

Nixon Testimony Sought

Ehrlichman Asks Trial Delay

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John D. Ehrlichman's defense lawyer asked yesterday for a long holiday recess in the Watergate cover-up trial so that former President Nixon's testimony can be obtained before the jurors start to consider their verdict.

The former White House aide's attorney, William S. Frates, moved at the same time for permission to take a Nixon deposition at his San Clemente, Calif., estate starting Jan. 6.

Even without the former President's testimony, Frates maintained, there is "no way" to complete the trial by Christmas. He announced plans to call 20 other witnesses.

U. S. District Court Judge John J. Sirica withheld any ruling on the request for Nixon's deposition, but the judge said he was determined to finish the rest of the case at least before Dec. 25. He said he



H. R. (BOB) HALDEMAN
... cross-examination begun

might hold Saturday sessions if necessary.

Frates maintained it would still be unfair to have the jurors start their deliberations around Christmas eve when it would be only natural for them to want to "get out of

here" after being locked up for so many weeks.

He therefore proposed sending the jurors home for the holidays and then calling them back into session after Nixon's testimony has been secured.

To wind up the trial before this is done, Frates protested, "would leave really a big hole in this case." The judge told the lawyers for all sides in the case to inform him in writing by Wednesday whether they will forego any complaints over prejudicial publicity in case he should grant the request.

Watergate prosecutors voiced their reluctance on the spot. They said it would be "unrealistic" to expose the jurors now to a rush of news stories about the case.

The jockeying came as the prosecution began cross-examining former White House chief of staff H. R. (Bob) Haldeman, who repeatedly

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said he had a dim memory of allegedly crucial conversations he had and documents he received during the scandal.

Assistant Special Prosecutor Richard Ben-Veniste charged that Haldeman's forgetfulness was part of a pattern discussed with Nixon "to evade giving truthful testimony."

When Haldeman denied it, the prosecutor read to the jurors portions of a March 21, 1973, meeting between Nixon, Haldeman and then-White House Counsel John W. Dean III when the cover-up was starting to unravel.

The three men had been discussing the merits of a renewed Watergate grand jury investigation, as opposed to congressional hearings, when Dean reminded the others that grand jury witnesses must testify without their lawyers present.

"Okay," Haldeman replied at the time, "but you, you do have rules of evidence. You can refuse to talk."

Dean: "You can take the Fifth Amendment."

The President: "That's right. That's right."

Haldeman: "You can say you forget, too, can't you?"

Dean agreed but warned that such a stance could be risky.

The President was more emphatic. "That's right . . . That's right," Nixon declared. "Just be damned sure you say I don't . . . remember. I can't recall . . ."

Keeping an even temper as yesterday's questioning progressed, Haldeman insisted that all he had been doing at the time was inquiring about "the procedures" that would govern such questioning.

Trying to persuade the trial jurors otherwise, Ben-Veniste turned to Haldeman's own appearance before the Watergate grand jury on May 14, 1973. That appearance came a few weeks after the 48-year-old defendant reviewed a secret tape of the March 21 conversation for Nixon—a review that caused the President

himself to devise a story to protect himself in the scandal.

Haldeman acknowledged telling the grand jury at the outset that he wanted to give "full and complete" testimony and that he would not "withhold any information" that he was aware of.

But when he was asked about any documentary evidence that might refresh his recollection about various White House meetings he had, the prosecutor pointed out, Haldeman simply told the grand jury about logs his secretary kept.

"I think you testified there were no other records on the face of the earth that would reflect your contacts with other people," Ben-Veniste said, scanning a grand jury transcript.

Scanning another copy, Haldeman said he also told of the notes he customarily jotted down during his meetings

with the President.

"But you didn't mention tape recordings, did you, Mr. Haldeman?" Ben-Veniste asked him.

"No," Haldeman said. But he added that he "presumed" the grand jury was looking for records he maintained—"for my sources, not other people's."

The prosecutor persisted. "You didn't mention the tapes and you hoped they would not be revealed," Ben-Veniste said.

"I was under orders from the President of the United States that it not be disclosed," Haldeman replied. "It was not a matter of my hopes. It was my instructions."

Although he was no longer a White House official at the time of his May 14, 1973, grand jury appearance, Haldeman said he still considered himself "subject to the orders given to me during the term of my service to the President." He said he still wasn't sure that the questions put to him required any disclosure on his part about the case.

Ben-Veniste reminded Haldeman of still another round before the grand jury on Oct. 18, 1973, three days before Nixon fired Watergate Special Prosecutor Archibald Cox for insisting on a subpoenaed set of White House tapes, including the recording of the March 21 meeting.

This time, Ben-Veniste said, the grand jury asked Haldeman repeatedly about what he and Nixon had talked about on April 25, 1973, after Haldeman had reviewed the March 21 tapes at the President's request.

Once again, Ben-Veniste charged, "you said, 'I can't recall. . . I can't recall.'"

Haldeman insisted that he didn't recall it, except for the fact that he reported to Nixon on the contents of the March 21 meeting.

Played at the cover-up trial here for the first time last month, the April 25 tape, which was subpoenaed to "put showed Nixon deciding to 'put the wagons up around the President' in view of the March 21 conversation. Nixon had told Dean at the March 21 meeting that it would be "no

problem" to raise as much as \$1 million for the original Watergate defendants. The President also said he thought a then-current hush money demand by Watergate spy E. Howard Hunt Jr. ought to be satisfied.

Reminded of all this by Haldeman on April 25, 1973, Nixon said it would be Dean's "word against the President's" unless "the son-of-a-bitch had a tape recorder on him."

Ben-Veniste contended throughout his questioning that Haldeman's claims of forgetfulness—even after the secret White House taping system had been disclosed—stemmed from a belief that Nixon still would not surrender the recordings.

Haldeman, however, said that when he was called before the grand jury in October

of 1973—just before the "Saturday night massacre" that ended with Cox's dismissal — "I don't believe I knew one way or other" what the President planned to do. The former White House chief of staff said he spoke with Nixon "very rarely" after moving back to the West Coast that summer.

"I don't recall any (conversations) in October," Haldeman added yesterday.

The cross-examination was frequently interrupted by objections from Haldeman's chief counsel, John J. Wilson, who complained of the steady readings of his client's past testimony.

With the jurors out of the room, chief trial prosecutor James F. Neal said the practice was fair, not only to refresh Haldeman's memory, but

also simply to use what he has said in the past as evidence against him.

"That's sheer heresy," Wilson exclaimed.

Neal replied with an air of wonderment. "Did I hear you right?" he asked Wilson incredulously. "I'm going to give Mr. Wilson a copy of the rules."

The questioning moved slowly. One of Haldeman's top deputies at the White House, Gordon C. Strachan, reportedly sent Haldeman a copy of the final \$250,000 budget for the Watergate bugging of Democratic national headquarters here. Haldeman said he didn't know anything about that.

"I did not read all the material he (Strachan) sent me or all of the memoranda attached," the witness testified.