

Watergate Jury Starts

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By George Lardner Jr.
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The jurors at the Watergate cover-up trial began deliberating over a verdict yesterday after a final admonition from the judge to ignore the pardon of President Nixon and concentrate on the evidence.

His voice rising at the end, U.S. District Court Judge John J. Sirica told them that the case had not been brought "for the purpose of revenge" and emphasized that their duty was simply to ascertain the truth behind the tangled scandal.

The nine women and three men named to the jury in mid-October after two weeks of secret questioning got the case at 12:30 p.m. and started dis-

cussions in a closely guarded room near the judge's chambers after a luncheon recess.

They promptly picked as foreman John A. Hoffar, 57, a retired Park Police sergeant and one of the two registered Republicans on the panel.

The jurors then spent about four hours deliberating, apparently concentrating on the charges against former Attorney General John N. Mitchell, before being sent back to their hotels for the night.

Judge Sirica dismissed them for the day after ruling out the jurors' request, in a note signed by Hoffar as foreman, for the transcripts of all the trial testimony by Mitchell, former White House counsel John W. Dean III, and former Nixon campaign offi-

cials Jeb Stuart Magruder and Frederick C. LaRue.

They also asked for Mitchell's testimony before the Watergate grand jury on April 20, 1973, when he allegedly lied under oath.

The judge told them that "it would be almost impossible" to grant their request.

"We'd be trying this case all over again," Sirica explained. Beyond that, he said, it was not common practice to permit a jury to have transcripts which include the text of whispered bench conferences and other discussions that the jury was not supposed to hear.

As a result, he said, any testimony they wanted would have to be read back to them by a court reporter. He

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estimated that the portions of testimony they had just asked for would "take approximately three weeks to read."

In addition, the judge said, Mitchell's grand jury testimony on April 20, 1973—aside from the allegedly untruthful excerpts contained in his indictment—had not been introduced in evidence.

"It's difficult for jurors to remember everything that's been said, I'll concede that," Sirica told them. But he said they would simply have to rely on their recollections of the testimony except for short exchanges on specific points.

Some of the jurors' faces seemed drawn as they filed into the courtroom following their first afternoon of delib-

erations. They were apparently tackling the charges in the cover-up indictment slowly and methodically, beginning with the allegations against Mitchell as the first named defendant.

With the trial now in its 14th week, Sirica reminded the jurors yesterday morning that each of the defendants before them—Mitchell, former White House aides H. R. (Bob) Haldeman and John D. Ehrlichman, and Nixon reelection committee advisors Robert C. Mardian and Kenneth Wells Parkinson—were entitled to separate, independent judgments on each of the charges against them.

Sirica spent nearly two hours on his final instructions, lecturing the jury on the laws of conspiracy, obstruction

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of justice, perjury and false statements under oath.

The five alternate jurors, who have been sitting through the prolonged proceedings as standbys, were sent home after a final stop to pick up their belongings at the Sheraton Park Hotel where they have been sequestered.

The judge urged them not to talk about the case with anyone, even members of their families, although he acknowledged that he could not prevent them from speaking out if they chose to do so.

"I personally think that it detracts from the dignity of judicial proceedings for jurors or alternate jurors to informally discuss their feelings and impressions of a criminal trial," Sirica told them.

U.S. deputy marshals escorted the five alternates, all of them women, back to the hotel and then to their homes. They all refused to talk to newsmen and marshals asked the reporters to stay away from them.

"No, no, not until it's all over," one of the alternates said, when asked for comment. "We can't talk now."

The 12 regular jurors began discussing the case at 1:55 p.m., working with a retyped copy of the cover-up indictment and separate "worksheets" to record their verdicts for each defendant.

The trial ended with 17 charges still outstanding against the five men. All are felonies, each carrying a maximum prison term of five years but with varying fines ranging from \$2,000 to \$10,000. Two counts of lying to the FBI—one against Mitchell and one against Ehrlichman—were dismissed by Sirica earlier in the trial as a matter of law, but the jurors were not informed of that until yesterday.

