

A.C.L.U. Files Brief Urging New Trial Charging

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WASHINGTON, June 20 — The American Civil Liberties Union, charging "multiple frauds upon the court," argued today that the convictions of seven Watergate conspirators should be set aside and a new trial ordered.

The organization suggested that Chief Judge John J. Sirica of the United States District Court here take the steps on his own initiative, "independent of the desires of either the prosecution or the defense."

The seven men convicted in January should be retried, the civil liberties group said, "under a properly drawn indictment which charges all of those responsible for the Watergate conspiracy regardless of their station in life."

The recommendation came in a friend of the court brief offered to Judge Sirica in support of a motion filed earlier this month in which one conspirator, James W. McCord Jr., asked that his conviction be set aside.

The other defendant found guilty by the jury, G. Gordon Liddy, also has an appeal pending. The five other conspirators, who include E. Howard Hunt Jr., entered guilty pleas at the outset of the trial and have not moved to retract them.

'False Representations'

But the A.C.L.U. contended that the pleas "now appear to have been purchased or coerced and, in any event, were accepted as a result of false that those who pleaded guilty It has been widely alleged lied upon by this court."

It was paid out of President Nixon's campaign funds and were promised other assistance. The pleas were thus "less than voluntary" and "cannot stand," the A.C.L.U. argued.

The jury verdicts against McCord and Liddy, it was said, "were obtained after the introduction of the perjured testimony of Jeb Stuart Magruder and Herbert Porter" at the January proceeding.

Mr. Magruder, former deputy director of the Committee

for the Re-election of the President, and Mr. Porter, one-time scheduling director of the campaign organization, have admitted lying about the case.

The A.C.L.U. move was regarded as unusual in seeking a new trial for the five men who pleaded guilty and who have failed to seek one themselves.

Attorney Comments

An attorney for four of the men — Bernard L. Barken, Eugenio R. Martinez, Frank A. Sturgis and Virgilio R. Gonzalez, all of Miami — said today that there were giving "very serious thought" to making such a move.

But the attorney, Daniel E. Schultz of Washington, said that the four remained unwilling to go into court and contend they had been coerced in making their pleas. Barker, their spokesman, denied any pressure in recent Senate testimony.

Hunt's lawyer, William O. Bittman of Washington, said he had not yet received the

A.C.L.U. brief and would have no comment until he had.

Charles Morgan Jr., director of the Washington national office of the A.C.L.U., attached to his brief a 114-page report criticizing in detail the performance of the prosecutors in the initial case.

Mr. Morgan prepared the report for Archibald Cox, who has been named special prosecutor for further criminal proceedings in the Watergate case and related matters. Mr. Cox received the document Monday.

'A Sham Prosecution'

Mr. Morgan urged, among other things, that the special prosecutor make "a clean break with the past by publicly declining to further use the personnel of the office of the United States Attorney . . . and the Justice Department . . ."

The A.C.L.U. official argued that the prosecution — handled by Assistant United States Attorneys Earl J. Silbert, Seymour Glanzer and Donald E. Campbell — "became hopelessly enmeshed in a sham prosecution," he added:

"No matter the fault and no matter whether their previous

'All of Those Responsible'

decisions were made in good faith, they should not be allowed to participate further in presentation of the Watergate case."

Among the numerous points on which Mr. Morgan criticized the Government lawyers were the following:

¶ They did not track the reports derived from illegal wiretapping at the offices of the Democratic National Committee their "ultimate recipients."

¶ They did not call on the former White House counsel, John W. Dean 3d, for testimony about the contents of Hunt's

safe in the old Executive Office Building even though he had opened the safe.

¶ They did call Mr. Magruder, even though another witness had warned them that Mr. Magruder's knowledgeable assistant, Robert A. F. Reisner.

The prosecutors could not be reached for comment this afternoon, but they have replied to

some past criticisms by contending, among other things, that a cover-up of the conspiracy made it impossible to reach many of the facts.

The Senate Watergate committee has indicated, by close questioning of witnesses about the prosecutors, that it will examine their performance in the initial investigation and trial.

Mr. Cox is understood to have read Mr. Morgan's report and the transcript of the January trial, but he had no comment on the A.C.L.U. critique. The question of the earlier convictions is said to be under

study by the special prosecutor, with no decision of what position to take toward them having been reached.