

WATERGATE JURY RECEIVES CHARGE; WEIGHS FATE OF 5

Panel Deliberates 4 Hours
in Cover-Up Case Before
Recessing Until Today

NO QUICK VERDICT SEEN

Sirica Rejects Request of
the Jurors to See Large
Sections of Testimony

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WASHINGTON, Dec. 30—A jury of nine women and three men began to deliberate today the case against the five former White House and Nixon campaign aides charged in the Watergate cover-up.

The jurors deliberated for nearly four hours this afternoon before recessing until tomorrow, without a verdict and amid signs that the deliberations would be long.

The jurors began their discussions at 1:55 P.M. after receiving

Excerpts from judge's charge to jury are on Page 6.

instructions on the law this morning from Judge John J. Sirica.

About 5:30 this afternoon, the jurors sent a note to Judge Sirica, asking for three sets of testimony: the trial testimony of former Attorney General John N. Mitchell, one of the defendants; Mr. Mitchell's testimony before the grand jury in April, 1973, and the trial testimony of the Government's three main witnesses, John W. Dean 3d, Frederick C. LaRue and Jeb Stuart Magruder.

Judge Calls Conference

Judge Sirica held a conference in his chambers with the lawyers in the case.

Then, a few minutes before 6 o'clock, he summoned everyone in the case to the courtroom. He called in the jurors, and read aloud their note sent by the jury's foreman, James A. Hoffar, a 57-year-old retired park policeman who was elected by the jurors at the start of their deliberations. He told them that he could

not grant their request.

First of all, he said, the transcript of the trial contained much that they were not to see—legal arguments and bench conferences, for instances. Thus, a court reporter would have to read the testimony aloud.

"It would take three weeks," he said. "It would be impossible. We'd be trying this case all over again."

Judge Sirica told the jurors that if they had a more limited request—if they wanted only a few pages of testimony—it could be granted. He told them, too, that they could have any exhibit they wanted. Then, he recessed court until tomorrow, sending the jurors to the hotel where they are sequestered.

The other defendants in the

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case are John D. Ehrlichman, once chief domestic adviser to Richard M. Nixon; H. R. Halde- man, Mr. Nixon's chief of staff at the White House; former As- sistant Attorney General Robert C. Mardian, who was a Nixon campaign committee official, and Kenneth Wells Parkinson, a Washington lawyer, who was hired by the committee im- mediately after the Watergate break-in on June 17, 1972, to handle the committee's result- ing legal problems.

All are charged with the basic conspiracy count in the case, conspiracy to obstruct justice, and all but Mr. Mardian are charged with obstruction of justice as well. Mr. Mitchell and Mr. Haldeman each face three additional counts of perjury and Mr. Ehrlichman two counts of perjury.

They face possible prison terms, if convicted—25 years for Mr. Mitchell and Mr. Halde- man, 20 for Mr. Ehrlichman, 10 for Mr. Parkinson and five for Mr. Mardian.

The five defendants sat im- passively in court earlier today when from 9:45 until shortly after noon, Judge Sirica in- structed the jurors on the law of the case. He told them to use their "good common sense" and to return a verdict that did justice to their "consciences and oaths."

Judge Sirica also told the jur- ors not to be swayed by the fact that Mr. Nixon had been pardoned by Proesident Ford, saying:

"While I am sure you under- stand the importance of this case, both for the defendants and for the Government, I want to emphasize one thing: neither the pardon of former President Nixon nor any other cases or extraneous matters should have any effect on your deliberations or your verdict."

He closed his instructions with a statement that most of the defense lawyers objected to

later at a bench conference.

He said, "The object of this trial is to ascertain the truth about the issues that have been submitted for your determina- tion. Your duty is to ascertain what the truth is."

Several defense lawyers ar- gued that he should have told the jurors that their duty was only to decide the guilt or inno- cence of the defendant—not to try to figure ou the truth of Watergate.

The defendants continued to look impassive and self-con- trolled this afternoon, when they and the jury were sum- moned back to court, with the exception of Mr. Mitchell, who looked somewhat bemused by the jurors' request.

Various persons at the trial suggested that the jurors' re- quest for the testimony indi- cated that they felt they had a great deal to discuss and con- sider before they would be able to reach a verdict.