They still have not been told why Nixon never appeared as a witness. The jurors were notified during the selection process that the former President might be called to testify, but they were never filled in on the court-appointed medical examination during the trial, which found him too ill to give even a deposition.

Instead, Sirica simply told them in general terms to draw no conclusions from the fact that any of the prospective witnesses mentioned to them at the trial's outset failed to appear.

"This usually happens in the course of a trial, as the witness lists change depending on developments in the case," the judge said. "You should not draw any inferences against any party because a particular prospective witness may not have appeared, and, of course, your concern in weighing the testimony must be solely with the testimony of the witnesses who have appeared before you."

All the jurors except Hoffar, a sturdily built, poker-faced man who has a habit of staring straight ahead, looked



Associated Press

Judge Sirica arrives at the courthouse to instruct the Watergate jury members.

attentively at the judge throughout the long instructions.

Rocking back and forth in his high-topped red leather chair at the bench, Sirica began by complimenting the jury for its patience and telling them that "the most important part of this case is now at hand."

"After many weeks of trial, we have now reached the place where there are no more witnesses to be heard, no more exhibits to be introduced and no further arguments by counsel," the judge said.

"I know that I speak for counsel on both sides when I say that your unfailing attention, your patience and interest in this long and complex case should be a model for other juries. Your responsibilities are great, but you have shown by your attitude that you are fully aware of them."

Spectators crowded into the courtroom for the unfolding of the final act, some of them after waiting through the night in sleeping bags. Court officials expressed surprise at the unusually long line waiting in the corridors, but then noted that it was the last such session before a verdict, which could come at any hour.

Emphasizing that the word "verdict" comes from a Latin word mean-

ing literally to "speak the truth," Sirica devoted his longest discourse to the basic conspiracy charge against all five defendants.

He pointed out that it was allegedly designed to keep investigators and prosecutors of the Watergate bugging case from uncovering those responsible for espionage at Democratic National Committee headquarters here and from turning up evidence of other "improper activities" that have since come to light.

While a conspiracy involves an agreement to engage in conduct to violate the law, Sirica added, "common sense will tell you that from its very nature a conspiracy is characterized by secrecy in its origin and its execution."

"Often, when persons undertake to enter into a conspiracy, much is left to an informal, unexpressed under-

standing," the judge said. "Therefore, express language or specific words are not required to indicate assent or attachment to a conspiracy."

At the same time, the jurors were told that each of the defendants must have knowingly and willfully taken part in the conspiracy.

Even if some of the defendants played only "a relatively small or minor role," Sirica said in an obvious allusion to Mardian and Parkinson, the basic question to settle was whether they joined in the scheme "being aware of some of the basic purposes and aims of the conspiracy with the intent to advance those purposes."

Turning explicitly to Mardian and Parkinson a few moments later, the judge cited their claims to have been acting simply as lawyers for the Committee to Reelect the President, bound by the attorney-client privilege to

keep the secrets confided in them.

"What all this boils down to is a question of intent," Sirica explained. He said Parkinson and Mardian would be entitled to acquittal on the conspiracy charge if the jury was satisfied that they were merely doing their job as lawyers.

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"But if you find that either Mr. Parkinson or Mr. Mardian, or both of them, were acting with the intent to participate in the alleged conspiracy," the judge added, "Then the fact that he happened to be active as a lawyer also is no defense."

