

11/23/66

3 Baker Trials, If Any, Requested by Defense

By Richard Harwood
Washington Post Staff Writer

Judgments on whether and how Robert G. (Bobby) Baker should stand trial as a criminal were left yesterday in the hands of Federal Judge Oliver Gasch.

He must decide in the days ahead whether Baker's Federal indictment for larceny, fraud, conspiracy and income tax evasion is invalid because of unconstitutional eavesdropping by the FBI and prejudicial publicity by Washington newspapers.

If he upholds the indictment, he must then decide whether all the charges against Baker can be prosecuted at a single trial beginning Jan. 9 or whether Baker is entitled to separate trials for each of the major crimes alleged by the Government.

Both sides in the case ended their pre-trial arguments and maneuvering yesterday.

Proposes Three Trials

Baker's lawyer, Edward Bennett Williams, urged Judge Gasch to grant Baker at least three trials in the event the indictment stands up.

Baker is accused, said Williams, of three distinct categories of crime, none of which is related to the others.

The Government has charged him, Williams said, of evading taxes on his own income. It has charged him with the unrelated crime of stealing \$100,000, said Williams, and with a third, unrelated crime of conspiring to have former lobbyist Wayne Bromley file a false income tax return.

Only under a "circus theory" of prosecution — "putting all the acts under one tent" — could Baker be forced to answer all these charges at a single trial, Williams maintained. In theory, said Williams, Baker could have a defense for one crime which would, in effect, be a confession of another crime.

To avoid dilemmas of that kind, justice requires separate trials on each major charge, he said.

U.S. Disagrees

The Government disagreed sharply. Justice Department prosecutor William O. Bittman said all the charges are the product of a single pattern of behavior by Baker.

"As Secretary of the Majority in the Senate," said Bittman, "he used his official position to obtain money from individuals and corporations and sought to conceal the source and nature of his income."

In 1961 and 1962, said Bittman, Baker's method of concealment was to file fraudulent income tax returns. In 1963 and 1964, Bittman said, Baker's scheme was to conceal his income by reporting part of it on Bromley's income tax returns. The theft charge was clearly related to this scheme, Bittman maintained, because much of the \$100,000 involved was not reported on Baker's 1962 tax return.

It is expected to be several days before Judge Gasch announces his rulings in a case with a high potential embarrassment to the Johnson Administration and to the Democratic Party.

Protege of Johnson

As a Senate protege of President Johnson, Baker was intimately connected with the great men of public affairs in Washington. Their reputations could become involved in the long trial which is in prospect. Williams estimates it will take three months.

If Baker, on the other hand, is not tried because of bungling by the Government — the FBI eavesdropping, for example — the Administration's handling of the case could become the subject of a different kind of controversy.