The jurors were impaneled on Oct. 11, on the ninth day of jury selection. Since then, they have been sequestered, first in a motel in a dingy area of downtown Washington and, lately, at the Sheraton-Park Hot- el in a more pleasant residen- tial area.

The jurors are, for the most part, middle-aged, black and middle-income. Many are pres- ent or former Government workers.

Aura of Excitement

There was an air of great ex- citement at the courthouse this morning. Photographers and camera crews waited outside the building at each of the four entrances. Inside, on the second floor, scores of people, some with small children, stood in a long line in the hallway outside Judge Sirica's courtroom.

Visiting lawyers waited in a separate line.

In each line there was whis- pering, arguing, laughing, won- dering aloud and, whenever one of the participants in the case walked by, some finger-point- ing.

Inside Judge Sirica's court- room, the wives of some of the defendants sat in the front rows of the spectator section, their faces sad and concerned.

The five defendants, each at a separate table with his attor- ney or attorneys, sat quietly. Their faces were expressionless.

At 9:30 A.M., court began. There were brief objections for the record by several at- torneys. William G. Hundley, one of Mr. Mitchell's lawyers, and Frank Strickler, one of Mr. Haldeman's lawyers, each objected to statements made by Richard Ben-Veniste, an assistant prosecutor, in his closing argument last Friday.

Jacob A. Stein, representing Mr. Parkinson, and Thomas C. Green, representing Mr. Mardian, each objected to cer- tain items in the instructions that the judge planned to read.

At 9:45, Judge Sirica sum- moned the jury.

He began by praising the jury

system in general and the work of this jury in particular.

Jury Termed a Model

"Your unfailing attention, your patience and your interest in this long and complex case," he said, "should be a model for other juries."

Then he turned to the law on conspiracy. He listed these essential elements that had to be proved, beyond a reasonable doubt, before a conspiracy could be found:

¶ "That two or more persons conspired to commit an offense against the United States or to defraud the United States."

¶ "That each defendant knowingly participated in this conspiracy with the intent to commit the offense on the fraud

which was the object of the conspiracy."

¶ "That during the existence of this conspiracy at least one overt act was committed by one or more of its members in furtherance of the objects of the conspiracy."

He told the jurors that it was not necessary that "the persons charged" met together and entered into a formal agreement. It was sufficient, he said, if "they came to a mutual understanding" to accomplish either an unlawful purpose or a lawful purpose through unlawful means.

There had been much evidence against the three better known defendants in the case, Mr. Mitchell, Mr. Haldeman and Mr. Ehrlichman. But there was far less against Mr. Parkinson and Mr. Mardian.

Judge Makes 2 Points

Mr. Mardian and Mr. Parkinson had defended themselves in part by contending that they had acted as lawyers, with the Nixon campaign committee as their client, and that their actions had been those expected of lawyers.

Judge Sirica made two points

that seemed directed at those contentions. He said, "The extent of a defendant's participation is not determinative of his guilt or innocence."

Then he said that the fact that Mr. Parkinson and Mr. Mardian had functioned as attorneys might have some bearing on their cases. But, he added, the jury should "consider whether the actions taken by each of these defendants were undertaken pursuant to good-faith legal representation or whether they were undertaken with a criminal intent and in furtherance of the conspiracy charged."

Judge Sirica took up the obstruction of justice count next. He told the jurors that the charge was, essentially, that Mr. Mitchell, Mr. Haldeman, Mr. Ehrlichmann and Mr. Parkinson had sought to interfere with the "due administration of justice" in the Watergate affair

by making cash payments "and offers of other benefits" to the seven original Watergate defendants in return for their silence.

As for the essential elements of the crime, he said, they in-

cluded the following: There must have been an "endeavor" by the defendant; the purpose of the endeavor must have been to obstruct the due administration of justice, and the endeavor must have been made "corruptly."

One of the central issues in the case—the "gut issue," according to the chief prosecutor, James F. Neal—is why the money was paid.

Charges Described

Judge Sirica addressed that point today, asking the jurors, "Did they intend to help the original Watergate defendants out of compassion, or sympathy, or did they intend that their financial assistance would be repaid in the form of silence?"

He also described for the jurors the two different types of charges involving false statements that they must decide—the charges against Mr. Mitchell and Mr. Ehrlichman of making false statements to a grand jury, and the charges against Mr. Mitchell and Mr. Haldeman of perjury before the Senate.