

Bid for Voluntary Aid Fails

Ehrlichman Plans To Subpoena Nixon

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By William Farr
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LOS ANGELES, Jan. 28—Former presidential adviser John D. Ehrlichman has failed in an attempt to have President Nixon make a voluntary appearance to help him out at an important court hearing scheduled here Feb. 25, the Los Angeles Times learned today.

Having been turned down, Ehrlichman will now send his attorneys before Los Angeles County Superior Court Judge Gordon Ringer here Tuesday to ask that a subpoena be issued for the President.

Douglas Dalton, one of Ehrlichman's lawyers, confirmed that he made the request for Mr. Nixon's appearance to James St. Clair, who recently took over as head of the legal team advising the President on Watergate-related matters.

Ehrlichman and co-defendants David Young and G. Gordon Liddy are seeking Mr. Nixon's testimony to support their assertion that they were acting as federal law enforcement officers in whatever role they played in the break-in at the office of Daniel Ellsberg's psychiatrist.

This assertion is crucial to their contention that they were victims of "discriminatory prosecution" when the

Los Angeles County grand jury indicted them last Sept. 4 for conspiracy and burglary. Ehrlichman is also charged with perjury.

In essence, they maintain that the charges should be dismissed since they were acting as law enforcement officers and it is not the normal policy of the Los Angeles County district attorney's office to prosecute policemen who illegally obtain evidence.

Joseph Ball, another of Ehrlichman's attorneys, put it very directly at an earlier hearing when he said, "We should find out if a policeman has ever been put on trial here for kicking down somebody's door."

It is the defense's contention that the 1971 Labor Day weekend break-in was planned by the White House "plumbers" unit as part of a national security investigation begun shortly after the Pentagon Papers were published in The New York Times.

Judge Ringer will hear arguments on the discriminatory prosecution question at the Feb. 25 hearing.

If the defense attorneys fail Tuesday in their effort to obtain a subpoena for Mr. Nixon,

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they will then seek an order from Ringer directing the President to answer interrogatories.

This procedure would call for submitting written questions to Mr. Nixon, who would be expected to file written replies.

Dalton said that St. Clair "was more encouraging" about obtaining the President's cooperation on interrogatories.

The Ehrlichman lawyer said the defense team is serious in its attempt to have the subpoena issued for Mr. Nixon to appear at the hearing here late next month.

"The request for the Nixon

subpoena is not a frivolous maneuver but I guess we would have to concede that the odds are better that we would get the order for interrogatories," Dalton said. "At any rate, we have to try for the subpoena as a precedent step to asking for the interrogatories."

He said a request will also be made to have Egil (Bud) Krogh subpoenaed for the Feb. 25 hearing. If the subpoena is not issued, a motion to serve the former head of the "plumbers" unit with interrogatories will be made.

The defense has not yet set up a meeting with Krogh, who undoubtedly will be a star wit-

ness in the scheduled April 15 trial. The big question mark is for which side.

Krogh is making himself available this week to Watergate Special Prosecutor Leon Jaworski's staff and is due to confer next week with Stephen Trott and Robert Altman, co-prosecutors in the Los

Angeles case against Ehrlichman, Young and Liddy.

Krogh's meeting with Trott and Altman in Washington is scheduled shortly after he surrenders himself next Monday to start serving a six-month term on his plea of guilty to violating the psychiatrist's civil rights.