

Haldeman Challenges Jury's Role

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Former White House chief of staff H. R. (Bob) Haldeman went to the Supreme Court yesterday in a final effort to derail the Watergate cover-up trial.

Haldeman's lawyers submitted a petition challenging the Watergate grand jury's authority to return any indictments in the scandal after the jury's original 18-month term had expired.

Underlying the bid is an attempt to keep the trial from starting on Sept. 30 despite Supreme Court rebuffs of other requests for a delay.

John J. Wilson, Haldeman's chief defense counsel, is expected to follow up yesterday's petition by seeking postponement of the conspiracy trial until the Supreme Court rules on the challenge to the grand jury's status.

Congress passed special legislation last November to keep the Watergate grand jury in business for another year. Haldeman's attorneys denounced the step as a "piece of novel legislation in the name of expediency."

They protested that the special law conflicted with the federal rules of criminal procedure and that the rules themselves had to be changed instead of providing for a single-shot amendment to them.

The grand jury, which named President Nixon an indicted co-conspirator in the alleged cover-up, is still sitting and met secretly with Watergate prosecutors yesterday at the U.S. courthouse here.

Most of the day-long session was apparently spent without any witnesses being called. The only unresolved question known to be before the grand jurors is whether Mr. Nixon himself should be indicted now that he is a private citizen. However, no decision seems likely until after a jury has been picked and seques-

tered for the cover-up trial.

Any indictment of Mr. Nixon before then would mean an almost certain delay in the trial, which both Watergate prosecutors and U.S. District Court Judge John J. Sirica appear determined to start on schedule.

Former White House aide John D. Ehrlichman, another of the six defendants, lost his second request for a postponement yesterday when Supreme Court Justice William O. Douglas rejected his petition.

Chief Justice Warren E. Burger turned Ehrlichman down last week. The former White House aide had contended that pretrial publicity over President Nixon's resignation made a fair trial impossible until next year at the earliest.

Burger said his job at this stage was limited to correcting only "the most extraordinary mistakes of lower courts." He indicated that issues such as Ehrlichman presented could still be reviewed on post-trial appeal.

Ehrlichman's lawyers then went to Douglas, who supervises the judicial circuit including Washington state where Ehrlichman lives. Douglas denied the renewed petition without comment.

Trying a different tack, Haldeman's lawyers—Wilson, Frank H. Strickler and Ross O'Donoghue—asked the high court to consider dismissal of the cover-up indictment on the grounds that the grand jury's term had been extended illegally.

If the issue is not settled now, they argued, it could mean that another indictment would have to be returned by a new grand jury after the first trial and "a second trial of another three to four months instituted."

Both Judge Sirica and the U.S. Circuit Court of Appeals here have already rejected defense contentions about the Watergate grand jury's status. It would take at least four Supreme Court justices to grant review of the question, but the full court will not return from vacation until Oct. 7—a week after the trial is scheduled to start.

As a result, Wilson is likely to ask Judge Sirica for a stay of the trial until the Supreme Court can take up his petition. If Sirica turns him down, he can then go on to the Court of Appeals and finally to Chief Justice Burger.