

LATE ROBERT
Eggleston

"An Arrogant Act Of Men Above the Law"

The conspiracy trial of John Ehrlichman, once President Nixon's top domestic aide, and three lesser members of the White House "plumbers" team got off to a dramatic start in Federal Judge Gerhard Gesell's Washington courtroom last week. Assistant Special Prosecutor William Merrill charged that a few weeks before Ehrlichman was forced to resign last year, he had secretly removed three incriminating memos from a file on the plumbers in the White House—but David Young, a co-director of the secret investigating unit, had foresightedly retained copies. Said Merrill to the jury, which consists of nine blacks and three whites: "Mr. Ehrlichman lied. Why would a man like Ehrlichman lie? Because it was clear from

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the documents that he was implicated."

Merrill charged that Ehrlichman, despite his denials, was shown by the memos to have had advance knowledge of the break-in at the office of Dr. Lewis Fielding, who had been Daniel Ellsberg's psychiatrist. The Government contends that the burglary was part of an attempt by the White House to gather psychiatric information on Ellsberg, who had released the Pentagon papers to the press, and to use that material to smear him. According to the prosecutor, Ehrlichman had approved the burglary and had told his subordinates in the plumbers group: "O.K., let me know if they find anything."

The Fielding break-in was carried out on Sept. 4, 1971, under the direction of Young and Egil Krogh, another former Nixon assistant who has pleaded guilty. Convicted Watergate Conspirators E. Howard Hunt and G. Gordon Liddy have admitted managing the operation in the field. Liddy is on trial with Ehrlichman for conspiring to violate Fielding's civil rights, as are Bernard Barker and Eugenio Martinez, who made the actual entry.

Save Neck. Prosecutor Merrill claimed that Krogh and Young discussed the burglary with Ehrlichman on Aug. 5, then wrote a memo to him on Aug. 11 recommending that "a covert operation be conducted to examine all the papers of Ellsberg's psychiatrist." Ehrlichman has conceded marking this memo "approved . . . if done under your assurance that it is not traceable." After Fielding's office was surveyed by Hunt and Liddy, Merrill claimed,

Young and Krogh told Ehrlichman on Aug. 30 that the operation was feasible, and he gave the final go-ahead.

In opening defense arguments, Henry Jones, one of Ehrlichman's two black lawyers (the other is Spencer Boyer), admitted that Ehrlichman had approved a "covert" operation but argued that this was not meant to include anything illegal, like a burglary. As for the memos

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EHRlichman & DEFENSE ATTORNEY SPENCER BOYER OUTSIDE COURTHOUSE
Documents were secretly removed—but copies were kept.

copied by Young, Jones charged that Young had altered the documents "to save his own neck."

Any argument that considerations of national security made the burglary a legal act has been flatly ruled out by Judge Gesell. In fact, argued Prosecutor Merrill, the break-in was "the willful, arrogant act of men who took the law into their own hands because they thought they were above the law."

DAVID KENNEDY