

Ehrlichman's Talks With Judge

Washington

John D. Ehrlichman testified yesterday that on President Nixon's orders he sounded out the judge in the Pentagon Papers case about taking over the FBI without considering that the offer might influence the judge's behavior in the trial.

But, Ehrlichman said, when he met with U.S. District Judge Matthew Byrne Jr. at San Clemente, Calif., in April he did not mention the burglary of the Los Angeles office of defendant Daniel Ellsberg's psychiatrist, Dr. Lewis Fielding, on grounds that discussing it would have been most improper.

Byrne dismissed the case against Ellsberg, charged with stealing the Pentagon Papers, on May 5 the day after learning that the government had withheld from the defense the fact that two White House agents, E. Howard Hunt and G. Gordon Liddy, had raided Fielding's office.

Ehrlichman defended his approaches to Byrne — and said they were made in compliance with orders from Mr. Nixon — while undergoing a second day of questioning by the Senate Watergate Committee.

He said the break-in at the psychiatrist's office was justified under the president's constitutional obligation to protect the nation from foreign subversion.

Ehrlichman, the President's former chief domestic affairs adviser, said he saw no impropriety in twice meeting with Byrne. The judge has said he told Ehrlichman he "could not possibly" consider the FBI directorship until the trial ended because of "possible impropriety."

Senator Daniel K. Inouye, (Dem-Hawaii) questioned Ehrlichman about the meetings with Byrne.

Inouye: "You had conversations with the judge on

Back Page Col. 1

From Page 1

two different occasions. Did you at any time advise the judge of the break-in of Dr. Fielding's office?"

Ehrlichman: "No sir."

Inouye: "Why didn't you advise him of that fact?"

Ehrlichman: "Well, I think that would have been extraordinarily improper from two standpoints."

Inouye: "I'd like to know them."

Ehrlichman: "Well, the first one was that I was under a strict injunction from the President as to that entire national security subject matter. But secondly, for a member of the executive branch to talk to a sitting judge about a matter before

More Watergate news on Pages 6 and 7

him at that time, without going through the counsel to the President or the attorney general or the trial lawyers involved in the case, it seems to me, would have been, if what I did in the case was improper, that would have been impropriety squared. That would have been the furthest thing from my mind to do."

Inouye: "It is your testimony today that this meeting had nothing to do with the possible outcome of the trial?"

Ehrlichman: "Well, certainly, I can only speak for my motive. And I think I can fairly speak for the motive of the President and attorney general, that that simply did not enter into it."

BREAK-IN

Ehrlichman defended the break-in into Fielding's office, although he said neither he nor Mr. Nixon explicitly authorized it. He said it was needed to enable the Central Intelligence Agency to compile a "psychological profile" of Ellsberg. He said drastic measures were justified because the leak of the Pentagon Papers and other secrets threatened to compromise national security.

Later, Senator Sam Ervin

(Dem - N.C.) asked "How in the world" a psychiatrist's opinions on the mental state of a patient could have any relation to either national defense or relations with foreign countries.

"The connection of course between the psychiatric records and the psychological profile and the determination of whether there was a spy ring or foreign conspiracy in taking these top secret

documents and delivering them to a foreign power is, it seems to me, an unbroken chain of circumstances," Ehrlichman said.

He agreed with Ervin's suggestion that under Ehrlichman's theory the President would be empowered to "point a pistol at the head" of anyone to demand information.

"I can conceive of a different kind of national security circumstance — an atomic attack tomorrow, hypothetically — where such a measure might be the very thing the President would think was necessary," Ehrlichman said.

The raid against Fielding's office was fruitless. Ellsberg's psychiatric records were not there.

Ehrlichman also testified that John W. Dean III had lied before that panel in saying Mr. Nixon had promised freedom in the form of executive clemency to the seven Watergate wiretappers just a few days before they went on trial last January.

Ehrlichman said he did not know why Dean had lied except, perhaps, to protect himself.

"Now, I don't know whether that's the explanation or not," he said. "But it certainly was suggested to me as I watched Dean at this table spinning this tale."

Dean is the only witness to testify that President Nixon knew about the prolonged effort to conceal high administration involvement in the wiretapping of Democratic National headquarters in the spring of 1972.

DENIAL

Ehrlichman said Mr. Nixon made clear in July, 1972, the month following the Watergate arrests, that clemency was not to be assured the defendants.

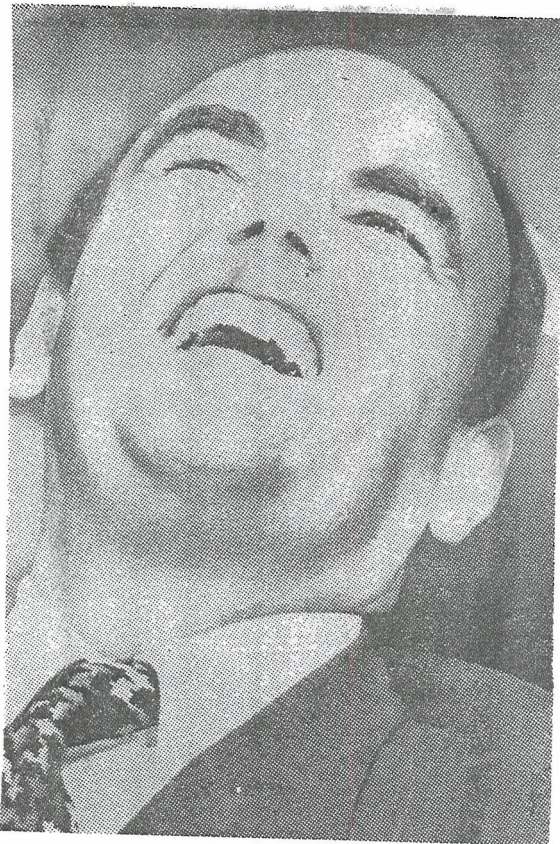
Ehrlichman also denied ordering Dean to "deep six" — dump in the Potomac riv-

JUL 26 1973

er — electronic equipment, microphones, wires and manuals found in Hunt's White House safe after the break-in. Hunt had worked in the White House before moving to the committee to re-elect the President.

Ehrlichman said he and Dean joined in urging L. Patrick Gray, then acting FBI director, to keep the contents of Hunt's safe. Gray later said he destroyed the material so it would not see the light of day.

United Press



UPI Telephoto

JOHN EHRLICHMAN DURING TESTIMONY
He talked about break-in at psychiatrist's office