

Ehrlichman Testifies on 'Silence'

By Timothy S. Robinson
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John D. Ehrlichman, an attorney and President Nixon's former chief domestic affairs adviser, testified yesterday that he did not report the 1971 Ellsberg break-in to law enforcement officers because to have done so "would have completely blown" a White House investigation into Daniel Ellsberg's motives for releasing the Pentagon Papers.

Ehrlichman's testimony came during the eighth day of the Ellsberg break-in trial in U.S. District Court here as attorneys for the four defendants neared the end of their cases. Only three or four defense witnesses remain, said the attorneys, with the most prominent of them being Secretary of State Henry Kissinger.

Dr. Kissinger is scheduled to testify today in Ehrlichman's behalf, with defense attorneys hoping that his testimony will raise doubts for the jury about the credibility of Kissinger's former aide, David R. Young. Young has been one of the government's key witnesses against Ehrlichman.

Ehrlichman said that non-disclosure of the burglary was his "immediate reaction" upon hearing of it after it occurred. He said he made the decision so the Ellsberg investigation would not be impaired, and called it "a matter of balancing the larger problem against the alternatives."

Ehrlichman is the highest ranking former Nixon aide to be tried on criminal charges.

Ehrlichman, who finished seven hours of direct and cross-examination as his own main defense witness yesterday, was followed to the stand by two other defendants, Eugenio R. Martinez and Bernard L. Barker, testifying in their own behalf.

Barker and Martinez admitted on the witness stand that they had entered the offices of Ellsberg's psychiatrist, but said they thought the break-in

was a legal, government-approved operation and that they performed it without criminal intent.

Ehrlichman, Barker, Martinez and former White House aide G. Gordon Liddy are all charged with conspiring to violate the civil rights of Ellsberg's psychiatrist, Dr. Lewis Fielding, by breaking into his Beverly Hills, Calif., office on Sept. 3, 1971. Ehrlichman also is charged with four counts of lying to federal investigators probing the break-in.

Both Barker and Martinez

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Secretary of State Henry A. Kissinger flies back to Washington to testify in the "plumbers" trial. Story, Page A29.

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said yesterday that they did not feel "now or then" that they were violating the civil rights of Dr. Fielding when they performed the break-in because they were acting under what they thought were legal orders conveyed from the White House to them by co-conspirator E. Howard Hunt Jr.

"I was sure at the time I was acting under legal orders and I still believe so today after some of the testimony I have heard" during the trial, Barker testified at one point.

Three other witnesses, including U.S. Rep. Guy Vander Jagt (R-Mich.) testified yesterday for various defendants. Vander Jagt testified as a character witness for Ehrlichman, saying the former White House aide's reputation for truth and veracity was "outstanding and unimpeachable."

The congressman said that in the Great Falls, Va., neighborhood where they both lived for the past four years, "there just is no more believable man" than that John Ehrlichman.

As he had Monday under initial cross-examination by Watergate Special Prosecutor William H. Merrill, Ehrlichman continued to dispute key points of testimony from prosecution witnesses.

He said he could not remember certain meetings about which they testified, or memorandums they had sent. He did not deny that such meetings had occurred or that he had seen such memos, but merely that he could not recall por-

tions of them that have been testified about during the trial.

In one instance, although he was shown notes of a telephone call he allegedly made to a top Central Intelligence Agency official, Ehrlichman maintained his earlier testimony that he could not remember the call.

The call reportedly was made July 7, 1971, from Ehrlichman to then CIA Deputy Director Robert E. Cushman and Ehrlichman requested CIA assistance for E. Howard Hunt. Notes of the conversation were made by Cushman's secretary.

However, Ehrlichman did recall an Aug. 27, 1971, telephone conversation with Cushman about ending CIA assistance to Hunt. He also recalled a 1969 telephone call with Cushman when Cushman told him the CIA could not carry out an unspecified request from President Nixon because it pertained to domestic affairs.

Ehrlichman continued to maintain that a meeting he had with convicted Ellsberg conspirator David R. Young was March 21, 1973, not March 27, as Young has testified. Young testified earlier in the trial that during the meeting, Ehrlichman discussed removing "sensitive files."

Ehrlichman said he knew the meeting occurred March 21, because he could recall that on March 20, then White House counsel John W. Dean III told Ehrlichman "that Mr. Hunt was demanding money on the threat of disclosing something he had done for the White House and that . . . he could name Mr. Krogh and myself."

Ehrlichman said he talked

to both Krogh and Young at the time to determine what material Hunt could disclose; "since there were activities of the unit I considered very sensitive from a national security standpoint." He said he considered the Fielding break-in to be one of these items.

In subsequent testimony yesterday, Ehrlichman referred to the Hunt request as a "blackmail threat."

Ehrlichman said he did not recall seeing plumbers unit files in his office during a March 27 meeting with Young, but refused to say he was certain they were not there. "Any-

thing is possible," Ehrlichman said. "But if I had to bet money, I'd bet the files weren't there."

He said he never told Young he or anyone else had removed documents from the files. In addition, Ehrlichman said he had never seen the file folder in which he later recovered the documents at the White House although it was in a box that contained other files of his.

After Merrill continued to go tediously through individual documents and meetings, he asked Ehrlichman if he thought the break-in fell under the heading of national security.

"I think the investigation as conceived was grounded on national security. The acts that were committed, I don't condone those on any grounds," Ehrlichman replied.

He said that when he approved an operation by the plumbers to conduct an investigation, "my mind didn't dwell on the various possibilities, means or methods" that would be used.

Ehrlichman is charged in part with lying to the Watergate grand jury in three specific exchanges. The trial prosecutors have introduced into evidence copies of some memos relating to those exchanges. Under additional questioning by defense attorney Jones, Ehrlichman was asked if he had been given an opportunity to refresh his recollection by looking at copies of these memos which the prosecution believe implicate Ehrlichman with prior knowledge of the break-in.

"The attempt was to test my recollection, I think," Ehrlichman said "I wasn't asking (to see the memos). That wasn't our relationship."

He said that he did not call any law enforcement officers to report the break-in after it occurred because "my immediate reaction was that if I had done that, it would have completely blown the investigation" the plumbers were conducting into Ellsberg's motives for releasing the Pentagon Papers.

He said that immediate reaction was later reinforced by President Nixon's specific orders three or four months later that none of the Plumbers activities were to be disclosed. (Ehrlichman has testified that President Nixon was not aware at the time of the

break-in specifically.)

Jones ended once again with a specific question that the defense sees as essential to its case:

"Did anyone mention to you the breaking and entering of Dr. Fielding's office before it occurred?"

"No sir," Ehrlichman replied.
