

# EHRlichman IS CONVICTED OF PLOT AND PERJURY IN ELLSBERG BREAK-IN; LIDDY AND 2 OTHERS ALSO GUILTY

## JURY OUT 3 HOURS

### Nixon's Ex-Aide Could Get Up to 25 Years —Plans Appeal

By LINDA CHARLTON  
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WASHINGTON, July 12—A jury of six men and six women took slightly more than three hours today to find John D. Ehrlichman, former chief domestic adviser to President Nixon, and three others guilty of conspiring to violate the civil rights of Dr. Daniel Ellsberg's former psychiatrist.

The jury also found Mr. Ehrlichman alone guilty of three of four counts of making false statements.

The conspiracy count carries a possible maximum penalty of \$10,000 and a 10-year prison sentence. Each of the false-statement counts carries maximum penalties of \$10,000 and five years' imprisonment. Thus, Mr. Ehrlichman faces a total maximum penalty of 25 years in prison and \$40,000 in fines.

The jury, which began its deliberations shortly before noon—but later took a two-hour lunch break—heard a strongly worded charge by Judge Gerhard A. Gesell. A few minutes after 5 P.M., it informed the judge that a verdict had been reached.

It was 5:31 when the foreman, Wilbert A. Garner, who was one of the blacks on the jury, rose to announce its decision.

He was asked by the clerk of the court for the verdict concerning "the defendant Ehrlichman" on the conspiracy charge.

#### Word Repeated 3 Times

Mr. Garner said "Guilty" and repeated the word three times, for the second, third and fourth counts of the indictment, which are on a charge of making a false statement to an agent of

the Federal Bureau of Investigation and two charges of making false statements to grand juries.

Asked about the fifth count, also a charge of making a false statement to a grand jury, jury had found Mr. Ehrlichman "innocent."

Mr. Ehrlichman's co-defendants, G. Gordon Liddy, Bernard L. Barker and Eugenio R. Martinez, were all found guilty, with Mr. Ehrlichman, of conspiring to violate the civil rights of Dr. Lewis J. Fielding, Dr. Ellsberg's former psychiatrist, by burglarizing his Beverly Hills, Calif., office on Sept. 3, 1971, in search of material on Dr. Ellsberg.

The 49-year-old Mr. Ehrlichman, who stood with flushed face as the verdicts were read, is the highest-level member of the Nixon Administration to be convicted for his role in the Watergate affair.

The verdicts were read in the same small courtroom in the District of Columbia Superior Court in which the jury was charged by Judge Gesell at 10 A.M. The judge's own second-floor courtroom in the nearby

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Federal Courthouse, where the trial was conducted, was off-limits today because of the continuing siege of that building, where convicts were holding hostages at gunpoint in a basement cellblock.

Judge Gesell, in dismissing and thanking the jurors, said that although he could not "order" them not to speak to the press, he was asking them not to do so. "I strongly suggest that you keep your own confidence," he said. "It might in some way affect the atmosphere of this case."

Judge Gesell, scheduling the sentencing of the four men for 9:30 A.M. on July 31, suggested that they all make "prompt appointments with your probation officer for an interview."

Mrs. Ehrlichman, who went to her husband's side as soon as court was dismissed, smiled and hugged members of Mr. Ehrlichman's four-man defense team, headed by William S. Frates of Miami. Mr. Frates also represents Charles G. Re-

bozo, Mr. Nixon's close friend in Key Biscayne, Fla. None of the five Ehrlichman children were in court for the verdict.

On the steps outside the courthouse, Mr. and Mrs. Ehrlichman, hand in hand, stood in front of microphones and cameras while he made a brief statement. He said that he was meeting with his attorneys "to review the matter" and had ordered them to begin preparing an appeal.

"I have been concerned," he said, about the difficulty of obtaining "a fair trial in this district, and one of the grounds of this appeal will go to that question."

"A great deal of the background has been excluded from the case by ruling of the court," he added, saying that this would be another factor in his appeal.

"I have and for years have had an abiding confidence in the American judicial system," he said. "Nothing that has happened today has shaken that faith. I look forward to eventual complete exoneration as this matter moves through that process."

Then he looked down at his wife, a slender woman in a pink blouse and white skirt, and said: "Right?" "Right," she replied with a nod.