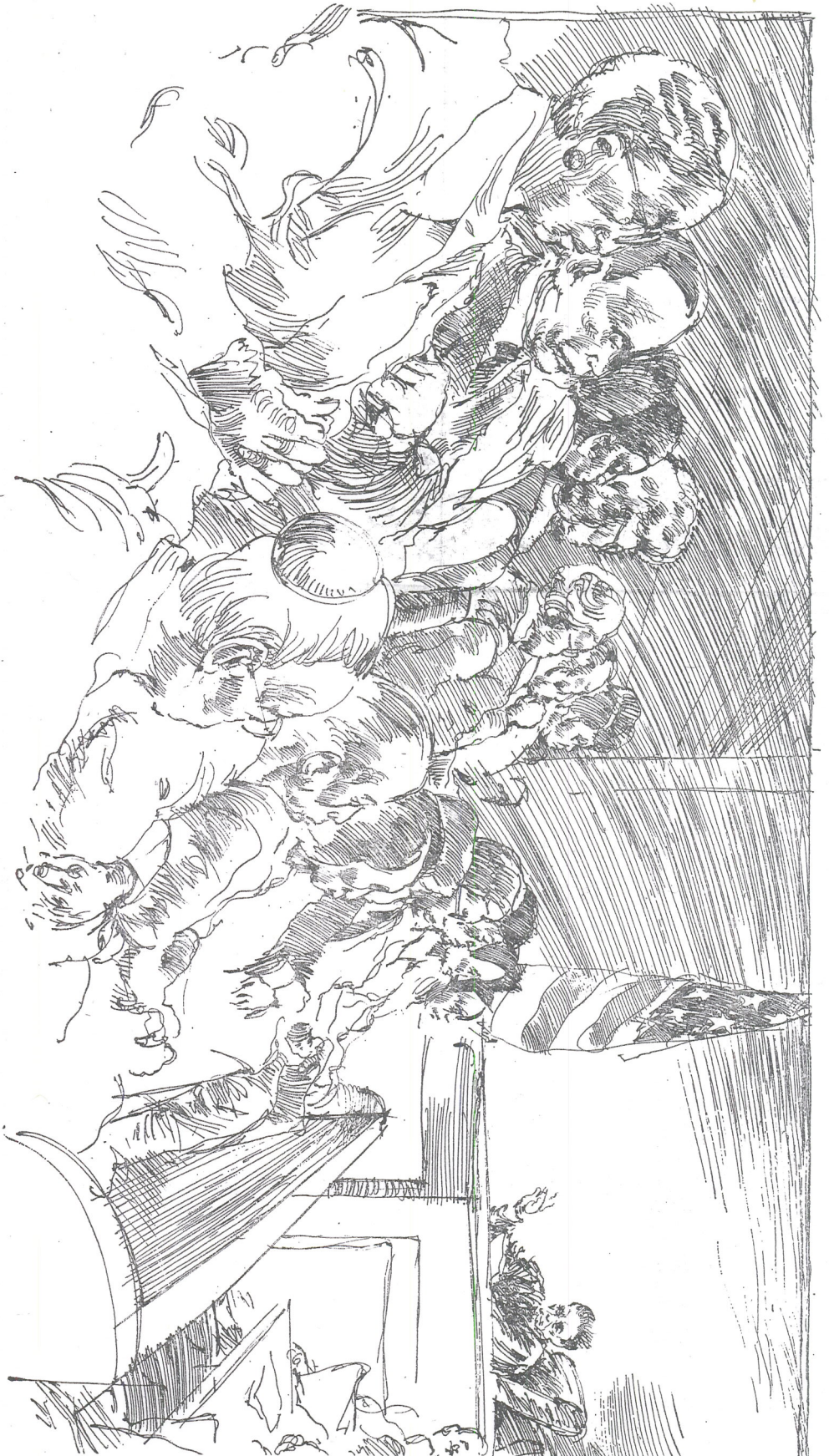
Sirica then turned to the other charges in the indictment. In addition to the conspiracy counts, all but Mardian have also been charged, with actually obstructing justice in the Watergate case.

Beyond that, Mitchell faces two counts of lying to the Watergate grand

jury and one count of perjury before the Senate Watergate Committee. Haldeman has been accused of three counts of perjury before the Senate Watergate Committee and Ehrlichman has two counts of lying to the Watergate grand jury pending against him.

Emphasizing the narrowness of those charges, the judge said the statements at issue could not be held to be false or perjurious if they were "literally true" even though they might at the same time have been incomplete or misleading.

Sirica mentioned Nixon by name only once—in connection with his pardon by President Ford last September. The jurors were aware of the pardon before they were sequestered, and reportedly seven of them had said they thought it somewhat unfair to prosecute the five former White House aides and campaign advisers in light of the clemency granted to Nixon.



Judge Sirica instructs the 12 regular and five alternate jurors on the legal technicalities of the judgments they must deliver in the Watergate conspiracy case.

Drawings by David Suter for the Washington Post.