

Judge Begins Hearing Challenge To Limit on White House Protests

4/24/73
By Paul W. Valentine
Washington Post Staff Writer

The government and civil liberties lawyers renewed a long standing court battle yesterday over restrictions on political demonstrations near the White House and the delicate balance between presidential protection and freedom of dissent.

With bitter and often snappish exchanges between federal Judge George L. Hart Jr. and American Civil Liberties Union attorney Joseph L. Rauh Jr., the trial of the four-year old case began in U.S. District Court here. It is expected to last about two weeks.

At issue is a 1967 Interior Department memorandum limiting the number of demonstrators to 100 on the sidewalk in front of the White House on Pennsylvania Avenue NW and to 500 in adjacent Lafayette Park.

Secret Service officials contend the limits are necessary to insure the safety of the President and to prevent violent mobs from swarming over the fence surrounding the White House compound.

ACLU attorneys argue that such a threat does not exist, that bolstered physical security measures could avert any future threat and that the "100/500" rule is an unconstitutional infringement on First Amendment rights of assembly.

The White House, symbolically important to protest groups as a seat of power and target for redress of grievances, has been the scene of

hundreds of major and minor demonstrations over the years. The actions have spanned the political gamut but have been dominated in recent times by antiwar and radical left protests.

Secret Service assistant director Thomas J. Keley, the government's first witness yesterday, testified that the proliferation and increased militancy of demonstrations throughout the country in the late 1960s "created an undesirable security situation" justifying the 100/500 demonstrator limit.

With larger crowds, he said, there is a "built-in potential" for violence and police are unable to get at "pockets of troublemakers" in an otherwise orderly gathering.

A minor act of violence "could furnish the spark that ignites a greater riot," he said.

The peacemul intention of protest leaders is no guarantee that the demonstration will be peaceful, he added. The leaders cannot control "those who come to commit crimes against order," he said.

Under cross examination by Rauh, Kelley said the Secret Service recommended in 1967 that demonstrations be totally banned around the White House, but the 100/500 rule was adopted as a compromise.

He said the Secret Service has also considered building a higher and stronger fence or

"wall" around the White House, electrifying the present fence and installing unspecified "devices" on the White House grounds to prevent mobs from entering.

But he said the ideas were abandoned as impractical and inconsistent with White House enforcement policy of maintaining "low visibility."

He acknowledged that the White House fence is largely "decorative" and would not withstand the onslaught of militant demonstrators.

"It's an ornamental fence," said Rauh, "and yet you mean to tell me you're in charge of the President's security and you haven't done anything to change that fence?"

"That's correct," answered Kelley.

He also acknowledged that no demonstrators have been known to storm over the fence during protest actions, before or after the 100/500 limit went into effect, but that numerous other individuals—"youngsters on a dare, initiations, that sort of thing"—have climbed over it.

At the opening of yesterday's trial, Rauh accused Judge Hart of being prejudiced in favor of the government's position and asked him to step out of the case. Hart refused. Throughout the rest of the day, the two periodically snapped at each other on procedural points.