Daniel Shultz, the Washington lawyer who represents Mr. Barker and Mr. Martinez, said that he was "disappointed" at the verdict, adding, "We gave it our best shot." He said that he would appeal.

Judge Gesell's charge clearly indicated to the jury that Mr. Ehrlichman need not have authorized a "break-in" or an "illegal entry" to be found guilty. "A search in the constitutional sense," he said, is an intrusion or exploration by governmental agents of an area which one would normally expect to remain private. A physical break-in is not essential.

#### Fourth Amendment Cited

He also told the jurors: "An individual cannot escape criminal liability simply because he sincerely but incorrectly believes that his acts are justified in the name of patriotism, of national security or the need to create an unfavorable press image or that his superiors had the authority to suspend without a warrant the protections of the Fourth Amendment."

That amendment guarantees against unreasonable searches.

Judge Gesell said, with respect to the false-statement

charges, that a statement is "not false if it is literally true and technically responsive" to the question, even if the reply is incomplete and misleading.

The false-statement charge of which Mr. Ehrlichman was acquitted concerned a statement made to a grand jury on May 14, 1973, in which he said that he did not know who, other than Egil Krogh Jr., a co-director of the White House investigations unit known as the "plumbers," had files on the unit's investigation of Dr. Ellsberg.

The two other grand jury charges, of which he was found guilty, involved his stating that he had not been aware before the break-in of the plan to obtain a psychological profile of Dr. Ellsberg. Dr. Ellsberg has said that he made available to press the Pentagon papers, a secret study of United States involvement in the Vietnam war.

Mr. Ehrlichman had general supervisory control over the plumbers, who were seeking to halt leaks to the press.

Mr. Martinez and Mr. Barker, both sometime employees of the Central Intelligence Agency, were recruited for the breaking-and-entering by E. Howard Hunt Jr., another member of the plumbers unit. Mr. Liddy, one of the unit's planners, is serving a 6½-to-20-year sentence for his role in the break-in at the headquarters of the Democratic National Committee in June, 1972.

"Some may have acted for political motives," Judge Gesell told the jury. "Others may have acted for patriotic reasons. Others may have thought the security of the country was at stake. Others may have been caught up in the desire to produce the results whatever the means."

But he said that motives



made no difference if there was no "reasonable doubt" that a defendant had joined the conspiracy thoroughly.

The trial, which opened June 26 in Judge Gesell's small, light, wood-paneled courtroom on the second floor of the Federal Courthouse not far from the Capitol, had been expected to last a month, with a long list of scheduled witnesses.

But both the defense and the prosecution, under Judge Gesell's prodding for efficiency and his insistence that the matter at issue was a burglary, not national security, pared down their witness lists. In the end, about 30 witnesses were heard, ranging from the secretary in Room 16, the basement office in the Executive Office Building that housed the "plumbers" unit in the summer of 1971, to Secretary of State Kissinger. Mr. Nixon, although not called to appear as a witness, testified for the defense by supplying sworn, written answers to six

questions submitted by the defense.

From the beginning, the trial moved briskly, with the jury of six men and six women—nine blacks and three whites—chosen in two days. The courtroom day began promptly at 9:30 A.M. and ended, after a 75-minute lunch break and 10 minute leg-stretching recesses morning and afternoon, at 4:30 P.M. or later.

The first of the prosecution's 16 witnesses was E. Howard Hung Jr., the former C.I.A. operative who took part in the Fielding break-in. Mr. Hunt said that he and Mr. Liddy listed some of the tools, such as a rubber mallet and a crowbar, that would be needed for the break-in, in an Aug. 30, 1971, memorandum to Egil Krogh Jr., and David R. Young Jr., co-directors of the plumbers.

#### 'Covert Operation'

Mr. Young, the key Government witness, said during his testimony that Mr. Ehrlichman, in March, 1973, had removed two plumbers memorandums from a file because they were "too sensitive" and showed too much forethought. One of these was an August 11, 1971, memo recommending that a "covert operation" be undertaken to examine the files of Dr. Fielding for material related to Dr. Ellsberg.

