

-31-74 NYI

Excerpts From Sirica's Charge to Cover-Up Jurors

WASHINGTON, Dec. 30 (AP)—Following are excerpts from Judge John J. Sirica's instructions to the Federal Court jury today in the Watergate cover-up trial:

The first count of the indictment charges all the defendants with participating in a conspiracy. . . . By way of introduction, the indictment charges in substance that on or about June 17, 1972, Federal authorities began an investigation of a break-in at the offices of the Democratic National Committee located in the Watergate office complex, during which five persons were arrested while attempting to photograph documents and repair a surreptitious electronic listening device which had previously been placed there illegally. . . .

Count one charges that from on or about June 17, 1972, the five defendants before you, and others, entered into a criminal agreement to obstruct justice, give false testimony under oath, make false statements to the F.B.I. and defraud the C.I.A., the F.B.I. and the Department of Justice.

Count one further charges that the purpose of the defendants was to conceal the identities of the persons who were responsible for, participated in or had knowledge of the activities which were the subject of the Watergate investigation and the trial of the original Watergate defendants and other improper activities. . . .

Conspiracy Defined

What is a conspiracy? The idea of a conspiracy is very simple. A conspiracy is a combination of two or more persons to accomplish an unlawful purpose, or a lawful purpose by unlawful means. . . .

A defendant may be a conspirator even though he did not participate in all aspects of the conspiracy or was involved for a period of time less than the duration of the conspiracy. . . .

A defendant may be convicted as a conspirator even though he plays a relatively small or minor role. . . .

I want to caution you that mere association with one or more conspirators, without participation, does not make one a member of a conspiracy.

Nor is knowledge of a conspiracy without participation therein sufficient to constitute membership in a conspiracy. What is necessary

is that a defendant knowingly participate with knowledge of at least one or some of the purposes of the conspiracy and with the intent to aid in the accomplishment of those unlawful ends.

To summarize, in order to find any defendant guilty on count one, you must be sat-

isfied beyond a reasonable doubt that the evidence establishes each of the following facts.

First, that there was an agreement to obstruct justice, or to make false statements to a Government agency, or to make false declarations, or to defraud the United States in connection with the Watergate investigation or the original Watergate trial.

No Opinion Expressed

Second, that a defendant knowingly and willfully became a party to that agreement and intended to achieve at least one of its purposes.

And, finally, that one of the defendants or other member of the conspiracy performed some overt act during the life of the agreement in order to accomplish any of its purposes. . . .

I have not expressed nor intended to express, nor have I intimated or intended to intimate to you any opinion as to what witnesses are or are not worthy of credence, what facts are or are not established by the evidence or what inferences should be drawn from the evidence adduced.

Again, if any expression of mine has seemed to indicate any opinion relating to any of these matters, I instruct you to disregard it. . . .

When you were selected as jurors, and we began this trial, you were instructed to consider only the evidence which was introduced as the trial proceeded and to put any opinions or anything which you had heard or read out of your mind.

Your verdict now must be based solely on the evidence which has come before you in this trial. . . .

While I am sure you understand the importance of this case, both for the defendants and for the Government, I want to emphasize one thing: Neither the pardon of former President Nixon nor any other cases or extraneous matters should have any effect

on your deliberations or your verdict.

Jurors' Duty Cited

The defendants and the Government are entitled to have this case decided solely on the evidence presented here in court and on the law as I have given it to you. . . .

It is your duty as jurors to consult with one another and to deliberate with a view to reaching an agreement, if you can do so without violence to your individual judgment.

To each of you I would say that you must decide the case for yourself, but you should do so only after discussing it with your fellow jurors, and you should not hesitate to change an opinion

when convinced it is erroneous.

You should not be influenced to vote in any way on any question submitted to you by the single fact that a majority of the jurors or any of them favor a particular decision or hold an opinion at variance with your own. . . .

Your verdict, of course, must be unanimous as to each defendant and with respect to each count in which he may be charged with an offense. . . .

It is not discreet for a juror, upon entering the jury room, to voice an emphatic expression of his own opinion, or to announce his determination to stand for a certain verdict.

When one does that at the outset, his sense of pride may cause him to hesitate to abandon an announced position if and when shown that it is wrong. Remember that you are not partisans or advocates in this matter, but are judges of the truth. . . .