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The Ehrlichman Verdict

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The guilty verdict returned against John Ehrlichman in the case of the White House plumbers demonstrates with special force why Watergate will not go away.

The plumbers' case not only shows how each development makes an incident for the next in a process which has now become ineluctable. It also identifies the illusion which has caused so many premature, and false, declarations that the President has turned the corner.

As a result of the guilty verdict, Ehrlichman now faces a jail sentence (of probably 18 months or more, judging by the 12 months minimum handed out to Charles Colson, who coped a plea in the case) for his part in the burglary of Daniel Ellsberg's psychiatrist. Ehrlichman is presently under two other indictments: in California, for perjury growing out of the burglary; and here in Washington for his part in the main Watergate case, the alleged conspiracy to cover-up the burglary at Democratic national headquarters.

If he is found guilty in the two pending cases, Ehrlichman can expect that the sentences will be separate from—not concurrent with—the sentence due to be administered on his conviction last week. So if he wants to ease the punishment, now is the

time for Ehrlichman to start coming clean with the Special Prosecutor.

The pressure to talk is the greater because the verdict in the plumbers case simplifies enormously the prosecutor's task in the main conspiracy case. Most of the defendants in that case have acknowledged that they played a role in raising or passing money for Howard Hunt and others directly implicated in the Watergate burglary. But they claim that the money given to Hunt and his associates was only for legitimate expenses connected with the legal defense.

The theory of the prosecution has always been that the President and his aides felt obliged to contribute to the Watergate defense because Hunt and company were in a position to spill the beans about the operation against Ellsberg's psychiatrist. Now the criminal nature of that operation is not in doubt.

The prosecution, accordingly, is in a good position to show that Ehrlichman and other White House aides had a strong interest in covering up the Watergate burglary, because it led back to the Ellsberg burglary. In these conditions, even the payment of legal fees to Hunt and his crew is not an innocent act. The main defense of those indicted for conspiracy in the cover-up turns out to be no defense at all.

But you never would have known the prosecution was on the verge of such a breakthrough when the case went to the jury. At the time, only the chief prosecutor, William Merrill, was confident of a quick verdict against Ehrlichman.

Press reports claimed that the case had been blown. The theory was that Merrill had relied too heavily on David Young, a former member of the plumbers who testified as a government witness after being granted immunity.

Merrill pointed out, in internal staff discussions that the case rested chiefly on copious documentary material tying Ehrlichman to the burglary. But other members of the prosecution, impressed by the newspaper accounts, pushed Merrill to divorce his case from Young. When he refused, most of the prosecution staff turned bearish on the case.

In retrospect, the reason the prosecution staff went wrong is clear. The staff members tried to second-guess public opinion. They became convinced that the jury would be conned or lack the attention span necessary to render what they themselves believed to be the right judgment. So they

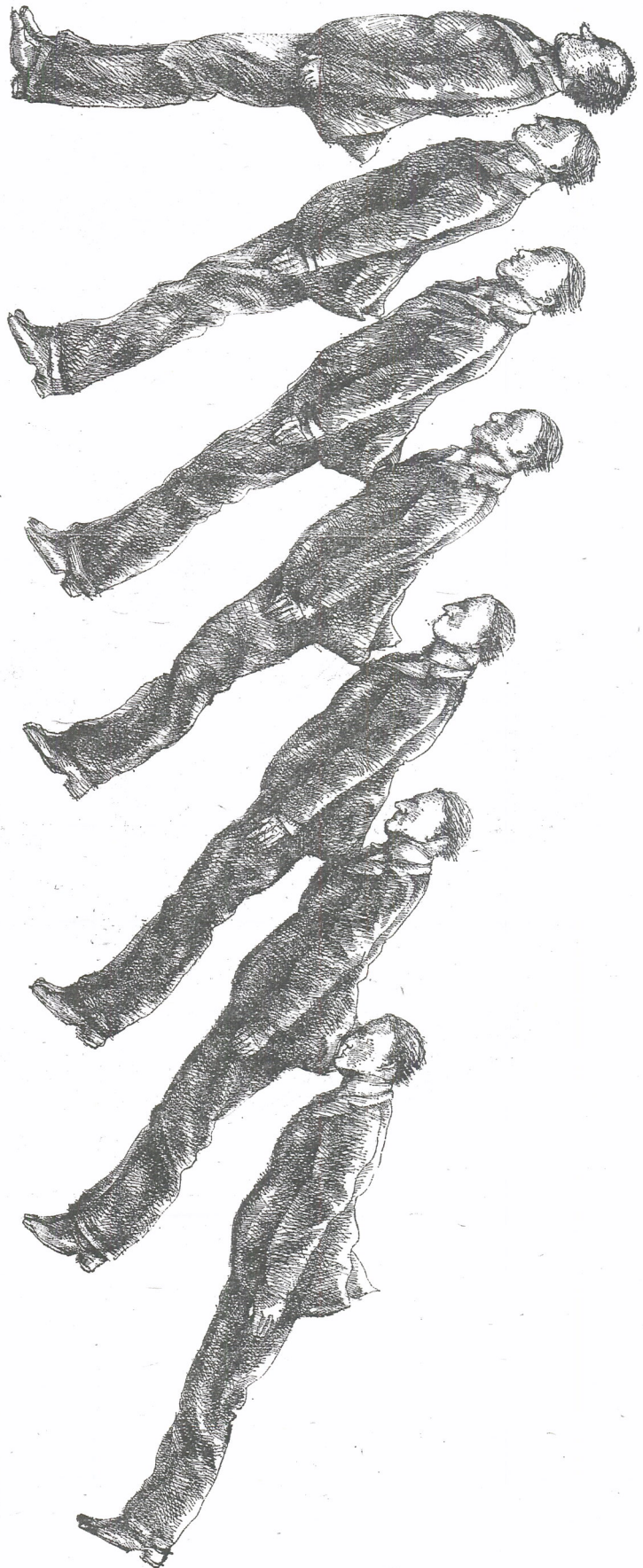
began to have doubts about what they knew in their hearts was a strong case.

The mistakes of judgment by the staff only recapitulate in miniature a mistake that is constantly being made about Watergate. Highly informed people notice that the public has a short attention span, does not concentrate on details, and wants to have done with Watergate.

They also see that the President has just done something in the Mideast or Russia. They then note the weakness of the Congress. So they conclude that Mr. Nixon has somehow turned the corner, and is on the way to making a comeback.

But, in fact, generalized public opinion has no influence on the outcome of Watergate. What are now involved are a series of specific acts being judged by well-defined legal procedures which have a momentum of their own.

Clever lawyers and public relations men may delay the process. But the wheels are turning, and in one way or another, matters are going to carry through to an impeachment vote. The only way to spare the country months more of long drawn-out agony would be for the President to step down.



By Geoffrey Moss