

Defense Calls Him 'Big Dummy'

Reinecke Case to Jury

By Joseph Albright
Chronicle Correspondent

Washington

A jury that heard Lieutenant Governor Ed Reinecke's own attorney call him a "big dummy," deliberated the perjury charge against him for five and a half hours yesterday before retiring for the night.

Midway through the first day of deliberations its foreman, Clayton D. Roth, sent a note to the court asking, "What does the prosecutor have to prove in terms of perjury?"

Judge Barrington Parker responded by calling jurors into court and re-reading his original instructions on the legal requirement for a perjury conviction. Parker said perjury is a willful and deliberate lie, not merely a partial or unresponsive answer.

Parker asked the jurors to decide separately on four allegedly false statements listed in the one remaining count of the Reinecke perjury indictment.

A finding that he deliberately lied on any one of the four answers would result in conviction on perjury, a felony that carries a maximum penalty of five years in jail and a \$2000 fine.

As the jury deliberated, Reinecke waited with his wife, Jean, and their three children in a lawyer's lounge near the courtroom.

Mrs. Reinecke, who has maintained her composure throughout the 11-day trial, walked out in tears during the emotional summation by her husband's lawyer.

In his closing argument, defense lawyer James E. Cox likened Reinecke to a war-time soldier who threw his body over a hand grenade to protect his friend.

"He doesn't really have a really good sense of who his friends and enemies are," said Cox, a World War II Marine.

Switching to another military metaphor, he accused White House aides of summoning Reinecke from California to become "cannon fodder" in the Senate Judiciary Committee's 1972 investigation of the International Telephone and Telegraph Corp.

Cox accused then-White House counselor Clark McGregor of sending Reinecke "into the pit" to testify without competent legal advice.

"It was a pitiless, ruthless thing that they did," Cox said. Recalling McGregor's appearance as a prosecution witness, Cox told the jury, "his eyes were as cold as a rifle barrel."

The defense was almost as scathing in its denunciation of the Watergate Special Prosecution force, which brought the Reinecke perjury charge after a request by the Senate Judiciary Committee that the Justice Department investigate conflicts in the ITT hearings.

Referring to prosecutors as "the king's men," Cox suggested they had tried to find "bigger game" in their ITT inquiry, but failed to find anyone but Reinecke because of their inquiry, but failed to find because of their inexperience.

As for the officials of ITT who pledged \$400,000 to support the Republican National Convention in San Diego, Cox said, "those phonies wound up getting all the advertising, and then got their money back."

Nor was Cox completely complimentary about his own client, who only a few months ago was the leading Republican candidate for governor.

"He is such a candid and simple guy that he has never learned to clam up," said Cox. He described his client twice as "a big dummy," and once as someone who had made "a giant fool of

himself."

Assistant Special Prosecutor Richard J. Davis said in his summation that the defense case was "a smoke-screen" designed to create "a false sense of sympathy" for Reinecke.

"He lied to protect the still very powerful John Mitchell, the man who could help him become governor," said Davis.

The crux of the prosecution's case was that Reinecke deliberately lied when he told the Senate Judiciary Committee that he first "discussed" the ITT convention pledge with Mitchell in a face-to-face meeting in September, 1971.

The prosecution began its case by calling Lee Fremstad, a Sacramento Bee reporter, and Senator John Tunney, (Dem-Calif.) to tes-

tify that Reinecke originally told them a different story when they asked him about ITT on March 2 and 3, 1972.

The original Reinecke story, they testified, was that he first told Mitchell about the ITT pledge in May, 1971.

Shortly after his conversation with Tunney, according to prosecution evidence, Reinecke received a telephone call from an aide to Mitchell informing him that Reinecke's original account had clashed with a published statement by Mitchell, denying knowledge of ITT's convention pledge prior to the settlement of an ITT anti-trust case.

Reinecke acknowledged from the witness stand that following the call from Mitchell's aide, he issued a press release in which he changed his original story.

During his appearance before the Senate Judiciary Committee, Reinecke repeated the story as told in the press release, even when Senator Hiram Fong (Rep-Hawaii) asked him several times about when he first "discussed" the ITT convention pledge with Mitchell.

Reinecke told the jury this week that he had not lied to Fong because he was never specifically asked about a telephone call to Mitchell.