

# L.A. Judge Orders Nixon To Testify

Los Angeles

President Nixon was ordered yesterday to testify in person at the trial of John D. Ehrlichman and two other former White House aides, now under indictment here for the break-in at the office of Daniel Ellsberg's former psychiatrist.

According to Superior Court Judge Gordon Ringer, this marks the first time that a state court has "issued this kind of process directly to a President of the United States."

Lawyers here consider it unlikely that Mr. Nixon will ever keep his date in court, but the decision has important legal and political significance.

Legally it raises the thorny question of whether a President, like other citizens, is subject to normal court procedures. Politically, it indicates that Mr. Nixon will continue to be enmeshed in Watergate-related events, no matter how hard he struggles to put the issue behind him.

In Washington, Gerald L. Warren, Mr. Nixon's deputy

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press secretary, said the order will be studied by the White House. "When it is received, it will be considered and an appropriate response will be given," he said.

Warren added that he had talked with James D. St. Clair, the President's lawyer, earlier in the day. St. Clair, Warren said, had recommended "against a voluntary appearance" by the President at the trial of Ehrlichman.

In addition to Ehrlichman, formerly the President's chief domestic adviser, the other defendants here are David R. Young Jr. and G. Gordon Liddy, two members of a group called the "plumbers," which was organized by the White House to investigate security leaks in 1971.

All are charged with conspiracy and burglary for their role in the break-in at the office of Dr. Lewis Fielding in September, 1971. In addition, Ehrlichman is charged with perjury for statements made before a grand jury her last year.

The defendants are seeking Mr. Nixon's testimony to reinforce their contention

that when the break-in occurred they were acting in the "good faith" belief that they were federal officers and lacked any criminal intent.

The defense attorneys argued that if the men were federal officers, they are victims of "discriminatory prosecution" by local officials. It is not standard procedure here, the attorneys contend, for law enforcement officers to be charged with crime while performing their assigned functions.

A pre-trial hearing has been set for February 25 on the issue of discriminatory prosecution and last week Douglas Dalton, a lawyer for Ehrlichman, called the White House and asked if the President would appear voluntarily as a witness on that date. St. Clair, now head of the President's legal defense team, told Dalton that the President would not do so, Dalton said yesterday.

According to Dalton, St. Clair said that the President has to be "consistent" in all of his responses in the Watergate case, and Mr. Nixon has consistently resisted attempts to subpoena his testimony or any tapes or documents in his possession.

Dalton also quoted St.

Clair as saying, however, that Mr. Nixon might be more amenable to answering written interrogatories submitted by the defense.

As a result, Dalton went to court yesterday morning and asked Judge Ringer to subpoena Mr. Nixon, both for the hearing on February 25 and the trial itself, which is due to start in April. As an alternative, the lawyer asked that the President be ordered to answer interrogatories.

The Ehrlichman defense team backed up its argument by submitting a copy of the President's speech of last May 22. On that occasion the President described how he had established the "plumbers."

After reviewing the speech, Judge Ringer declared: "The court is persuaded that the Hon. Richard M. Nixon is a material witness for the defense." The question, he added, was how best to secure his testimony.

Dalton rose and said that the judge had "no discretion" in the matter, and had to issue the subpoena. When Stephen Trott, the deputy district attorney prosecuting the case, agreed, Ringer made his ruling.



AP Wirephoto

GORDON RINGER  
Ehrlichman trial judge