

Prosecutors Defend Sirica's Actions

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Watergate prosecutors maintained yesterday that attempts to disqualify U.S. District Court Judge John J. Sirica from the Watergate cover-up trial are groundless and even "scurrilous" in some respects.

The prosecutors agreed, however, that the dispute might best be resolved by a three-judge panel rather than by Sirica.

Former White House aides John D. Ehrlichman and Charles W. Colson and former Attorney General John N. Mitchell asked the judge to step aside earlier this month on the ground that he had sown "a deep-seated and unshakeable personal bias in favor of the prosecution."

Two other defendants facing trial in the alleged cover-up conspiracy, former White House aide Gordon Strachan and Kenneth Wells Parkinson, an attorney for the Committee for the Re-election of the President, also joined in the effort to get Sirica out of the case.

In a joint affidavit that they submitted Ehrlichman, Colson and Mitchell contended that the judge ought not be permitted to preside at their trial in light of his attempts at the first Watergate trial "to expose the involvement of higher officials."

They maintained that establishment of the high-level cover-up conspiracy alleged in their indictment would "be viewed as further vindication of his earlier conduct, and his much-publicized preconception that higher officials were involved in criminal conduct."

In a separate affidavit, Strachan charged that the judge "has a personal stake in the outcome of this case due to the public acclaim that he is the man who broke the case . . ."

In a 22-page response filed yesterday, Watergate Special Prosecutor Leon Jaworski and his aides charged that the defense are "scurrilous." Defendants' allegations on that

"Judge Sirica has an 'interest' in convictions in this case only if the evidence fairly establishes guilt," Jaworski said.

Beyond that, the prosecutor declared, "if vindication were sought by Judge Sirica, he already has been vindicated. His questions (at the first trial) voiced a judicial concern that all the evidence was not being produced, 'that all the pertinent facts have not been produced before an American jury.'"

Since then, Jaworski said, "some evidence has already been heard by the grand jury, which decided to return the present indictment. Soon an American trial jury will have its chance to assess this evidence. This is all Judge Sirica has been alleged to have called for."

The Watergate defense lawyers had also protested Sirica's assigning the cover-up trial to himself, one of his last steps before stepping down last month at age 70 as chief judge of the U.S. District Court here.

Jaworski argued that the case demanded special assignment since it is expected to be a "protracted" trial. The pros-



JUDGE JOHN J. SIRICA
... asked to step aside

ecutor also suggested that justice would be helped, not hurt, by Sirica's familiarity with the case from his work at the first Watergate trial and his long supervision, as chief judge, of the Watergate grand jury.

As for Sirica's persistent and skeptical questioning during the Watergate break-in and bugging trial, Jaworski denied that this made him either an "investigator" or an arm of the prosecutor."

A federal trial judge, the prosecutor said, "is more than a mere moderator. . . . He could also properly question the veracity of a government witness since any false testimony is at war with justice and may require a new trial."

Jaworski acknowledged that Sirica did draw up a still-sealed list of various individuals he felt should be brought in for grand jury questioning after the trial, including one of the defendants now seeking the judge's disqualification. But the prosecutor maintained that this, too, was proper since "the record at trial left some questions . . . unanswered."

The prosecutors suggested that Sirica could legitimately rule on the dispute, but they agreed that there "may be merit" in his sending the case to the court's three-judge calendar committee, as Ehrlichman, Colson and Mitchell have asked. The calendar committee includes Judges John Pratt, Oliver Gasch and Charles Richey.

"... The considered judgment of that three-judge panel," Jaworski said, "would be given the heaviest weight on appeal from any convictions in this protracted and important case."