

Legal Officials Call D.C. Juries Fair

By Paul W. Valentine
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A number of defense attorneys, prosecutors and other legal specialists have disputed claims by White House supporters that Watergate defendants cannot get a fair trial in Washington because the juries here are dominated by Democrats and blacks.

"That's ridiculous . . . it's a smoke screen," said Charles H. Roistacher, chief of the grand jury section of the U.S. attorney's office and one of more than 15

lawyers interviewed by The Washington Post.

"Certainly most jurors here are black and Democrat," said Chief U.S. District Court Judge George L. Hart Jr., a longtime Republican wheelhorse in Washington, "but by and large, they are fine jurors, fine jurors."

The rising chorus of complaints among White House defenders centers on the contention that a city that is 75 per cent black and cast 78 per cent of its vote for presidential candidate George McGovern in 1972 is not likely to provide a fair and

impartial jury to judge the conduct of white Republican officials in the current administration.

White House speech writer and special consultant Patrick J. Buchanan called Washington the "most anti-Nixon city in the United States."

"Indeed it would require a resourceful imagination to construct a more prejudicial climate than the District of Columbia for the trial of this case with its underlying political and racial overtones," argued attorney Jacob A. Stein in an unsuccess-

ful attempt to change the trial location for his client, Dwight L. Chapin. Chapin, President Nixon's former appointments secretary, was convicted of perjury last April.

More recently, an Alabama industrialist and a former New York Republican congressman placed separate advertisements in The Washington Post on July 17 urging the transfer of future Watergate trials from this city.

"I think it is quite possible

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ble for a white Republican to get a fair trial from an all black Democrat jury in Alabama," wrote J. Craig Smith, 68, board chairman of Avondale textile mills in Sylacauga, Ala., and a key Nixon re-election campaign official in that state in 1972. "I do not think this would be possible in the District of Columbia." He did not elaborate.

"Has the flame of liberty burned so low that the grand jury has become a puppet for the prosecutors?" complained former New York Rep. Hamilton Fish Sr., 85, in his ad.

A check of the 23 Watergate grand jurors who by a 19-0 vote named President Nixon an unindicted co-conspirator in the Watergate coverup shows that 14 are listed as registered Democrats and three as "nondeclared." No record of the remaining six jurors could be found in voter registration rolls. Elections officials said their names may have been removed in a recent purge for failure to vote in the past four years. Six of the grand jurors are white, 17 black.

Both Smith and Fish, who is father of incumbent New York Rep. Hamilton Fish Jr., also contended that the Watergate special prosecutor's office is stacked with old-line Kennedy loyalists and the Washington news media is deliberately prejudicing the public against President Nixon and his defenders.

Spokesmen for the special prosecutor's office deny any staff prejudice against the White House. They would not comment on the racial and political composition of the grand or trial juries in Watergate cases.

A Washington Post sample survey of qualified jurors called for possible jury duty between February, 1973, and June, 1974, show that they closely reflect demographic characteristics in the city as a whole.

Of approximately 920 names sampled every 30th name from a master list of 27,600 maintained by the U.S. District Court Jury Commission for possible duty in all courts in the city — 68.4 per cent were black and 59.7 per cent were female, for example.

According to 1972 city estimates, 67.7 per cent of jury-serving age residents (18 and above) are black and 55.4 per cent are female.

The survey also showed that 56.5 per cent of the qualified jurors were less than 50 years old, 39 per cent attended high school and 47.8 per cent attended college, with 23.9 per cent completing four years or more.

About 40 per cent were employed by the federal or District government, and 34 per cent were engaged in private employment with the remainder consisting of students, housewives, unemployed and retired persons, according to the survey.

The youngest qualified juror surveyed was 18, the oldest 84. Occupations ranged from bank executives to charwomen. The list included at least three White House employees and two employees of the Central Intelligence Agency. Their exact job titles were not specified.

The survey information, drawn from juror qualification questionnaires sent out to all prospective jurors, did not include political affiliation.

The master jury list, however, is drawn from the city's voter registration rolls which, according to the D.C. elections board, is approximately 76 per cent Democratic, 12 per cent Republican and 12 per cent independent, nondeclared or "other."

Most attorneys interviewed on the issue of jury composition noted that as

long as the jurors are a fair and random cross section of the community, there is little legal basis for complaint.

"The juries here are totally reflective of the city, and the city is heavily Democratic and black," said Roistacher of the U.S. attorney's office. "If that's the case, then so be it."

The question then arises: can a predominantly black, Democratic jury here set aside possible biases and judge a white Republican on the evidence alone?

