

DEFENSE OFFERED

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Ex-White House Aide Contends He Urged Disclosure Early NYTimes

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WASHINGTON, Oct. 15—

John D. Ehrlichman opened his defense at the Watergate cover-up trial today by placing the blame for the cover-up and for his own disputed actions squarely upon former President Richard M. Nixon.

The former Presidential adviser told the jury, through his lawyer, William S. Frates, that Mr. Nixon had covered up the Watergate affair "to save his own neck."

Mr. Frates also told the jury that Mr. Ehrlichman had been "had" by Mr. Nixon.

"It's not easy for John Ehrlichman to make charges against a man he gave six years of his life to," Mr. Frates, who is Mr. Ehrlichman's chief counsel, said in a long and often impassioned opening statement to the jury of nine women and three men who are to decide the charges against Mr. Ehrlichman and four co-defendants.

Charges Nixon 'Lied'

But "as his lawyer," Mr. Frates went on, he was telling the jury for Mr. Ehrlichman what the "facts" were. "Richard Nixon deceived, misled, lied to and used John Ehrlichman to cover up his own knowledge and actions."

Mr. Frates said that Mr. Ehrlichman had repeatedly urged Mr. Nixon to disclose the facts about Watergate, "as known to Mr. Ehrlichman," starting soon after the break-in at the Democratic headquarters on June 12, 1972, and continuing for months.

"Over and over again," Mr. Frates said, Mr. Nixon, "who had the full story," withheld it from Mr. Ehrlichman and "prevented" Mr. Ehrlichman's recommendations for disclosure.

This account of the cover-up was substantially different from the one Mr. Ehrlichman gave to the Senate Watergate committee in 1973.

He made no mention then either of being deceived by Mr. Nixon or of thwarted requests to tell the truth about Watergate. Instead, he in effect supported and endorsed Mr. Nixon's original account of the matter—that Mr. Nixon had sought to make the facts available to the authorities and the public once he himself got

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EHRlichman BLAMES NIXON; COUNSEL SAYS THAT CLIENT WAS 'DECEIVED' AND 'MISLED'



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William S. Frates, lawyer for John D. Ehrlichman, center front, opens defense. Judge is John J. Sirica. Others: Andrew Hall, lawyer, and Robert C. Mardian, right, defendant.

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them.

Mr. Frates, a Miami lawyer who has represented one of Mr. Nixon's closest friends, Charles G. Rebozo, sought to prove his point by quoting from a variety of Presidential conversations, some previously disclosed, others not.

"John," he quoted Mr. Nixon as saying to Mr. Ehrlichman on April 30, 1973, "You have been my conscience, but I didn't follow your advice. It's all my fault. If I'd only followed your advice we wouldn't be in this situation."

April 30 was the day Mr. Ehrlichman and a co-defendant in the case, H. R. Haldeman, resigned as Mr. Nixon's chief White House advisers.

Mr. Frates, his voice sometimes rising to a shout, also attacked the credibility of John W. Dean 3d, the President's former counsel, now the President's chief accuser, and, according to Mr. Frates, the source of most of the prosecution's allegations about Mr. Ehrlichman.

He gave his opening statement a day after Richard Ben-Veniste gave the prosecution's statement of the evidence it intended to present against Mr. Ehrlichman, Mr. Haldeman and the three others charged in the cover-up conspiracy—Robert C. Mardian, a former assistant Attorney General and political coordinator for the Committee

for the Re-election of the President; Kenneth W. Parkinson, an attorney hired by the committee after the break-in, and John W. Mitchell, the former Attorney General who headed the 1972 Nixon re-election effort.

Mardian Opens Defense

Mr. Mardian, through his attorney, also opened his defense today. He took a quite different tack, saying that he was "peripheral" to the case and that the Government had no business putting him in it.

His attorney, David G. Bress, told the jury that Mr. Mardian had been "dragged in at the tail end of an extensive conspiracy indictment." In an even longer and sometimes as angry and intense a statement as Mr. Frates's, Mr. Bress pointed out that the indictment referred to Mr. Mardian only a few times. Then, in great detail, he gave the jury an allegation-by-allegation rebuttal of what the indictment alleged.

Jacob A. Stein, attorney for Mr. Parkinson, is to give an opening statement tomorrow. William G. Hundley and Plato C. Cacheris, attorneys for Mr. Mitchell, and John J. Wilson and Frank Strickler, attorneys for Mr. Haldeman, have chosen to give their opening statements after the prosecution has presented its evidence.

Prosecution lawyers objected a number of times to defense

statements, mostly contending that the defense counsel were "arguing law" to the jury. Federal District Judge John J. Sirica raised some objections of his own, as when Mr. Frates told the jurors that they were deciding whether Mr. Ehrlichman went to jail. The judge said that this improperly raised the issue of sentencing.

But, generally, he brushed aside the prosecution complaints. Mr. Ben-Veniste, he said, did some "arguing" of his own yesterday.

Beyond that, the judge told the lawyers it was important that the jurors get all the information they could.

"Let the truth come out once and for all in this matter," he said.

Judge Sirica presided over the original Watergate trial in January, 1973, stemming from the prosecution of the five men sought in the Democratic national headquarters in the Watergate complex and two other men working directly with the burglars on the scheme.

