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'Judicial Poker'

By Clifford Irving

EAST HAMPTON, N. Y. — Before Judge John J. Sirica appointed himself chief dispenser of justice in the Watergate case, he was not considered by many Washington lawyers as the best legal mind in town. His courtroom was noted for snappishness, not mercy. In Washington, he was among those judges whose rulings were most frequently overturned by higher courts.

During the time I spent in three Federal prisons I met a score of men who had been sentenced by Judge Sirica. Most of them were black. They were all doing comparatively heavy time for so-called "white-collar" crimes.

Some of them had asked the court for recommendations to the parole board, but none had been forthcoming. Some had applied for sentence reductions; none had ever been granted by Judge Sirica.

I did time at Danbury prison with Howard Hunt, Frank Sturgis and others who broke into Democratic National Headquarters. They were the enlisted men in the affair, as Richard M. Nixon surely later became commander-in-chief. Under the pretext of an extended psychological study (never conducted), Judge Sirica kept these men in prison nearly a year before passing sentence. They sweated it out while the judge, presumably, tried to reckon the culpability of the lieutenants and generals, and then parcel out the years accordingly.

Mr. Hunt finally was hit with a two and one-half to eight-year term; Mr. Sturgis got one to four. This was not only harsh (an unnamed burglary, a first offense) and vindictive (unlike John Dean and Jeb Stuart Magruder. Mr. Hunt et al couldn't or wouldn't incriminate the top brass), it was absurd. One asked then, if Mr. Hunt got eight, how could John N. Mitchell and John D. Ehrlichman get less than ten to twenty? And if Mr. Mitchell, that erstwhile deacon of law and order,

gets twenty, what about Mr. Nixon after impeachment? Life?

Muddy waters have cleared. The men who broke into the Watergate have received paroles or are free pending appeal. Mr. Nixon resigned and was pardoned by his appointee. And a few days ago Judge Sirica freed Mr. Dean, Mr. Magruder and Mr. Kalmbach. Is this judicial mercy?

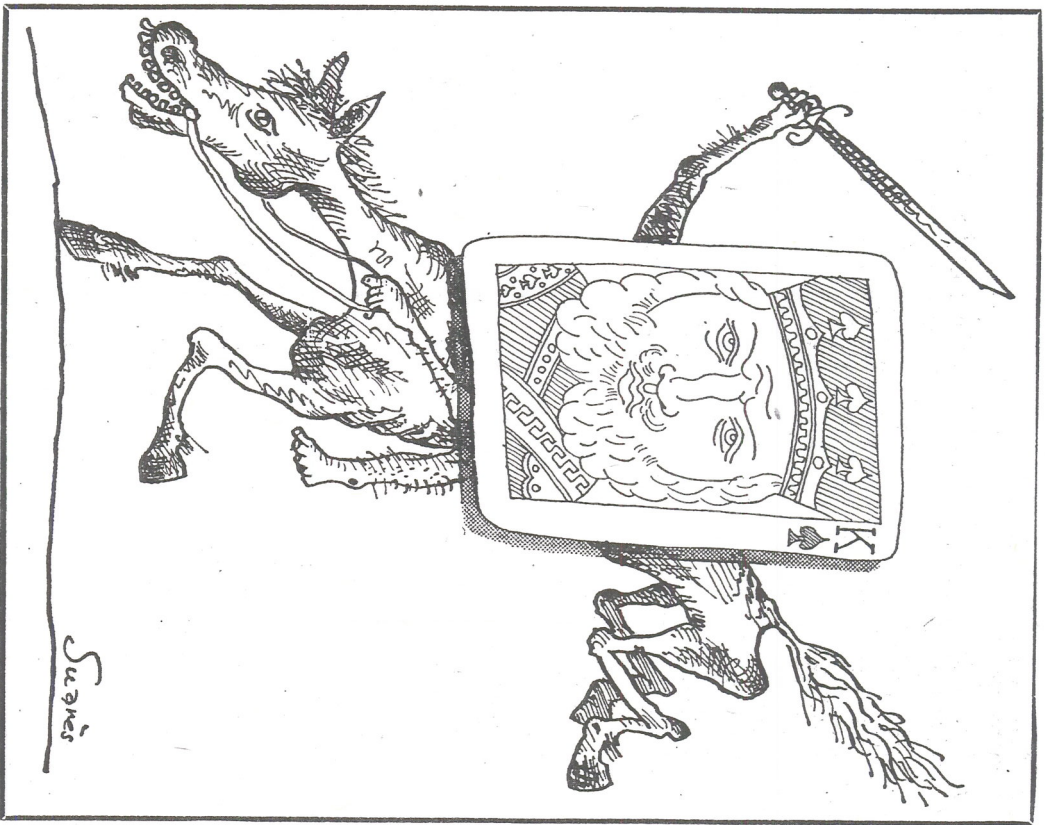
Sadly no—just the ancient *quid pro quo*: You point the finger, and we'll take it easy on you. Throughout the trials and incarcerations, the prosecution and Judge Sirica have played poker not only with justice, but with the irretrievable years of men's lives.

One tends to forget the essence of Watergate: The ruling executive clique in a democratic nation attempted to win an election through illegal means, and then tried to hide what it had done. The cover-up has always seemed to me far less shameful than the act itself; as an orgy of deception it just took longer to illuminate, and therefore received more extended publicity. At Danbury, Mr. Hunt and his Central Intelligence Agency troop were ostracized by a majority of the prisoners. Ironically—quixotically, too, since they never asked to join—they were banned from membership in the inmate chapter of the Junior Chamber of Commerce. I asked why, and a young hustler laid it on me.

"Man," he said, "I'm a thief, I deal and I steal, but I deal what dudes want and what I steal is money. But these guys, like Hunt—man, they were out to steal men's liberty. Dig?"

I dig. Still, I was glad when Hunt & Co. were released. Prison is evil. No human being should be there unless he has killed dispassionately or is a clear danger to the physical survival of others. I was ultimately more glad than galled when Spiro T. Agnew that quintessential hypocrite, walked.

And so, too, I believe, we should applaud the release of Mr. Dean, Mr. Magruder and Mr. Kalmbach. They aren't killers. They have families. They should not have been imprisoned in



Jean-Claude Snares

the first place. Ditto for Hunt.

Ditto for Smith, doing ten years at Lewisburg for embezzlement. Ditto for Jones, doing three years at Danbury for mail fraud. There are over 24,000 Smiths and Joneses in Federal prisons and at least 400,000 more in state and county institutions. I imagine one of their deepest regrets is that their crimes are not linked to Watergate.

Will Judge Sirica also set free those hundreds of men he has sent to Lewisburg and Danbury for up to thirty years at a crack? Many have cooper-

ated with the authorities. Most have wives and children. Is it necessary, first, to show one's penitence on network television, or blush between the covers of a Literary Guild selection? A last question to all our judges and United States attorneys: Do you have to be baby-faced, slick-tongued, an informer and a member of the Nixon gang to be dealt a decent hand in the judicial poker game?

Clifford Irving, a writer, spent seventeen months in prison for the Howard Hughes autobiography hoax.