

PRESIDENT TO SHUN EHRlichman TRIAL

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But White House Does Not
Say Whether He Will Also
Bar Written Questions
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WASHINGTON, Jan. 30—The White House said today that President Nixon would refuse to testify personally in the California trial of John D. Ehrlichman but left open the possibility that he would respond to written interrogatories about his role in setting up the special investigations unit known as the "plumbers."

Gerald L. Warren, deputy White House press secretary, told newsmen that James D. St. Clair, the President's new attorney in charge of Watergate matters, "will recommend to the President that he respectfully decline to appear."

Mr. Warren said that Mr. St. Clair's recommendation would be made on constitutional grounds, but he refused to elaborate. Nor would he discuss the possibility that Mr. Nixon would be willing to provide any requested information in other ways.

Judge Gordon Ringer of the State Superior Court in Los Angeles said yesterday that he would sign a certificate ordering President Nixon to testify in person in the proceedings against Mr. Ehrlichman, who is under indictment in California for the 1971 break-in at the office of Dr. Daniel Ellsberg's former psychiatrist.

Attorneys for Mr. Ehrlichman had sought a subpoena to support their argument that Mr. Ehrlichman and two others now facing criminal charges in the September, 1971, burglary had acted in "good faith" as

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duly constituted Federal officers who lacked any criminal intent.

The two other defendants are David R. Young Jr. and G. Gordon Liddy, two members of the four-man "plumbers" group that was authorized by President Nixon in July, 1971, to investigate and stop leaks of national security information. Mr. Nixon's action came a month after The New York Times began publishing ex-

cerpts of the highly classified Pentagon papers. Dr. Ellsberg was on trial on charges connected with the disclosure of those papers.

Sources close to Mr. Ehrlichman have emphasized that his action in seeking the subpoena for Mr. Nixon—considered to be a political embarrassment on the eve of his State of the Union address—in no way indicates a break with the President.

Lawyers close to the Watergate situation believe that Mr. Ehrlichman and his attorneys expected the White House refusal to honor the state court's order but sought such a move nonetheless in an effort to demonstrate that vital evidence was denied the former White House domestic adviser and, therefore, he could not get a fair trial.

Effect Not Clear

Mr. Ehrlichman's attorneys are similarly expected to request a number of classified "national security" documents to show some of the concerns facing the plumbers team, which was under the over-all supervision of Mr. Ehrlichman, in mid-1971.

In his public statements on the plumbers, President Nixon has said that he can understand how "highly motivated" individuals could have felt justified in engaging in illegal ac-

tivities in an effort to prevent news leaks. But he has repeatedly said that he "at no time authorized the use of illegal means" by the plumbers.

It was unclear today what effect a written statement by the President would have on the legal position of Mr. Ehrlichman and the others, in view of Mr. Nixon's statement that no illegal activities had been authorized.

The defendants contend that the California prosecution is discriminatory, because criminal charges are usually not brought against police authorities—which they assert they were—for similar break-in activities in excess of the law.

At least two former Presidents, Thomas Jefferson and James Monroe, chose to supply written evidence after being served with subpoenas calling on them to testify while in office.

Earlier today, Attorney General William B. Saxbe criticized the California court order as unrealistic, according to the Associated Press, "because the President of the United States can't appear in every justice of the peace court all over this country at the whim of that justice of the peace."

Mr. Saxbe said that he had requested a Justice Department study to determine whether the order, is responded to by the President, would set a precedent for requiring a President to testify in a broad range of legal proceedings involving the Government.

Judge Ringer's order, believed to be the first proceeding ordering a President to testify in a state court, will not be formally filed for a few days, the judge said, so he can fill out the required forms. The documents signed by Judge Ringer will be sent to a court in Washington, which, if all legal procedures are in order, will issue a subpoena.

Mr. Warren, the White House spokesman, said that he would issue a formal statement outlining Mr. Nixon's position after the subpoena had been received and studied by Mr. St. Clair and his aides.



H. R. Haldeman, left, arriving yesterday to appear in Washington before the grand jury conducting the Watergate investigation. At left is his lawyer, Frank H. Strickler.

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