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Prosecution rests case in cover-up trial

WASHINGTON (AP) — The prosecution rested its case Monday in the Watergate cover-up trial and U.S. District Court Judge John J. Sirica immediately dismissed two of the 12 counts in the indictment.

Sirica dismissed counts charging that former Atty. Gen. John N. Mitchell and ex-White House aide John D. Ehrlichman lied to FBI agents when they told the agents in July 1972 that all they knew about the Watergate break-in was what they had read in newspapers.

Sirica denied all other motions from the defendants for directed verdicts of acquittal.

Mitchell, Ehrlichman, former White House staff chief H. R. Haldeman, former Assistant Atty. Gen. Robert C. Mardian and Kenneth W. Parkinson, one-time attorney for Nixon's re-election committee, are charged with conspiring to obstruct the investigation of the Watergate break-in.

All but Mardian are also charged with obstruction of justice.

Mitchell also is charged with two counts of lying to a grand jury, Ehrlichman, with two counts of lying to a grand jury and Haldeman with three counts of lying to the Senate Watergate Committee.

At 12:05 p.m., prosecutor James F. Neal stood and said:

"May it please the court, at this time, the government rests its case in chief."

After defense attorneys present their cases, the government may submit rebuttal evidence.

Sirica had made it clear earlier that he planned to throw out the charges that Ehrlichman and Mitchell had lied to FBI agents during separate interviews.

Neither Ehrlichman nor Mitchell was under oath when interviewed by the federal agents. Their attorneys also pointed out that when the agents testified they could not recall the specific question.

Sirica said earlier that if he were a member of the jury judging the FBI charges, "I know what I would do, I would acquit them."

The jury was out of the room when he made that comment. The jurors also were not present when he announced that he was throwing out those charges.

Neal urged Sirica to delay action until after the jury returned a verdict.

He said he planned in his final argument to the jury to contend that the statements Mitchell and Ehrlichman made to the FBI agents were part of the overall conspiracy. He said that if Sirica dismissed the perjury charges based on those statements, defense counsel would object to his using them as part of his argument on the conspiracy charge.

The government rested its case after brief testimony from Anthony J. Passaretti, the 28th prosecution witness. Passaretti, a Treasury Department

employee, testified that while on assignment to the special Watergate prosecutor's office he had compiled a chart tracing the flow of cash from Nixon re-election officials to Watergate break-in defendants.

Passaretti testified that between July 1972 and March 21, 1973, a total of \$429,500 was distributed.

Cross-examining Passaretti, William G. Hundley, Mitchell's lawyer, pointed out that a large percentage of the money

went to E. Howard Hunt Jr., and his lawyer, William O. Bitman.

Before Passaretti took the stand, William S. Frates, Ehrlichman's lawyer, cross-examined Egil Krogh Jr. about his work as supervisor of the White House plumbers unit, which was under the over-all control of Ehrlichman.

A defense Ehrlichman is expected to offer is that Hunt had threatened to expose national security activities undertaken by the plumbers unit.