

# Protesters' Prosecutor Is Rebuked

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Superior Court Chief Judge Harold H. Greene publicly upbraided Corporation Counsel C. Francis Murphy yesterday for "undermining public faith" in the judicial system by accusing judges of indiscriminately throwing out Mayday antiwar protest cases.

The judge demanded that Murphy appear before him in open court and sternly lectured the city's chief prosecutor, at one point charging him with coming close to violating American Bar Association canons that forbid lawyers from making "false accusations" against judges.

At the same time, the American Civil Liberties Union filed a lawsuit in federal court here seeking to prevent further prosecution of all Mayday cases in which the police have no idea of the time or place where the alleged law violation occurred.

U.S. District Court Judge George L. Hart Jr. declined to issue a temporary court order against such prosecutions, and the ACLU said it would appeal today.

The president of the Young Lawyers Section of the D. C. Bar Association, in the meantime, condemned the May 3 arrests here (when protestors threatened to block rush-hour traffic), and called the government's handling of the subsequent prosecutions as "a legal outrage."

In Superior Court, Judge Greene read to corporation counsel Murphy a section from Canon 8 of the bar association's code of ethics.

See JUDGE, A13, Col. 1

## JUDGE, From A1

The section warns lawyers to refrain "from unjustified attack on the character of judges," so as to maintain "public confidence" in courts.

Greene's stern remarks came as Murphy told the judge that his office plans to drop prosecution of 49 demonstrators after successfully winning an appeal to the D.C. Court of Appeals to reinstate the cases. A Superior Court judge initially threw them out on constitutional grounds that the appellate court overturned.

Judge Greene said this action by the prosecutor was "more than reminiscent" of last month's decision by government prosecutors to first seek, but then refuse to use, a court order barring antiwar veterans from camping on the Capitol grounds.

Greene said that Judge Hart had declared then that "this procedure was undermining the faith in the judicial process. I want to echo his sentiments."

Chastising Murphy for "inexcusable" conduct in crowding the court with demonstration cases in which evidence for convictions was lacking, Greene accused the prosecutor of "attempting to

shift the blame for this situation" from himself onto the judges.

The judge based his reprimand on a statement Murphy made last week to a reporter for The Washington Post. At the time Murphy said he had informed Justice Department officials that the city had failed to convict Mayday demonstrators because Superior Court judges "refused to think it possible we could have a good case; so they throw them all out." Murphy also said he was studying transcripts of dismissed cases to see on what grounds the judges acted.

"For the corporation counsel to come into this court with hundreds upon hundreds of cases which it knew and must have known completely lacked evidence that would stand up in court is inexcusable," Greene told Murphy.

"Your statement to the press attempting to shift the blame for this situation to the courts, which were simply carrying out their duty under the Constitution not to convict without proof, is astonishing to say the least."

Telling Murphy in effect to take his complaints about judicial actions through legal channels instead of to the press, the judge said in icy tones:

"If you felt that there were cases that were improperly dismissed, I wish to inform you that the D.C. Court of Appeals is on the third floor of the building across the street."

Much of the legal controversy surrounding the Mayday arrests arises out of the police suspension of standard field arrest forms while rounding up 7,000 persons May 30. As a result, thousands were de-

tained for as long as 40 hours before being released, without knowing details of the charges against them.

Greene stressed, however, that he had no complaint against the mass arrest tactics used by police.

"The fact is that thousands of persons were arrested under circumstances which in many instances would not permit the gathering of evidence," Greene noted. "This court has no criticism of that procedure. It may well have been necessary under the circumstances."

He made clear his quarrel was with Murphy's office for bringing the cases to court and then complaining that they were being thrown out.

At the end of his angry lecture—unusual for the generally placid chief judge—Murphy asked if he could reply.

...the court. Of these 13 were dismissed by judges. 11 were not prosecuted and five were postponed. In the other four cases persons forfeited collateral rights and appear for trial.

...legal maneuver certified as a class action on behalf of about 6,000 people in similar cases who have already filed suits such as the Phillips case. The lawsuit could be further extended to include other cases.

...exactly 10 seconds." The judge accused the A.C.U. of "bothering" federal courts with the lawsuit. The judge said that the lawsuit was "frivolous" and "unjustified." He ordered the A.C.U. to pay the government's legal costs. Young Lee said that the A.C.U. would appeal the judge's decision.

...cases were being litigated. The court whether the prosecution was not getting off the ground.

...jurors were thrown out. In addition to the 40 cases now prosecuted yesterday by Murphy, 22 other demonstration cases were set for trial at