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Why a U.S. Attorney Wasn't Fired

San Diego

Assistant Attorney General Henry E. Petersen is reported to have blocked a recommendation by a Department of Justice review team that the U.S. attorney here, Harry D. Stewart, be removed from office for questionable conduct.

The recommendation is said to have been made to Petersen last October 20 by the then deputy attorney general, Williams D. Ruckelshaus. That was the day Ruckelshaus was dismissed by President Nixon following Attorney General Elliot L. Richardson's resignation after they refused to obey White House orders to oust the Watergate special prosecutor, Archibald Cox.

A government source said that Ruckelshaus had been prepared to remove Stewart because of strong doubts expressed by a department review team about his fitness in office and the team's conclusion that he should be replaced.

The U.S. attorney has long been a target of criticism by several federal judges, a large segment of the local bar and a congressional group headed by Senator John V. Tunney (Dem-Calif.).

Petersen's reported quashing of the review team's recommendation marked the second time in four years that he had absolved Stewart of charges of obstructing justice and other misconduct on the ground that they were insufficient to warrant his removal.

Petersen acknowledged, however, during questioning by the Senate Judiciary Committee in April, 1972, that an FBI inquiry had found Stewart guilty of what Petersen called "highly improper conduct."

More recently, the Watergate special prosecutor, Leon Jaworski, had shown an interest in the federal attorney in connection with an investigation of persons accused of making illegal contributions to Richard Nixon's presidential campaign in 1968.

In evaluating Stewart's fitness to remain in office, the Justice Department review team was said to have cited his successful efforts in early 1970 to protect from criminal prosecution his political patron, C. Arnolt Smith, the financier and long-time friend of President Nixon, and Smith's chief lieutenant, Frank Thornton.

Smith was recently indicted by a federal grand jury. He was charged with criminal conspiracy and bank loan fraud

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