

New Cover-Up Trial Opposed

By George Lardner Jr.
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Watergate prosecutors maintained yesterday that former President Nixon's top aides and campaign advisers were convicted of the Watergate cover-up by a jury that was "if anything, more sympathetic to the defendants than the government."

Urging flat rejection of a round of defense motions for a new trial, Watergate Special Prosecutor Henry S. Ruth Jr. and his aides said the evidence produced against former Attorney General John N. Mitchell and former White House aides H.R. (Bob) Halde- man and John D. Ehrlichman was simply too overwhelming to be ignored.

The prosecutors agreed that

the proof against former As- sistant Attorney General Robert C. Mardian, the fourth defendant convicted at the prolonged trial, was not as strong. But they said it was still "more than sufficient" to establish his guilt in the conspiracy.

The government pleadings were filed yesterday with U.S. District Court Judge John J. Sirica, who must rule on the defense requests be- fore imposing sentence.

All four defendants contend that they were denied a fair trial because of massive pre- trial publicity and Sirica's handling of the questioning of prospective jurors.

They also raised a variety of other issues, from protests over the introduction of White House tapes the court's re-

fusal to suspend the trial un- til the ailing Nixon's testi- mony could be obtained.

Sirica conducted the ques- tioning of prospective jurors at closed-door sessions which remain under seal. But the prosecutors argued that the painstaking process, which lasted two weeks, showed that it was possible to obtain a fair and impartial jury despite the defense complaints about pre- judicial publicity.

In fact, Ruth disclosed, "of the jurors who decided this case, not one expressed the opinion on voir dire [the jury selection process] that any de- fendant was guilty, but four stated that they thought the prosecution was unfair in view of the Nixon pardon" granted by President Ford.

"Indeed, the jury chosen

was, if anything, more sym- pathetic to the defendants than the government," the prosecutor contended.

In seeking a new trial, Mar- dian's lawyers had also com- plained about Sirica's refusal to question the prospective jurors about their political party affiliations, but the prosecutors maintained that the judge was well within his discretion in ruling out that line of inquiry.

Sirica, they said, did ask each juror "whether he or any close relatives had engaged in political activities or had made political contributions."

Ehrlichman, in a protest that was also voiced by Halde- man and Mitchell, maintained that Sirica should have grant- ed a postponement or recess in the trial until Nixon was



HENRY S. RUTH JR.
... opposes new trial

able to give a deposition, but the prosecutors contended that defense hopes of help from the former President were exceedingly thin.

"Although Ehrlichman main- tains that Mr. Nixon's testi- mony would have been 'highly exculpatory' to him," the gov- ernment lawyers said in a 61- page memorandum, "to this day neither he nor any other defendant has made any con- crete showing by way of a statement from Mr. Nixon as to what his testimony would have been, or even that he would have testified rather than claim his Fifth Amend- ment privilege."