Expects Truth to Emerge

Various witnesses allegedly perjured themselves at the trial, and that perjury is one of the elements of the cover-up conspiracy with which the defendants in the present case are charged.

"There's never been a case like this in the history of the country," Judge Sirica told the attorneys and others jammed into his courtroom today, quickly adding, with lawyerlike caution, "or at least" in this jurisdiction.

This time, he went on, the truth "will come out—I think."

A central question in the case is the role, if any, that Mr. Nixon played in the alleged conspiracy.

Mr. Nixon is not a defendant in the case. When the grand jury returned the indictment last March 1, Mr. Nixon was still in office, and Leon Jaworski, the special prosecutor, told the panel that there were vast legal doubts whether an incumbent President could be indicted. The jury then named him an unindicted co-conspirator rather than defendant.

Later, after Mr. Nixon resigned and became vulnerable to prosecution, President Ford pardoned him.

Yesterday, Mr. Ben-Veniste portrayed Mr. Nixon to the jury as a major conspirator in the cover-up, particularly in its latter stages. Quoting from White House transcripts, some of them not previously disclosed, he said that Mr. Nixon, Mr. Haldeman and Mr. Ehrlichman held a number of meetings in April, 1973, to devise "scenarios" to deal with the then-collapsing cover-up.

Today, Mr. Frates gave a markedly different picture. He said that in those April conversations Mr. Ehrlichman still

did not know the full truth about Watergate. He said, too, that Mr. Ben-Veniste had taken some of Mr. Ehrlichman's comments in those conversations "out of context."

Mr. Frates also quoted from various other portions of these conversations, citing both alleged statements by Mr. Ehrlichman that the White House should "let it all come out" and statements by other White House officials remarking that Mr. Ehrlichman was arguing for disclosure.

Says Tapes Aid Ehrlichman

Mr. Frates said, "the tapes may do some people some harm, but they're the greatest thing that ever happened to John Ehrlichman."

It is widely believed that the prosecution would have had a hard time prosecuting Watergate cases without the tape recordings of White House conversations made for Mr. Nixon. What Mr. Frates stressed, though, was that some of the tapes showed Mr. Ehrlichman calling for disclosure and one tape, of a conversation between Mr. Nixon and Mr. Haldeman on June 23, 1972, showed that Mr. Nixon participated early in the cover-up.

Mr. Frates implied that until that tape was released last August, leading to Mr. Nixon's resignation, Mr. Ehrlichman

was still in the dark about Watergate.

"In simple terms," Mr. Frates declared, "John Ehrlichman had been had by his boss, who happened to be President of the United States, and it's clearly shown in that tape."

Question of Motive

Mr. Ehrlichman did not address some obvious questions raised by his account, such as the precise extent of Mr. Ehrlichman's knowledge of the Watergate affair through the winter and spring of 1973 and what type of obligation Mr. Ehrlichman had to act in view of his knowledge.

He did, however, discuss many of the allegations raised by Mr. Ben-Veniste yesterday, including one of the potentially most significant. This was the allegation that Mr. Ehrlichman wanted to cover up the Watergate affair because its full disclosure would also lead to disclosure of other operations handled by the White House "plumbers" unit that he supervised, a secret group set up to stop leaks of security information.

This allegation, if proved, would strengthen the prosecution's case by establishing motive.

One of the plumber's operations was a break-in at the office of the former psychiatrist

of Dr. Daniel Ellsberg, who says he gave the press the secret Pentagon study of the course of the Vietnam war. Mr. Ehrlichman was convicted last summer for his role in that break-in.

Mr. Frates started his explanation by describing Dr. Ellsberg as the person "who knew every secret of the United States—every top secret."

Then he brought up the justification of "national security," which, as Judge Sirica noted to the jury, the judge in Mr. Ehrlichman's trial last summer barred as a defense and which Mr. Ehrlichman is raising in his appeal of that conviction.

Mr. Frates, apparently referring to the general subject of the plumbers as well as the involvement of some of the plumbers in Watergate, then returned to his ultimate defense—Mr. Nixon. "The President repeatedly emphasized to Mr. Ehrlichman that it was a highly classified matter that could be discussed with others only on an absolute need-to-know basis," he said.

Mr. Frates did blame some others for Watergate roles in addition to Mr. Nixon. As he paced back and forth in front of the jury, sometimes pounding on a table to emphasize his point, he concentrated much of his attack on Mr. Dean.

He said that Mr. Dean was involved in the cover-up from the beginning, had destroyed evidence and had a strong motivation for giving false testimony—to shift the blame from himself.

Mr. Dean, according to Mr. Frates, decided to cooperate with the prosecution only when he "realized the house was falling in on him," when other persons had started telling the true story to the authorities.

Mr. Frates said that he did not intend to cast blame on any co-defendants. But to some extent he did, referring to both Mr. Mitchell and Mr. Haldeman in occasionally incriminating ways.

Mr. Bress, in his outline of the Mardian defense, also contended that his client lacked knowledge of the cover-up. Essentially, though, he argued that Mr. Mardian simply was not involved in the conspiracy—that he had no knowledge of any political intelligence plans before the break-in; that immediately after the break-in, he was given confused and differing accounts of what was going on; that when he subsequently received some information about the break-in from one of the burglars, he received it in his capacity as an attorney and that it was thus protected by the attorney-client privilege.