

Sirica's Sharp Words For Mitchell

Washington

United States District Judge John J. Sirica, after listening to attorneys wrangle at the Watergate cover-up trial, said yesterday that "we wouldn't even be in this courtroom" if former Attorney General John N. Mitchell had acted decisively to head off the break-in.

In an extraordinary statement from the bench — after excusing jurors from the courtroom — Sirica said Mitchell should have thrown G. Gordon Liddy and others out of his Justice Department office on Jan. 27, 1972. That was the day Liddy first proposed a \$1 million political espionage plan.

"It's too bad Mr. Mitchell didn't say, 'Throw them out of here. Get them out fast,'" Sirica said, referring to convicted Watergate conspirators Liddy, Jeb Stuart Magruder and John W. Dean III.

If that had happened, Sirica said, "We wouldn't even be in this courtroom today."

"It's too bad it didn't happen that way," he said. "Anyway, it's not for me to say what should have been done."

Sirica added that "the jury is out of the courtroom so no harm is done" by his remarks.

Defense attorneys, however, are expected to include Sirica's statement in later appeals, in the event Mitchell and other defendants are convicted in the Watergate conspiracy case. Legal sources said the judge's comments could indicate bias in favor of the prosecution, grounds on which the defendants asked Sirica last April to excuse himself from the case.

At that time, defense attorneys filed court papers asserting that Sirica has "a deep-seated and unshakeable personal bias in favor of the prosecution" and "a personal stake in the outcome

From Page 1

of this case."

They noted that Sirica, at the original Watergate burglary trial last year, had demanded to know whether higher officials were involved in the scandal.

Sirica's remarks about Mitchell were occasioned by questions being asked of Dean about two meetings he had attended with Mitchell in early 1972 to discuss Liddy's intelligence plans. Liddy's first program included plans for mugging demonstrators, kidnaping their leaders, using prostitutes to compromise Democratic opponents and bugging their offices.

Meanwhile, former White House counsel Dean spent another day undergoing cross-examination, most of it by William Snow Frates, defense attorney for ex-presidential assistant John D. Ehrlichman.

Eliciting statements from Dean that he had destroyed documents from a White House safe and had aided Magruder in making false statements to a grand jury, Frates declared that "certainly his credibility is one of the main issues here."

"I don't think anyone," said Sirica, "is trying to paint this gentleman as a lily-white angel."

Sirica reminded the jury that Dean had confessed to involvement in the Watergate coverup and is currently serving at least a year in prison. He said jurors themselves must determine the extent of Dean's credibility.

Frates asked how Dean, as a lawyer, could have shredded two address books belonging to Watergate burglar E. Howard Hunt Jr. Dean previously testified he destroyed the materials in January, 1973, while the original Watergate trial was under way.

"I was hoping I was getting rid of a problem," Dean replied softly.

Frates said:

"You were hoping you were getting rid of a problem — in getting rid of evidence that didn't belong to you."

Later, on re-direct examination, Prosecutor James F. Neal brought Frates to his feet with repeated objections

when Neal led Dean through a series of questions about Ehrlichman's role in urging document destruction.

Sirica overruled the objections, reminding Frates he was allowing "wide latitude" to both sides and was going beyond "the strict rules of evidence." He said Frates could question Dean again later.

Dean agreed with the prosecutor that Ehrlichman was "an older man" than Dean and his superior at the White House.

"Who for the first time in your lifetime suggested the destruction of evidence, the doing away of evidence?" Neal asked the 35-year-old witness.

"Mr. Ehrlichman," Dean replied.

Los Angeles Times