

Ehrlichman: Cool Sparring

By Dan Morgan

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Before the start of his second day of testimony before the Senate Watergate committee, former presidential assistant John D. Ehrlichman rifled through a pile of congratulatory telegrams and chuckled over one that said, "We are proud of the way you stood up to so-and-so Constitution."

He seemed composed, relaxed and ready to mix it up for a second day in a row, if necessary, with Committee Chairman Sam J. Ervin (D-N.C.), the "so-and-so Constitution" referred to in the telegram.

Instead, there was no slugfest. It was a day less of dramatic exchanges and flared tempers than of legal arguments and cool sparring between committee members and witness.

Both sides seemed to be trying, as best they could, to respect the formal courtesies: Ervin flattered Ehrlichman's counsel, John J. Wilson, with Southern courtliness. He called him "one of the nation's truly great lawyers" and said he "enjoyed" Wilson's legal brief on the broad meaning of presidential powers, though he couldn't agree with it.

The Senate committee members seemed concerned that a show trial atmosphere was developing that could benefit Ehrlichman, the man whom other witnesses have named as a principal coordinator of White House espionage activities.

Sen. Ervin, who was loudly applauded by the public as he entered the hearing room, asked the audience to refrain from expressing approval or disapproval "in any audible manner."

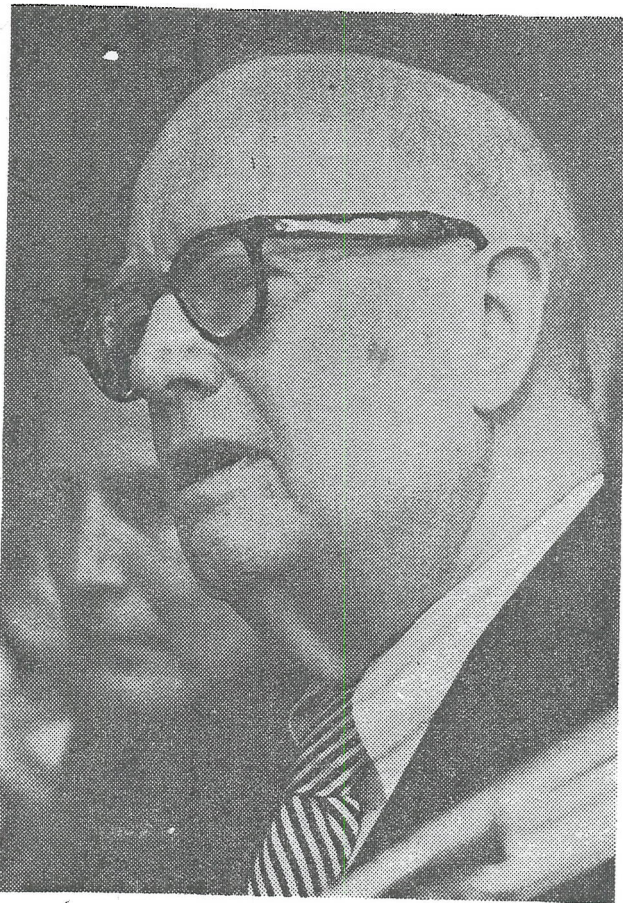
Sen. Howard H. Baker Jr. (R-Tenn.), vice-chairman of the committee, warned against a "circus." In private, he said that the committee was concerned about President Nixon's assertion that the entire Senate proceedings were aimed at "getting" the present resident of the White House.

But despite all those precautions, an undercurrent of mutual hostility was still evident.

Sen. Herman E. Talmadge (D-Ga.), whose folk image, rightly or wrongly, is not that of a fervent defender of civil liberties, was indignant about the office burglary of Daniel Ellsberg's psychiatrist by White House agents.

"Do you remember when we were in law school, we studied a famous principle of law that came from England and also is well-known in this country, that no matter how humble a man's cottage is that even the King of England cannot enter without his consent?" Talmadge asked.

"I am afraid that has been considerably eroded over



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John J. Wilson argues a point with Sen. Sam Ervin.

the years, has it not?" the witness replied.

Talmadge shot back, "Down in my country we still think it is a pretty legitimate principle of law."

Later, after Sen. Daniel K. Inouye (D-Hawaii), finished questioning Ehrlichman about White House influence on Ellsberg trial judge W. Matthew Byrne Jr., a microphone picked up a hushed voice that sounded like Inouye's saying, "What a liar." Inouye denied that he had made such a remark in reference to Ehrlichman.

As a witness, Ehrlichman appeared exceedingly difficult to pin down. Like a child's mechanical toy he seemed programmed to back off and crank away in another direction whenever he ran into an obstacle.

When Sen. Lowell P. Weicker Jr. (R-Conn.) questioned Ehrlichman on the moral and legal ramifications of the burglary of Ellsberg's psychiatrist's office, the witness ducked the question.

"You feel it was constitutional but was botched?" Weicker inquired.

"I don't know what botched means," he answered.

Ehrlichman said he could see that the incident was "politically embarrassing" and "totally out of keeping with the concept" of investigation which he had authorized. But as to the deeper implications, he said, "I don't think there is any question about legal founda-

tions existing for this sort of thing."

As to the establishment of the special "plumbers" unit in the White House, Ehrlichman quickly blamed it all on the late J. Edgar Hoover's FBI. "The Bureau of Problems" was how Ehrlichman described it. Hoover was offering up nothing but "stale bread" in the investigation of the release of the Pentagon papers.

As Ehrlichman described it, the setting up of the "plumber's" unit was a brilliant piece of bureaucratic politicking, that forced the bureau to "wake up." By Sept. 20, he said crisply, the bureau was finally "clicking along on all eight cylinders—they were aboard."

The unremorseful line taken by the witness was consistent throughout the day. The only regrets Ehrlichman expressed were that the burglary of Ellsberg's psychiatrist might not have been necessary after all.

Getting the files, he said, "could have been done through false pretenses."

There might well have been a "very cooperative psychiatrist, or nurse or nurse's aide" who could have obtained the same files, he said.

The question before the Committee through much of the day was whether the "national security" blanket which Ehrlichman threw over espionage activities launched from the White House was really tailored to cover all the incidents of criminality.

The steady invocation of the

"national security" rationale inevitably called up some memories of the Joe McCarthy investigatory hearings 20 years ago.

But if there was a sense of *deja vu*, it was one flawed by the reversal of roles evident at the hearings this week.

In these hearings it was the witness who was invoking the national security cover while the investigators were sharply questioning its current applicability.

Ehrlichman spoke of the White House not knowing, in the Ellsberg case, "if we were dealing with a spy ring or a kook," or how deeply military secrets were being penetrated.

His lawyer, Wilson, pointed to testimony by Ehrlichman "that the Russians either had or were getting this information."

In another era that kind of statement might have struck a more receptive nerve.

But the statement was met with a stony silence from the packed public gallery, in which many of the audience were people dressed in sandals and casual clothes, too young to remember the era of deeper concern for national security.

At one point, when Ehrlichman was complaining of the FBI's lack of cooperation, Sen. Talmadge interrupted to ask, "You don't mean to intimate in any way, shape, fashion or form, do you, Mr. Ehrlichman, that J. Edgar Hoover was in any way soft on communism or national security, do you?"

The question itself may have suggested the way America has changed in 20 years.