

Chapin Judge Criticizes Pretrial Publicity on Dean



Judge Gerhard A. Gesell



Leon Jaworski

The New York Times

NYTimes

By ANTHONY RIPLEY
Special to The New York Times

FEB 16 1974

WASHINGTON, Feb. 15 — Federal Judge Gerhard A. Gesell tried today to calm the rising public debate about the truthfulness of John W. Dean 3d, the former White House counsel and key witness in the Water-gate case, and chided lawyers on both sides of the argument.

He also took note of statements on the subject by Vice President Ford and the Senate Republican leader, Hugh Scott, and, after noting President Nixon's concern over possible prejudicial pretrial publicity, urged that "every effort" be made to halt the debate.

Judge Gesell then called Leon Jaworski, the special Water-gate prosecutor before the bench in United States District Court and mildly scolded him for remarks made on a television news interview program.

Mr. Dean is to be a witness in the perjury trial of Dwight

L. Chapin, former Presidential appointments secretary.

Jacob A. Stein, Mr. Chapin's lawyer, had asked the court to dismiss the indictment, move the trial out of Washington or dismiss Mr. Dean as a witness because of Mr. Jaworski's remarks.

Mr. Jaworski, questioned on the American Broadcasting Company's "Issues and Answers" program on Feb. 3, said there was no reason to doubt the veracity of Mr. Dean.

At about the same time, Mr. Dean's truthfulness had been questioned by Mr. Stein, Vice President Ford and Senator Scott.

Mr. Stein complained that Mr. Jaworski's statements had thrown the "full weight" of the special prosecutor's office behind Mr. Dean "in a way that

Continued on Page 14, Column 1

JUDGE CRITICIZES PUBLICITY ON DEAN

Continued From Page 1, Col. 7

utterly distorts our position in this case."

The judge rejected Mr. Stein's motion.

"First, let's stop all this public debate," the judge said.

"The court's control is over its own officers. Obviously I cannot direct the President, the Vice President or Senator Scott to cease doing what they are doing," he continued.

"The President in a letter to me indicated his concern about pretrial publicity. I hope every effort will be made by appropriate authorities to stop discussing matters before this court."

Then Mr. Jaworski, who was in the courtroom, was called before the bench.

On Talk Shows

Judge Gesell said he hoped the special prosecutor realized that "in the format of one of these talk shows," it was difficult not to range beyond the restrictions imposed on discussing pending cases.

"I do fear that any further lapse would have very serious consequences. It seems to me your good sense should keep you off talk shows," he said.

Mr. Jaworski said the "greatest of care" would be taken in the future and thanked the court "for placing me in a position where it is easier to say no" to requests for his appearance in the future.

The judge then dealt with another of Mr. Stein's motions that sought to have a tape recording of a Presidential conversation turned over to Mr. Chapin for use in his defense.

Mr. Stein conceded that Mr. Chapin had not been discussed on the tape. He said he wanted the recording to explore possible misstatements by Mr. Dean and to "explore Dean's mind as he deals with prosecutor after prosecutor."

No 'Red Rabbits'

"What's that got to do with these issues?" the judge asked.

"I want to get into Mr. Dean's mind and explore that," Mr. Stein said.

"We're not going to run a bunch of red rabbits through this trial to get away from the question of whether Mr. Chapin did or did not commit perjury," Judge Gesell said, turning down the request.



Associated Press

Dwight L. Chapin after court hearing yesterday.

He also dismissed a renewed motion that asserted that prejudicial pretrial publicity should cause the indictment to be dropped.

The judge then held a closed hearing on a motion to have Mr. Dean dismissed because of an attorney-client relationship between the two while they were both at the White House.

When the press was allowed back in the courtroom after Mr. Chapin was on the stand, Mr. Stein argued that Mr. Dean had given personal legal advice to his client. He spoke of "a feeling of trust that grew up in Mr. Chapin's mind."

He said that Mr. Chapin had asked Mr. Dean if he should hire his own lawyer and that Mr. Dean "deflected him from that action."

Richard J. Davis, an assistant special prosecutor, argued that Mr. Chapin had sought advice from many people and that Mr. Dean was precluded by criminal statute from acting as Mr. Chapin's personal attorney in matters under official Government investigation.

Judge Gesell said he would rule on the issue next week and that he would hear no further motions until the trial begins April 1.