

SIRICA REFUSES TO DELAY OPENING OF COVER-UP TRIAL

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Ruling Could Put Pressure
on Jaworski to Decide on
Nixon's Legal Status
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By LESLEY OELSNER
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WASHINGTON, Aug. 19—Federal District Judge John J. Sirica ruled today that the trial of the defendants in the Watergate cover-up case would begin as scheduled on Sept. 9, notwithstanding requests by both the prosecution and four of the defendants for a delay.

The judge's ruling, if it withstands appeal, may put pressure on the special Watergate prosecutor, Leon Jaworski, to decide within the next few weeks how to resolve the legal status of former President Richard M. Nixon.

Mr. Nixon was subpoenaed last week to testify at the trial as a defense witness for John D. Ehrlichman, once his domestic affairs adviser.

Beyond that, though, Mr. Nixon faces possible prosecution himself on charges arising out of the cover-up. And if Mr. Jaworski decides to prosecute him, some lawyers have suggested, he may want to join Mr. Nixon's case to that of the six defendants in the current case, rather than carry on two separate prosecutions based on the same set of events.

Judge Sirica's ruling was appealed immediately to the United States Court of Appeals for the District of Columbia Circuit by lawyers for Mr. Ehrlichman, with lawyers for a second defendant, H. R. Haldeman, a former White House aide, saying they would join the appeal.

The judges on the appellate court took up the matter at a meeting this afternoon, according to the office of the court clerk, and an early decision is expected.

Andrew C. Hall, one of Mr. Ehrlichman's lawyers, said he was willing to fight the matter up to the Supreme Court if necessary. He has, in fact, already prepared and printed the necessary legal papers for the high court.

Mr. Hall and the attorneys for three other defendants—Mr.

Haldemann John N. Mitchell and Robert C. Mardian—has asked for a delay on two grounds: the difficulty of impaneling an impartial jury in the face of the massive publicity about Mr. Nixon's resignation and the events leading up to the resignation and the need for additional time to review the recently surrendered White House tape recordings.

The special prosecutor, for his part, had told Judge Sirica that a "reasonable" delay would be warranted to give all parties to the case the time they needed to review the tapes.

In court this morning, the various lawyers repeated and expanded upon their requests, fleshing out their earlier written motions with sometimes angry, sometimes plaintive arguments. Mr. Haldeman's attorney, John J. Wilson, for in-

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stance, noted that "most of the co-defendants don't want to be tried with us now," and William G. Hundley said that his client, Mr. Mitchell, the former Attorney General, had been "pretty much written off as guilty" by all the members of the House Judiciary Committee during the televised impeachment proceedings.

But Judge Sirica rejected the arguments.

"There is no better time to try this case than the present time," he said.

The judge said that he sympathized with the arguments and that he agreed it was an "unusual case." But, he said, it is "not the type of case that arouses the passions of hatred—it is 'not a case of a woman being raped or murdered'—say where pretrial publicity would be an obvious problem."

"Millions of people," he said—including himself, he added—

"feel very sad about what happened to Richard Nixon."

The judge made a number of other points as well. He noted that Kenneth W. Parkinson, one of the defendants, had opposed the requests for a delay. He said that he had picked the Sept. 9 starting date last March, expecting then that the case would be protracted and that there would be publicity.

He reminded the lawyers that the Supreme Court had given

an expedited hearing to the battle over the prosecutions subpoena of White House tapes, so that the trial could be held on schedule.

And he insisted, despite statements to the contrary by defense counsel as well as James Neal, the prosecutor in charge of the case, that the lawyers would have adequate time to review the tapes.

At times Judge Sirica grew angry with the lawyers, as when Mr. Hundley told him that a promise by a juror to be objective was not a good enough guarantee of a fair trial. "Am I to assume," he asked, "that every prospective juror is going to lie?"

At times he seemed impatient, saying at one point, "I want to see an end to this case some time."

At that point Mr. Hall rose and served the court clerk with a copy of his already prepared appeal, technically, a petition to the court of appeals ordering Judge Sirica not to start the trial on Sept. 9.