

What Lies Ahead in Clearing Up Watergate

Washington

The indictments against top presidential aides culminated a 20-month investigation by the Watergate grand jury, but the charges constitute only the first tentative step in what will undoubtedly be a long process that will stretch out for years.

Still ahead are the arraignment, the setting of bail, the entry of pleas, pre-trial motions, discovery, decisions about whether the defendants will be tried jointly or separately, decisions about whether their attorneys may listen to the controversial Watergate tapes, the selection of a jury, the trial itself and, depending on the trial's outcome, a series of appeals.

An indictment, by itself, does not establish anyone's guilt or innocence. Its purpose, as the late Supreme Court Justice Robert H. Jackson once explained, "is only to accuse, not to convict."

The indictment, Jackson said in a 1950 opinion, "does not even create a presumption of guilt. All that it charges must later be proved before the trial jury, and then beyond a reasonable doubt."

There are good reasons the indictment does not carry

more weight. Federal rules require that only 12 members of the grand jury, which can range up to 23 members, concur in its issuance. It can be based on hearsay, or second-hand, evidence that would not be permitted at trial. And the grand jury does not even hear both sides of the case—only the prosecution's.

The grand jury's "duty is to indict if the prosecution's evidence, unexplained, uncontradicted and unsupplemented, would warrant a conviction," Jackson wrote. "The difference between the function of the trial jury and the function of the grand jury is all the difference between deciding a case and merely deciding that a case should be tried."

After indictment, the next step is arraignment, which U.S. District Judge John J. Sirica has set for March 9. Until then, the defendants may remain free. They are expected to appear, of their own volition, at that session. Only if they fail to appear would a bench warrant be issued for their arrest, according to Sirica's clerk.

At the arraignment, the indictments are formally read to the defendants, who are asked to respond to the charges by pleading

"guilty," "not guilty" or "nolo contendere." This last plea, used by former Vice President Spiro T. Agnew, amounts to an admission of guilt but cannot be used against the defendant in later civil proceedings.

Sirica can also set bail at the arraignment. He might let the defendants go free without any bond at all, because federal law strongly favors release on the defendant's "own recognizance."

And, in the case of these defendants, who have no previous criminal records and would be unlikely to flee, bond would probably be unnecessary to assure their appearance at trial. Several other Watergate figures — Jeb S. Magruder, Frederick C. Larue and John W. Dean III — are free on their own recognizance awaiting sentencing.

Pretrial motions will follow the arraignment. The defendants' lawyers can challenge the validity of the indictment, the site of the trial, the procedures by which the evidence against them was obtained and a variety of other matters. The trial judge rules initially on these matters, but they can be appealed.

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