

Prosecution Rests Case In the Ehrlichman Trial

Washington

The prosecution rested its case yesterday in the conspiracy trial of John D. Ehrlichman and three others with the judge ordering Secretary of State Henry Kissinger to "hold himself in readiness" for a possible appearance as a defense witness.

Kissinger had been subpoenaed to appear yesterday, presumably to testify that he had no knowledge or interest in the preparation of a "psychological profile" of Daniel Ellsberg in the summer of 1971.

This would undercut the credibility of David Young, a co-director of the White House Plumbers unit and a major prosecution witness.

Lawyers for the Secretary of State presented a motion to quash the subpoena

on the ground that Kissinger had no information relating to the break-in at the office of Dr. Lewis J. Fielding, Ellsberg's former psychiatrist, the central incident on which the conspiracy charge rests.

In addition, the motion contended that it would be "unduly oppressive and injurious to the public interest to require Kissinger to abruptly terminate his official mission abroad, including critical meetings with United States allies and various NATO officials in Europe."

William S. Frates, the Miami lawyer who heads Ehrlichman's four-man defense team, told Judge Gerhard A. Gesell of the U.S. District Court that the defense was "not trying to call Dr. Kissinger just to have Dr. Kissinger here."

He said: "Mr. Young has testified that the psychological profile was ordered by Dr. Kissinger and John Ehrlichman. We expect the evidence to show that is not true."

Gesell, commenting on the White House motion to

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quash, said: "I understand he's (Kissinger) presently seeing the Pope. I wouldn't want to interfere with that."

After learning that Kissinger is due back in the United States next week, the judge said "He's to hold himself in readiness, which is a polite way of saying he is under subpoena."

The question of the psychological profile of Ellsberg, the research analyst who leaked the so-called Pentagon Papers to the press in 1971, related to false-statement charges against Ehrlichman. He and three others, Bernard L. Barker, Eugenio Martinez and G. Gordon Liddy, are charged with conspiring to violate Fielding's civil rights by breaking into the psychiatrist's office Sept. 3, 1971, in a search for files concerning Ellsberg.

One of the three defense witnesses called yesterday was Dr. Bernard Malloy, a psychiatrist on the staff of the Central Intelligence Agency.

Malloy said that he was told by Young that a profile of Ellsberg "had been requested by Dr. Kissinger and Mr. Ehrlichman," and that "I was informed that the President was aware of the study."

The last of the 16 witnesses called by the prosecution in its 4½ days of testimony

testified about Ehrlichman's alleged false statements to grand juries.

She was Karen Sheinberg, the court reporter at Ehrlichman's grand jury appearances in May and September, 1973.

Miss Sheinberg was asked to read aloud from relevant portions of the transcripts of the two sessions.

Each time she was asked, "and did he (Ehrlichman) take an oath to tell the truth?"

The portions that Miss Sheinberg read included Ehrlichman's statement on May 14, 1973, that "I learned after the break-in that they were looking for information for what they call a psychological profile." She also read the statement he made to the grand jury on Sept. 13, 1973, in which he changed his testimony, saying that he had seen the psychiatric profile before the break-in, a change which he explained to the grand jury by saying that he had seen, in the interim, material that refreshed his memory.

It is in connection with these and similar statements, and with statements he made to a grand jury concerning files on the Plumbers' operation about which he disclaimed any knowledge, that Ehrlichman is charged with having made false statements.

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