

Judge Eases Gag Order in Bugging Case

10/7/72 By Lawrence Meyer
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Chief U.S. District Judge John J. Sirica backed down yesterday from parts of a broad order prohibiting out-of-court comment on the criminal trial of the seven suspects in the Watergate bugging case.

In an amended order, Sirica said, "It is not the intention of this court affect congressional activity, political debate, or news media reporting." Sirica said all references in his original order to "witnesses, potential witnesses, complaining witnesses and alleged victims is for the time being stricken from the order."

Sirica's amended order followed a direct request to him from House Banking and Currency Committee Chairman Wright Patman (D-Tex.) on Thursday asking for a clarification.

In addition, Joseph A. Califano Jr., lawyer for the Democratic Party, wrote Sirica yesterday that he had advised Democratic presidential candidate Sen. George McGovern and other Democrats that they should not feel bound by the original order, issued Wednesday.

Patman issued a statement yesterday afternoon saying that he would reconvene his Committee "at the earliest possible moment" to give committee members a chance to reconsider their rejection by a 20 to 15 vote of an investigation into the Watergate incident.

Patman said the order may dispel "doubts that some members of the Banking and Currency Committee indicated they had concerning the wisdom of the Committee proceeding with the investigation while the court case was in progress.

"If I interpret Judge Sirica's order correctly," Patman said, "this legal question has been cleared up in favor of the Congress and the Banking and Currency Committee proceeding."



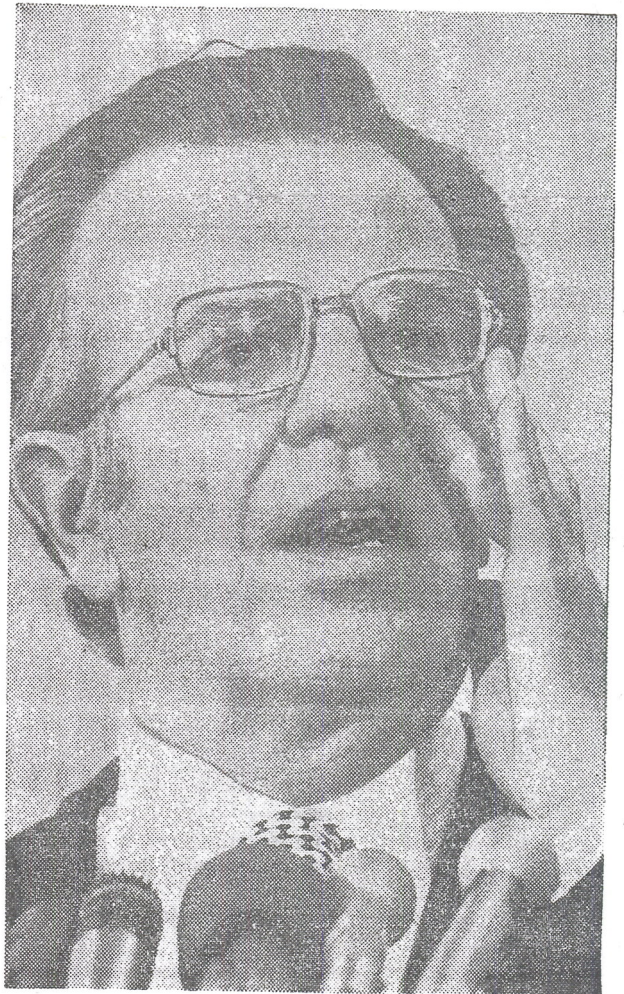
JUDGE JOHN J. SIRICA
clarifies intention

Sirica sent Patman a copy of the order yesterday afternoon along with a cover letter saying, "I trust (the order) will provide adequate answers to the questions raised in your letter."

Sirica's Wednesday order barring out-of-court comment by the prosecution, defendants, their lawyers, law enforcement officials, witnesses, potential witnesses, complaining witnesses and alleged victims of the bugging incident — was so broad that Sirica was unable to tell a reporter whether Sen. McGovern was covered by it or not.

The original order was the result of negotiations between principal Assistant U.S. Attorney Earl Silbert and William O. Bittman, the lawyer for E. Howard Hunt Jr., one of the seven defendants." The order

See SIRICA, A10, Col. 1



United Press International

Lawrence F. O'Brien, Sen. McGovern's campaign chairman, condemned order as unconstitutional "gag rule."

SIRICA, From A1

was drafted by them, a procedure that is not unusual, and given to Sirica for his consideration. Sirica signed that order.

Sirica's reasons for signing the amended order were not disclosed. The judge was ill and signed the document at his home. He left instructions to his law clerks that he was unavailable for comment.

Before Sirica's amended order was filed yesterday, Bittman filed a motion asking Sirica to order contempt of court proceedings against Alfred C. Baldwin III. Baldwin, who is expected to be a key government witness in the criminal trial of the seven suspects, granted a five-hour interview to the Los Angeles Times outlining his role in the bugging of the Democratic National Committee's Watergate headquarters.

A story based on the interview with Baldwin and a story by Baldwin as told to Times reporter Jack Nelson appeared in The Washington Post on Thursday and Friday. In the articles, Baldwin outlined his role as lookout for the June 17 break-in and monitor of the eaves dropping devices in the Watergate.

Bittman's request for a contempt citation against Baldwin asserts that "Baldwin's statements . . . are clearly within the terms" of Sirica's Wednesday order.

After Sirica issued his amended order yesterday, Bittman said it was not clear whether Baldwin could still be considered to be in contempt. If Sirica's latest order does not prevent Baldwin from speaking, Bittman said, he will ask Sirica to restrain Baldwin "in some way" from further public comment.

In a memorandum accompanying his contempt motion,

Bittman suggested that after a hearing, Sirica might determine "that certain other persons, including the Los Angeles Times," had violated the original order.

If they had, Bittman asked Sirica to warn the Times and other news media that "continued reporting of such extrajudicial statements seriously threatens" the seven defendants' constitutional rights to a fair trial.

Beyond that, Bittman asked Sirica to "admonish" the media "as to the impropriety of publishing material not introduced in the proceedings."

"All I'm trying to do," Bittman explained yesterday evening, "is to see that the constitutional rights of my client are protected." Asked if he had any reaction or was disappointed by Sirica's amending his order, Bittman said, "I'm certainly reluctant to criticize Judge Sirica's order. I haven't seen it."

Silbert said he had "no comment—period—on any aspect or facet of this case."

Califano's letter to Sirica was released at a morning news conference yesterday called by McGovern's campaign chairman, Lawrence F. O'Brien. Sirica's Wednesday order, O'Brien charged, was "evidence of the lengths to which Mr. Nixon and his administration will go to keep a tight lid on this unprecedented act of political espionage."

In the letter, Califano told Sirica that he had told McGovern and his running mate, Sargent Shriver, that they should not feel inhibited by Sirica's order. Califano said that he would not feel limited by the order from commenting on a civil damage suit the Democrats have filed as a result of the Watergate break-in.

"Any prior restraint upon free speech which was promulgated in terms so broad, with standards so vague and uncertain, dealing with a matter of public controversy in a political contest for the highest public office in the land, would be in clear violation of the First Amendment," Califano wrote Sirica.

Califano asked Sirica to confirm that the advice given the Democratic candidates was correct. Following the issuance of the amended order, Califano said Sirica had "in effect agreed with everything we had in our letter."