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JUDGE RULES COHN MUST STAND TRIAL

Says He Doubts Life Article
Will Prejudice Jurors

By EDWARD RANZAL

A Federal judge ruled yesterday that Roy M. Cohn must stand trial Sept. 23 on a bribery-conspiracy indictment despite publication of a magazine article that Mr. Cohn's lawyer contended would prevent a fair trial.

The lawyer, Myron J. Greene, had argued that the article about Mr. Cohn in the current issue of Life was so "devastating" and "shocking" that the indictment should be dismissed or the trial postponed.

"The article is permeated and drips with venom and could not help but poison the minds of prospective jurors," Mr. Greene said.

In a decision announced several hours after a hearing in Federal Court, Judge Inzer B. Wyatt said:

"It cannot be said at this time that it will be impossible to select a fair and impartial jury on Sept. 23. The most sensible procedure would seem to be to question the jury panel and then find out whether the press, radio and television coverage has, or has not, affected the ability of the panel members to act fairly and impartially as jurors. Those members of the panel who indicate that they have been affected will, of course, be excused.

"In this connection, the suggestion at argument that prospective jurors will give false answers to questions cannot be accepted; my experience has indicated that prospective jurors are most conscientious in their responses. The fairness of the members of jury panels in this district should not be underestimated."

3 Other Defendants

Mr. Cohn, one-time chief counsel to a Senate subcommittee headed by the late Senator Joseph R. McCarthy, will go on trial with three co-defendants.

All are charged with conspiracy, bribery and extortion in connection with the 1962 condemnation by the city of bus lines operated by the Fifth Avenue Coach Company, of which Mr. Cohn was a director.

The other defendants are John F. Curtin, a Philadelphia transportation specialist; John A. Kiser, former law partner of Mr. Cohn, and Bernard Reicher, former city appraiser.

Judge Wyatt also denied motions by lawyers for Mr. Kiser and Mr. Curtin for a trial severance. They argued that Mr. Cohn had been "tarred" and that it would "brush off" on their defendants.

No one appeared for Mr. Reicher, and it has been indicated he will testify for the Government.

Mr. Greene said the Life article depicted Mr. Cohn as an evil person who had used friends in high positions to wield power.

The article, by William Lambert, suggested Mr. Cohn had been responsible for the transfer of three agents of the Federal Bureau of Investigation after they had submitted affidavits for the Government against Mr. Cohn. Mr. Cohn has denied this.

In his argument, Mr. Greene said there had been two runs of the current issue of Life—one distributed locally, the other throughout the country.

Captions Quoted

The first run, he said, had a caption under Mr. Cohn's picture that said: "Now Joe McCarthy's boy is a Fifth Amendment capitalist." The local run, he continued, had the caption: "Joe McCarthy's boy is still the champion of 'chutzpah' [a Yiddish word for gall]."

When Mr. Greene began questioning why the first caption had been changed, Judge Wyatt interrupted:

"I don't want to hear anything on that subject. If you want to suggest a contempt proceeding I'll entertain it at the end of the trial. Charges of misconduct against the United States attorney or his assistants have no relevance at all in picking a fair and impartial jury."

When Mr. Greene suggested that it was impossible to pick a fair jury, Judge Wyatt answered: "How will we know unless we make the effort?"

The judge said that a trial continuance was not the answer and that a speedy trial was necessary for the prompt administration of justice.

Judge Wyatt had asked Life to delay publication of the article until after the trial, but the magazine refused.

Friendship Cited

At a public hearing last Tuesday, Judge Wyatt told defense counsel that he had read the article and that "I must say it is not as bad as I had feared."

At another point, he said in part:

"No man who enjoys the friendship of Cardinal Spellman and Mr. Hoover [J. EDGAR Hoover, director of the F.B.I.] and others could be considered by the public at large to be wholly bad. There is that aspect of it . . . My initial impression is that in part at least it is flattering."

Later in the proceedings, Judge Wyatt said he wanted to make a brief vacation report. He then related that he had spent several weeks at Monte Carlo and had luncheon with Assistant United States Attorney Paul Perito, one of the prosecutors in the Cohn case.