

Split Sessions Mark 'Gainesville

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GAINESVILLE, Fla., Aug. 4—The trial here of eight antiwar protesters charged with conspiring to riot at the 1972 Republican National Convention split into two separate proceedings today, with the defendants on trial in the morning and the government on trial in the afternoon.

The afternoon session, held by U.S. District Judge Winston E. Arnow, was to prove a defense charge that two FBI agents found with electronic gear in a telephone wire room adjoining a defense consultation room Tuesday night were attempting to bug the defense team.

But after hearing three hours of testimony from witnesses, who ranged from persons who found the FBI agents to Chicago antiwar conspiracy trial defendant Tom Hayden, Judge Arnow said he would hold further hearings on the matter after the day's regular trial session ends Monday night.

Much of the defense testimony today in the alleged bugging incident was basic background on the actual discovery of the agents and technical testimony on what kind of phone equipment was in the room.

Justice Department attorney Robert Schneider tried at the start of the hearing to elaborate on the government's explanation that the FBI agents

were in the room "checking out" FBI lines for possible bugs.

Schneider said the bugging of those government lines was a "possibility" and said he was prepared to explain to the court why he thought the check was necessary this week. But Judge Arnow halted him, saying he could present his evidence after the defense finished with its witnesses.

The defense's attempt to introduce testimony by Hayden concerning the alleged electronic surveillance of defense attorneys during the Chicago trial was thrown out after defense attorney Morton Stavis' questions made the purpose of Hayden's testimony clear.

Judge Arnow said that what might have happened in Chicago or anywhere else was "irrelevant and immaterial" to the Tuesday night incident here, and told Hayden to step down from the witness stand.

Hayden was in Gainesville to speak at a demonstration today by supporters of the Vietnam Veterans Against the War. More than 1,000 persons turned out to hear Hayden, Pentagon Papers defendant Anthony Russo, folk singer Pete Seeger, and others.

All eight defendants here are members of the VVAW.

As the technical testimonies droned on, Judge Arnow at one point broke in to say that the gist of it was that the FBI agents in the phone room could have been conducting

electronic surveillance with the equipment they carried.

"Men have been hanged on circumstantial evidence not as strong," defense attorney Stavis told the judge.

The defendants in the conspiracy case have charged that their prosecution is an attempt by the government to discredit their organization and to justify the Watergate break-in.

In a session this morning that Judge Arnow said he scheduled for the convenience of the sequestered jury, government witness Charles Marshall continued to give conflicting testimony about a statement he made to the FBI in connection with the case.

Defense attorneys had been given the statement late Friday afternoon by Judge Arnow after the government admitted Marshall had been given a chance to read it before testifying. The government had previously said in court that it had no "approved" statements by Marshall.

Marshall said in the FBI statement and under direct examination by prosecutors that he had seen two M-14 rifles in a house that he rented to defendant Scott Camil, and that Camil had shown him a slingshot with a wrist brace that he said VVAW members were going to use to cause violence in Miami.

But under two hours of cross examination by defense

attorney Larry Turner, Marshall said that his memory was not clear on the slingshot. "I could not draw a picture of it," Marshall said.

An moments later, Marshall answered that he had only seen what he thought were M-14s for "only four or five seconds, no make that two or three seconds," from a distance of 10 feet.

Turner then waved a toy gun—a model of an M-16—in the air as he asked Marshall if the toy was what he had seen.

Marshall said that he had seen in the house several toy guns like the one Turner held, but that the ones he described as M-14s were in a different location.

After Turner conferred with several defendants—Army and Marine veterans familiar with both weapons—he asked Marshall to describe what he thought were M-14s.

The witness said that the guns he saw were long, had a pistol grip, a handle on top and that he "assumed it was an M-14." He said the pistol grip was dark blue or black.

But when Turner began asking for further descriptions of the gun that was allegedly in Camil's house, Marshall said, "I am not familiar with the M-14 or the M-16." Marshall said he was color blind.

An M-16 was the first military weapon to have the pistol grip and handle that Marshall described and is significantly shorter than the more conventional rifle-type M-14.

Without addressing himself to discrepancies in Marshall's testimony, Justice Department attorney Robert Schneider asked the witness why he had waited three months before first going to the FBI about the guns. Marshall had testified he saw the guns in May,

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and did not talk to the FBI until August.

"Because I feared for the safety of myself and my family," Marshall, a private investigator, said.

At the end of the morning session, the defense moved for a mistrial on the basis of that statement, saying it was inflammatory and had not been backed up by any testimony. Judge Arnow denied the motion.