

# Ellsberg Break-In

## 'Duty of President'

Washington

John D. Ehrlichman said yesterday that President Nixon felt it was "well within both the constitutional duty and obligation of the Presidency" for White House aides to break into the office of Daniel Ells-

berg's psychiatrist.

Ehrlichman, the President's chief domestic affairs adviser until he resigned April 30, told the Senate Watergate committee that neither he nor the President authorized the burglary of the doctor's office in September, 1971.

But he said that the break-in was entirely within the President's legal authority to protect national security information from falling into the hands of foreign powers.

That position was sharply challenged by Senator Sam J. Ervin Jr., the committee chairman. The North Carolina Senator argued that nothing in the law gave the President the right to suspend the Fourth Amendment protection against illegal searches and to commit burglary.

The Beverly Hills, Calif., office of Dr. Lewis Fielding, Ellsberg's psychiatrist, was broken into around Labor Day in 1971, allegedly by a team led by E. Howard Hunt Jr. and G. Gordon Liddy, two men who were later convicted in the Watergate conspiracy.

Earlier in that summer, the *New York Times* and

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other newspapers had printed portions of the Pentagon Papers, a secret defense department history of the Indochina war.

Ellsberg was subsequently charged with having illegally released the classified documents to the newspapers. The case ended in a mistrial last spring after disclosures of burglary of the psychiatrist's office and the fact that Ellsberg had been overheard on a Government wiretap.

Ehrlichman also declared that there was no concern in the White House, so far as he knew, that the operations of the special investigative unit that committed the burglary of the doctor's office would be disclosed as a result of the Watergate investigation.

He said further that he had received no direct instructions from Mr. Nixon to see that the Government's inquiry into the Watergate did not divulge the activities of the special unit, called the "plumbers."

### CONTRADICTIONS

Both of these assertions contradict the President's statement of May 22, when he declared that he was worried about disclosure of the "Plumbers" operations and had specifically instructed Ehrlichman to see that the Watergate investigation did not "compromise" those activities.

During Ehrlichman's testimony, it was also disclosed that the Nixon Administration had conceived a behind-the-scenes effort to discredit Ellsberg publicly.

Ehrlichman, answering questions aggressively and at times arrogantly, acknowledged that he was in

over - all charge of the "Plumbers" unit and that he had approved a "covert operation" to examine Ellsberg's medical files.

He agreed that he had initiated his approval on an August, 1971, proposal for such an operation prepared by his aides, Egil Krogh and David R. Young, and that he had written on the plan, in his own hand, "if done under your assurance that it is not traceable."

### MIND

But Ehrlichman, a lawyer, who was the White House counsel before he became the chief domestic adviser, said he did not have a burglary in mind when he approved the proposal.

Rather, he asserted, he thought that the White House investigators, without identifying themselves, would conduct a legal inquiry, interrogating such persons as nurses and nurses' aides. There were, he said, legal ways that medical information could be "leaked, if you will."

That contention was disputed by Ervin, who said that it was against the law in every state for a doctor to release medical records unless he had the patient's assent or unless a court demanded the documents.

### ASSUMPTION

Ehrlichman said it was his "assumption" that the burglary of Dr. Fielding's office had been authorized by Krogh, who was an assistant to Ehrlichman. But Ehrlichman apparently never asked Krogh if he in fact had done so.

Ehrlichman said he did not learn about the burglary until a few days after it

happened and that he did not immediately tell President Nixon. He was never asked just what he did tell the President. Mr. Nixon has said that he did not learn the details about the break-in until last April.

Ehrlichman said he had discussed the matter with the President in March and that Mr. Nixon "expressed essentially the view . . . that this was an important, a vital national security inquiry and that he considered it to be well within the constitutional obligation and function of the presidency."

### RELATIONS

After he learned about the break-in, Ehrlichman testified, he ordered that there be no more burglaries. He did this, he said, not because they would have been illegal but because they would have provided bad public relations if they were ever discovered.

Citing a 1968 law, Ehrlichman pointed to the paragraph that specifies that none of the prohibitions against wiretapping and other surveillance prevented the President from protecting national security information from foreign intelligence operations. That law he said, gave the President the authority to authorize burglaries.

Ervin retorted that there was "not a syllable in there that says the President can suspend the Fourth Amendment and engage in burglary."

The chief concern about the disclosure of the Pentagon Papers, Ehrlichman related, was that the Soviet Embassy in Washington had obtained a copy.

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