Defense attorneys in the Chapin perjury trial last April said no. They produced an affidavit by a black psychiatrist, Elvin Mackey, who cited the "constellation of historical and institutional forces" imposed on blacks here, making it "reasonable to expect a widespread attitude of hostility in the black population of the District of Columbia (especially) toward the current administration.

Trial Judge Gerhard A. Gesell, however, summarily dismissed the argument, noting that the jury, which consisted of seven blacks and five whites, "weighed the evidence according to the evidence, free of bias" and appeared "at all times conscientious and impartial."

Charles L. Wesley, 60-year old retired U.S. Postal Service employee, who was foreman of the Chapin jury, said in an interview, "We bent over backwards to be fair."

Noting that the jury acquitted Chapin on one perjury count during its two days of deliberations, Wesley said, "Our discussions were strictly on the evidence, and we never got into personalities or politics."

Wesley, who is black, said he is registered Republican but voted against Mr. Nixon in 1968 and 1972.

Jay Schulman, a New York attorney who has specialized in contesting jury selection and composition in many celebrated antiwar and other "political" trials throughout the nation, says Washington juries may be fairer than most.

"Blacks, especially middle class blacks," he said, "are extraordinarily rule-oriented, extraordinarily conscientious about fair play. I should think this would be especially true in Washington where so many blacks work for the government and live in a middle class context.

"... My experience has been that they're much more flexible in their willingness to allow the evidence of a case persuade them one way or another, rather than their biases," Schulman said.

Other key attorneys in Washington also question the "no fair trial" complaint of White House supporters.

"It's silly to say that only Democrats can give Democrats a fair trial or that only Republicans can give Republicans a fair trial," said John W. Douglas, president of the D.C. Bar.

"The whole thing is just nonsense," said Norman Leftstein, director of the Public Defender Service. "It really comes down to whether you believe Democrats and blacks here are unwilling to give a fair trial, and I don't believe that."

"I don't think that the vast majority of jurors consider color, sex, politics or religion in determining a case," said Judge Hart.

So far, seven persons have been convicted in four Watergate-connected trials here. Fifteen others have pleaded guilty to an assortment of charges.

In addition to Chapin's conviction in April, former White House domestic affairs boss John Ehrlichman was convicted July 12 of conspiracy and perjury in connection with the break-in at the office of antiwar activist Daniel Ellsberg's psychiatrist. G. Gordon Liddy, Bernard L. Barker and Eugenio Martinez were convicted of conspiracy in the same trial.

Liddy and James W. McCord Jr. were convicted last

year in connection with the original June 17, 1972, break-in at Democratic National Committee headquarters in the Watergate complex.

And this weekend, California Lt. Gov. Ed Reinecke was convicted of perjury in connection with a Senate investigation of possible connections between a financial pledge to the 1972 GOP campaign by the International Telephone & Telegraph Corp. and an IIT antitrust settlement with the government.

The July 17 Washington Post advertisement placed by former congressman Fish is topped with half-inch high letters which read "Masquerading of Even-

handed Justice." The ad urges readers to donate contributions to an organization called Operation Freedom to help pay for similar ads across the country.

Fish said in a telephone interview that the organization, which he and a secretary operate in downtown New York, has already received more than \$25,000.

"And the letters of support I'm getting are as full of hate as anything I've seen," he said. "There's a huge silent majority out there that feels disenfranchised and they're ready to cut the heart out of any Republican or Democrat who votes to impeach the President."

Among the public figures

signing Fish's July 17 ad was Rabbi Baruch Korff, longtime pro-Nixon activist and head of the National Citizens Committee for Fairness to the Presidency.

In the second July 17 advertisement, Alabama industrialist Smith noted that 96 per cent of the grand jury that named President Nixon an unindicted co-conspirator is Democrat and 74 per cent is black — figures that Smith says he extracted from previous news reports.

Smith's percentages coincide with numbers cited in a June 13 column in the New York Times by White House speechwriter Buchanan who wrote: "Only a single member of that 23-member grand jury was Republican. Seven-

teen of the 23 were black . . ."

But, Buchanan stressed in a subsequent interview, his column "didn't say how many Democrats were on that jury — just that there was only one Republican."

When told that a Washington Post check of the voter registration rolls showed 14 Democrats, no Republicans, three "non-declared" and six names that could not be traced, Buchanan said, "That sounds about right." He said he did not check the rolls himself but had relied on "the research of others."

Assisting in the research for this article were Washington Post Staff Writers Keith Butler, Alan Crawford, George Rede and Jane Rippeteau.