It was this memo, that Mr. Ehrlichman initialed "E" for approval, adding, "If done under your assurance that it is not traceable." While conceding that he had approved the memo's recommendation, Mr. Ehrlichman maintained that he had no knowledge that the "covert operation" would be a break-in or, indeed, would be anything but "a legal, conventional investigation."

It was Mr. Young, a baldish, hesitant man, who turned over to the Watergate prosecutors copies of the Aug. 11 memo and others critical to the prosecution's case in exchange for immunity from prosecution.

He was also the principal target of the defense attacks, with Mr. Frates, in his summation, referring to him as "that great American," and a man who "could not give a straight answer if he tried."

Under cross-examination, Mr. Young acknowledged that he had later, after Mr. Nixon's re-election, deleted the "covert operation" paragraph, with Mr. Ehrlichman's initial of approval, from the Aug. 11, 1971, memo, "because it involved me, but also Mr. Ehrlichman, Mr. Krogh and the White House."

He has secretly made the photocopies of the original that he turned over to the prosecution in May, 1973. He con-

tinued to maintain, however, that he told Mr. Ehrlichman last March 27 "I knew about it beforehand, and my clear recollection was [Mr. Ehrlichman] also knew about it beforehand."

It was during this conversation, Mr. Young testified, that Mr. Ehrlichman told him about having removed the memos. Mr. Ehrlichman denied any recollection of the conversation or of having removed the documents.

Mr. Krogh who pleaded guilty last December to conspiring to violate Dr. Fielding's civil rights and recently completed a six-month prison sentence also took the witness stand. He echoed much of Mr. Young's testimony.

He said that in early August, it was "clear that an entry would have to be undertaken to just how he had defined the not explicit, however, about examine these files." He was "covert operation" to Mr. Ehrlichman. Both he and Mr. Young testified that the word "break-in" had not been used. pu 4th add LTK verdict

The final prosecution witness was Karen Sheinberg, a court reporter at Mr. Ehrlichman's grandjury appearances in May and September, 1973. She read to the jury portions of the transcripts, including Mr. Ehrlichman's statement in May that he had learned of the plan for a psychological profile of Dr. Ellsberg "after the break-in."

She also read his September testimony, in which he said that he had in fact learned of it before the break-in and explained the change by saying that he had seen, in the interim, material that refreshed his memory.

The prosecution concluded its case just before noon on July 5, after 4½ days of testimony. Among the other prosecution witnesses was Charles W. Colson, former White House special counsel, who said that Mr. Ehrlichman had asked him to raise \$5,000 for the plumbers a few days for the break-in.

He also testified about the intense interest in the White House in obtaining information about Dr. Ellsberg, to be used to discredit him if possible. He said that it had been "the President's desire and Dr. Kissinger's desire and the desire of others to get out whatever was available" concerning Dr. Ellsberg.

Mr. Kissinger's alleged role was also referred to by Dr. Barnard Malloy, a psychiatrist on the staff of the Central Intelligence Agency, and a defense witness. He had drawn up a psychiatric profile of Dr. Ellsberg that the plum-

bers unit considered insufficient.

Dr. Malloy said that Mr. Young had told him that such a profile "had been requested by Dr. Kissinger and Mr. Ehrlichman." Mr. Young was not asked about this statement, although he was known to have made it to the Watergate committee last year.

The trial's most spectacular event was the 108-second appearance on the stand of Secretary of State Kissinger. He was asked only three questions. In reply, he said that he had never authorized and had no knowledge of a psychological profile of Dr. Ellsberg and no knowledge of any plan to obtain one.

The same day Judge Gesell read to the jury Mr. Nixon's sworn replies to the six written interrogatories submitted by Mr. Frates. In them, the President said that Mr. Ehrlichman had been given "general supervisory control" over the special investigations unit, which was set up soon after the initial publication of the Pentagon papers.

He wrote that at "various times" he had instructed Mr. Ehrlichman not to discuss the "highly classified matter" of the special unit except "on an absolutely 'need to know' basis," because he "believed the unit could not function effectively" if it were "compromised by disclosure."

The President wrote that he had learned of the Fielding break-in on March 17, 1973, and that he had never authorized a search of Dr. Fielding's files.

#### Nixon Portrait Missing

TUSCALOOSA, Ala., July 12 (AP)—A full-color portrait of President Nixon was discovered missing from the lobby of the Federal Building here yesterday.