

Post 9/16/80

Nixon Is 'Likely' Defense Witness In Break-In Trial

United Press International

Two former high FBI officials went on trial yesterday on charges they approved illegal break-ins in a hunt for fugitive radicals in the early 1970's—and one of their lawyers said it is "very likely" Richard M. Nixon will be called to testify in their defense.

The trial of W. Mark Felt, the FBI's former associate director, and Edward S. Miller, its former intelligence chief, opened after 30 months of legal haggling over procedures to prevent release of classified information during testimony.

White U.S. District Court Judge William Bryant began the process for empaneling a jury from more than 100 candidates, Felt's attorney disclosed the former president could be called to testify—apparently about his role, in approving the illegal surveillance.

"If we ask him to come, he will come," Brian Gettings Jr. told reporters. Gettings said he and several other defense lawyers have interviewed Nixon twice, once about two months ago at his New York office.

"We said, 'we may need you as a witness,' he said 'I don't have any problem . . . If you want me to come, I'll be there.'

"He can help us," Gettings said.

Asked about chances he would call Nixon to testify, Gettings said, "it's very likely. That's the way I put it."

Nixon apparently could be useful to the defense in describing a 1970 telephone conversation he had with FBI Director J. Edgar Hoover about a plan for conducting illegal break-ins, mail-opening and wiretaps to find fugitive members of the terrorist Weather Underground group.

Felt and Miller are accused of conspiring to approve warrantless break-ins—so-called "black bag jobs"—in violation of the civil rights of friends and relatives of members of the terrorist group in 1972 and 1973.

Former acting FBI director Patrick Gray faces the prospect of a separate trial later on charges, but federal sources have expressed doubt the government has a strong enough case to prosecute him.