

Jurors Call on Sirica Not to Hurry Trial for

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WASHINGTON, Dec. 6—The jury at the Watergate cover-up trial informed Federal Judge John J. Sirica today that it did not want the trial to be hurried unduly just so that it could be released from sequestration in time for Christmas.

In a handwritten note to the judge, the jurors said "they are united in thinking that, in fairness to all concerned, the trial should proceed at a pace consistent with fairness and justice."

Judge Sirica had told the jurors several times during the trial that he had hoped they would be "home for the holidays," and had often urged the lawyers to expedite their cases to meet the deadline.

Yesterday he asked the jurors to let him know whether they would be willing to have court on Saturdays so that the trial could be completed by the holidays.

The jurors' reply, signed "The Watergate Jury Panel," was polite but firm.

"The Watergate jury panel wishes to let you know that while they would, of course, enjoy spending Christmas at home, it is not an overriding concern among them," the note began.

"Much time and effort has already been expended, and should the trial extend through the holidays and beyond, they are quite prepared to accept that fact."

NEED DAY OFF

As for the suggestion that the panel sit on Saturday, the note said that the day off was necessary to "function efficiently." The jurors said they needed the time for rest and recreation, as well as "taking care of personnel needs."

"Some jurors are also of the opinion," they said, "that even with Saturday sessions, the trial will not conclude before Christmas."

Judge Sirica read the note aloud to the lawyers before the jury was brought in. When he finished the line about not concluding the trial by Christmas, even with Saturday sessions, he paused, smiling.

"Didn't I tell you not to underestimate the intelligence of the jury," he asked.

In fact, it appeared today that the trial might be concluded by Christmas anyway. Both H. R. Haldeman, former White House chief of staff, and John N. Mitchell, former Attorney General have finished their defenses. The defense of John D. Ehrlichman, onetime Presidential domestic affairs adviser, finished its second day today and Mr. Ehrlichman's chief counsel predicted that his client would take the stand Tuesday, apparently as the final witness in his case. The two other defendants, Robert C. Mardian, former Assistant Attorney General and Kenneth Wells Parkinson, a onetime lawyer for the Nixon re-election committee, are each expected to put on cases lasting only two or three days.

Judge Criticized

However, Judge Sirica's eagerness to finish the trial by Christmas has caused some criticism.

A court-appointed panel of doctors reported last week that former President Richard M. Nixon could not be asked to give a deposition until Jan. 6 and could not appear at the trial here until Feb. 16.

Three of the defendants — Mr. Ehrlichman, Mr. Mitchell and Mr. Haldeman—contended in written motions this week that the trial should be continued through Christmas to allow them to take a deposition by Mr. Nixon before the case goes to the jury. Judge Sirica denied those motions yesterday.

A fourth defendant, Mr. Mardian, filed a statement this week opposing the judge's suggestion that the trial hours be lengthened and court held on Saturday, saying that there was a "distinct possibility" that "longer and additional sessions may be resented by the jury to the detriment of the defendants."

Point For Defense

But in the case of one witness whom the Ehrlichman defense considered particularly crucial, the defense won its point.

The witness was William O. Bittman, an unindicted alleged co-conspirator in the case who admitted last month that he had lied about and withheld an important document. The document was a memorandum prepared by E. Howard Hunt Jr., one of the original Watergate defendants, outlining the "commitments" of money and pardons that had allegedly been made to the burglars in return for their silence about the break-in at Democratic party headquarters in the Watergate complex on June 17, 1972.

Mr. Bittman had been Mr. Hunt's attorney.

At the request of Mr. Ehrlichman's lawyer, William S. Frates, and over the objection of the prosecution, Judge Sirica called Mr. Bittman as a "court witness" — the procedure in which no party to the case has to vouch for the witness's credibility.

"I'm not satisfied that unless I do make him a court witness, I'm not satisfied the jury is going to get all the evidence," Judge Sirica said.

Mr. Bittman's testimony was substantially a repetition of testimony he gave before Judge Sirica several weeks ago, out of the jury's presence, at a hearing into the admissibility of the Hunt memorandum.

Why He Withheld It

Both today and in his earlier testimony, Mr. Bittman contended that he had withheld the document because of the attorney-client privilege. He also contended that despite the contents of the document outlining the commitments, he had believed that the payments to the burglars were not conditioned upon any promise by the burglars.

Mr. Bittman did give some new testimony under cross-examination by Jill Wine Vollner, an assistant special prosecutor.

The new testimony, if believed by the jury, was damaging to one of Mr. Ehrlichman's co-defendants, Kenneth Wells Parkinson, a lawyer who was hired by the Nixon re-election committee in June, 1972, to handle legal problems arising from the Watergate break-in.

Mr. Bittman testified that he told Mr. Parkinson in September, 1972, after Mr. Hunt had been indicted in the original Watergate case, that Mr. Hunt had said that "commitments" had been made to the Watergate defendants. He said that he asked Mr. Parkinson to check on this, and that Mr. Parkinson had reported back to him that commitments had been made and would be kept.

Denies Remark

Before the questioning by Mrs. Vollner, Mr. Bittman said, in response to cross-examination by Jacob A. Stein, Mr. Parkinson's attorney, that he had never told Mr. Parkinson that the payments were "hush money."

However, Mr. Bittman's testimony in response to Mrs. Vollner's questions—in which he also said he had discussed the "commitments" at three or four later meetings with Mr. Parkinson—appeared to undercut whatever points Mr. Stein may have gained.

The dispute over whether Mr. Bittman should be called had several levels.

One level involved the nature of a trial. James F. Neal, the chief prosecutor, argued that according to his "understanding of the adversary system," the Government was to marshal only the facts that it considered important.

"I don't view a criminal proceeding as a proceeding to get all the facts out," he said. "I view it as a proceeding to determine the guilt or innocence of the defendants."

Mr. Frates took a different view.

'A Historic Case'

"I have a hard time understanding why in this case — this is a historic case — why shouldn't we have this key witness testify, just because of strategy?" he asked.

Another level was the type of testimony that Mr. Bittman could be expected to give. Mr. Neal and Richard Ben-Veniste, an assistant special prosecutor, told Judge Sirica that they had not called Mr. Bittman as a prosecution witness because they did not believe his testimony.

Mr. Frates said that he wanted to ask Mr. Bittman about one area in particular — Mr. Bittman's own opinion during the period in question that the money to the burglars was not hush money.

Under questioning by Judge Sirica: Mr. Frates agreed that this opinion was "consistent" with the Ehrlichman defense, presumably meaning that Mr. Frates contended that that bit of testimony was accurate.

However, Mr. Frates also said that he thought that "a jury could well disbelieve that." He thus wanted Mr. Bittman called as a court witness so that he would not have to vouch for Mr. Bittman's credibility.

Suggests Calling Him

Judge Sirica turned down Mr. Frates's request at first, and suggested that he simply call Mr. Bittman as one of his own witnesses. After Mr. Frates said he would not do that and that Mr. Bittman would thus not

Holidays

appear at the trial at all, the Judge reversed himself.

A remark he had made earlier in the day appeared to explain his decision. Replying to a statement by the prosecution, he had said: "Mr. Neal, isn't it part of the whole picture in this case, his [Mr. Bittman's] participation in this whole thing?"

He added: "These men on trial, the five defendants, from the evidence would indicate to any person I think with common sense—I think you have common sense, I hope I have and the rest of—they are not the only people involved in this so-called cover-up case. Let's face it."