

WXP03 SEP 6 1973

Ehrlichman To Testify at Mitchell Trial

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Former White House aide John D. Ehrlichman has agreed to testify as a prosecution witness in the New York conspiracy trial of former Attorney General John N. Mitchell and former Commerce Secretary Maurice H. Stans.

Ehrlichman's lawyers made the arrangement public yesterday in contesting a subpoena ordering him to appear before the Watergate grand jury here Monday.

The appearance would be his fourth before the Washington grand jury and his lawyers called the demand "unreasonable and oppressive."

The onetime presidential adviser's attorneys, John J. Wilson and Frank H. Strickler, also accused Archibald Cox's special Watergate prosecution force of reneging on earlier assurances that Ehrlichman would not be required to testify about the 1971 White House-sponsored break-in at the offices of Daniel Ellsberg's California psychiatrist.

Ehrlichman was indicted for perjury, burglary and conspiracy to commit burglary by a Los Angeles County grand jury Tuesday in connection with that break-in.

His lawyers protested in pleadings filed in U. S. District Court yesterday that they had been notified only last Thursday that the Watergate grand jury here would also want to question him about "the Los Angeles break-in."

Contending that Ehrlichman has been trying to cooperate with government prosecutors, the attorneys asked federal Judge John J. Sirica to quash the new subpoena.

Wilson and Strickler gave no indication of the nature of Ehrlichman's expected testimony in the New York trial, but they affirmed that he "is involved as a witness for the United States in New York—the so-called Vesco case prose-

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cution against Messrs. Mitchell and Stans."

The two ex-Cabinet officers were indicted earlier this year on obstruction of justice charges involving a Securities and Exchange Commission investigation of fugitive financier Robert L. Vesco.

In connection with that case, Ehrlichman, his lawyers said, was interviewed here in Washington, apparently months ago, and has also appeared before the federal grand jury in New York assigned to the Vesco case.

Ehrlichman, they added, was called back from his home in Seattle only last week for "a further interview in New York City and he is scheduled to appear as a government witness in the trial," which is scheduled to start Tuesday.

There were reports earlier this year that Ehrlichman had promised on at least two occasions to help Vesco buy U.S. government's interest in a scandal-wracked bank in Lebanon. Ehrlichman publicly denied any offer of help, but sources in New York told The Washington Post that one of the meetings Ehrlichman attended was held in the Executive Office Building with three Vesco representatives. They included the New Jersey politician who made arrangements for Vesco's secret \$200,000 cash contribution a few months later to President Nixon's campaign.

The Dec. 17, 1971, meeting was held while Vesco was under investigation by the SEC. It took place about two weeks after Vesco had been arrested in Switzerland on a charge of business fraud. According to The Washington Post's source, there was no discussion at the session of any potential campaign contribution by Vesco, but Ehrlichman agreed to help on the Lebanese bank deal.

"The discussion also ranged over the SEC investigation of Vesco's affairs and the jailing in Geneva," The Post was told. Vesco was released after a night in jail there when Mitchell, acting on a request from one of Vesco's representatives, telephoned the U.S. embassy in Bern.

The Vesco representative who asked for Mitchell's help was Harry L. Sears, the same New Jersey politician who met with Ehrlichman and who later arranged for the \$200,000 Nixon campaign contribution.

Emphasizing Ehrlichman's repeated appearances before the Watergate grand jury, his lawyers said he went before them on May 3, May 9 and May 14.

Subsequently, they said,

prosecutor William Merrill, the Cox aide in charge of investigating the Ellsberg break-in and other activities of the so-called White House "plumbers," invited Ehrlichman to appear before the second federal grand jury set up here to help Cox with his investigations.

However, Wilson and Strickler said, "we were told by Mr. Merrill that if Mr. Ehrlichman chose not to accept the invitation, he would not be subpoenaed, nor would the grand jury be apprised of his declination. Mr. Ehrlichman declined the invitation, and Mr. Merrill was so informed."

Then, they said, another of Cox's prosecutors, Richard Ben-Veniste, who has been working on the Watergate case with the older grand jury, called last week to say that he wanted to subpoena Ehrlichman before that panel for more questioning on the "Watergate break-in and cover-up."

Ehrlichman's lawyers said they accepted the subpoena, but then decided to fight it and notified Ben-Veniste of that last Thursday.

At that, they said, Ben-Veniste told them "that not only would the Watergate affair be further inquired into, but he added to the list questions regarding the 'ITT (International Telephone and Telegraph Co.) matter' and the Los Angeles 'break-in.'"

The Ehrlichman lawyers said they reminded Ben-Veniste that "his colleague, Mr. Merrill, excused Mr. Ehrlichman from appearing before the 'newer' grand jury" on the Los Angeles break-in. But, they protested, "Mr. Ben-Veniste stated they had changed their minds, or words to that effect."

Wilson and Strickler urged Judge Sirica to protect Ehrlichman "against this type of oppression." A hearing is expected later this week. Cox's office had no immediate comment on the charges.