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# 'Chicago 7' Dismissal Was Fought

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CHICAGO, Nov. 14—Acting Attorney General Robert H. Bork sought to dismiss contempt-of-court charges against the "Chicago Seven" and their lawyers, but changed his mind at the insistence of James R. Thompson, the U.S. attorney here. Thompson testified in federal court today.

Thompson described an emergency meeting in Washington on Saturday, Oct. 27, during which he said Bork argued that the charges should be dropped as a "liberal gesture" in the Watergate era.

Four other key Justice Department aides supported Bork's positions, Thompson said, and only Assistant Attorney General Henry E. Petersen, chief of the department's criminal division, agreed that the contempt case should go forward.

The U.S. attorney, whose record here has given him considerable influence within the Justice Department, said he insisted at the time that the case was important, among other reasons, "to reestablish the rule of law in American courtrooms."

He said he prevailed only after a full day of discussions with Bork in both formal and informal settings. The talks occurred only a week after Bork took charge of the Justice Department.

The contempt case grows out of the 1969-70 conspiracy trial of the "Chicago Seven," who were charged with violating the federal anti-riot statute during demonstrations at the 1968 Democratic National Convention here.

While the government charges that the defendants and their lawyers were responsible for disrupting the 4½-month trial, the defense contends that its conduct was provoked by federal prosecutors and the trial judge, Julius J. Hoffman.

Now in its third week, the contempt trial took an unusual turn today with both a prosecutor (Thompson) and a federal judge taking the stand as witnesses subpoenaed by the defense.

U.S. District Court Judge Robert R. Merhige Jr. of Richmond, Va., testified that William M. Kunstler, one of the defense attorneys at the original trial and a defendant in the contempt case, had always

behaved in an "exemplary" manner during appearances before Merhige in controversial cases.

"He gets emotional," Merhige said of Kunstler, "but only like every other lawyer in a case he believes in. I never had any trouble with him."

The defense considered Merhige's testimony important to establish Kunstler's courtroom "habits." The New York attorney stands charged with six specifications of contempt.

U.S. District Court Judge Edward T. Gignoux of Maine, who is presiding over the contempt trial, said he was permitting Merhige's unusual testimony only because there is no jury in the case.

Thompson was subpoenaed because the defense sought an explanation of his statement when the trial opened on Oct. 29 that "there have been serious suggestions in the nation, and indeed in the Department of Justice, that this case should not be brought again."

The explanation of those remarks that Thompson gave today went far beyond what even the defense attorneys had expected.

Thompson explained that Bork, who had become acting Attorney General on the night of Saturday, Oct. 20, after Elliot L. Richardson and his deputy, William D. Ruckelshaus, resigned in a dispute with the White House over the firing of Watergate Special Prosecutor Archibald Cox, contacted him in Chicago to discuss the contempt case just before it was to go to trial.

As a result, Thompson said, he flew to Washington for a conference with Bork, Petersen and four other Justice Department officials—Sol Lindenbaum, executive assistant to the Attorney General; Jonathan Moore, Richardson's associate attorney general; Gary Baise, a Ruckelshaus aide, and John W. Hushen, director of public information.

The prosecutor testified that one of his reasons for pressing the case was that the government had strongly supported the conviction in the original conspiracy trial before the Seventh U.S. Circuit Court of Appeals (which reversed the convictions but left the door open for a new trial).

He also said he had argued that the contempt case belongs less to the Justice Department than to the court itself, and Hoffman and his colleagues on the federal bench here could have hired an outside prosecutor if the Justice Department backed off.

Under questioning, Thompson recalled that in a telephone conversation with Morton Stavis, chief defense counsel in the contempt trial, two days before the Washington meeting, he said the charges would be dropped only "over my dead body."

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