawyer, interrupted to say that wanting to be secretary of state did not show "criminal purpose."

Barrett argued that keeping information in the preamble about many aspects of the Iran-contra affair was necessary to give the "background and the premise of this case."

One note Barrett cited was about a Dec. 7, 1985, White House session where Weinberger said covert arms-for-hostages sales to Iran would violate U.S. policy and possibly be illegal. Reagan responded he could answer charges of illegality but not charges that "big, strong, President Reagan passed up a chance to free the hostages."