

# NIXON SUMMONED TO BE A WITNESS FOR EHRLICHMAN

Subpoena Outcome Unclear  
Because the Ex-President  
Could Face Prosecution

TRIAL MAY BE DELAYED

Jaworski Says All Parties  
Need Time to Review the  
New White House Tapes

By LESLEY OELSNER

Special to The New York Times

WASHINGTON, Aug. 15—Former President Richard M. Nixon was subpoenaed today to testify as a defense witness for John D. Ehrlichman, once Mr. Nixon's chief domestic affairs adviser, in the forthcoming trial of the Watergate cover-up case.

The outcome of the subpoena was uncertain, however, largely because Mr. Nixon himself faces possible prosecution on charges arising out of the Watergate affair.

Meanwhile, members of the American Bar Association at their convention in Honolulu unanimously approved a resolution designed to discourage any grant of immunity from criminal prosecution to Mr. Nixon. [Page 10.]

Leon Jaworski, the special prosecutor, told United States District Judge John J. Sirica this afternoon that a "reasonable" delay in the cover-up trial was warranted.

Mr. Jaworski filed his statement with Judge Sirica in response to motions by several defendants asking that the trial be postponed from its scheduled start on Sept. 9.

### More Time Needed

The prosecutor explained his position solely on the ground that "all parties" in the case needed time to review the recently surrendered White House tape recordings so they could prepare for trial.

But it is generally believed that the trial probably cannot proceed anyway until Mr. Jaworski decides how to resolve Mr. Nixon's potential criminal

liabilities.

If Mr. Jaworski decides that Mr. Nixon must be prosecuted, he could reach some kind of agreement with the former President, through plea bargaining, or ask the grand jury that named him as an unindicted co-conspirator to issue a superseding indictment including him as a defendant.

### More Actions Expected

In a related development, the prosecutor's office announced that representatives of the office had met with White House personnel today and that the White House had agreed not to move any of Mr. Nixon's tapes and documents from his files unless the prosecutor's office was "satisfied" with the arrangements and procedures to be followed.

The subpoena issued today was the first of what is expected to be a number of legal actions directed at Mr. Nixon now that he is no longer President. It was issued by the Clerk of the District Court here at

Continued on Page 10, Column 4

Continued From Page 1, Col. 1

the request of Andrew C. Hall, one of Mr. Ehrlichman's attorneys, and commands Mr. Nixon to appear in court on the day the trial is to begin "and to remain until called in."

It is to be served on Mr. Nixon in California by the United States Marshal for Los Angeles, Gaylor Campbell, upon receipt by teletype from the United States Marshal here, George K. McKinney.

Members of the Ehrlichman defense presented the subpoena to Mr. McKinney's office along with a \$12 marshal's fee and a check for \$302 to cover Mr. Nixon's transportation and his witness fee.

A staff member in the San Clemente office of Ronald L. Ziegler, Mr. Nixon's former press secretary and now his unofficial spokesman, said this evening that there was no comment on the Ehrlichman subpoena.

The Federal rules of criminal procedure provide that a subpoena is officially "served" once a copy of it and the neces-

sary fees are delivered to the person under subpoena. However, several lawyers suggested today that Mr. Nixon could designate a lawyer or someone else to receive it for him.

Mr. Nixon could ask that the subpoena be quashed, as he did in the case of nearly every subpoena issued to him through the courts during his Presidency. However, he is more vulnerable to subpoena as a private citizen than he was as President, when he lost several requests to quash subpoenas.

Assuming that the subpoena stands, Mr. Nixon has few options: He can decline to appear at all, thus subjecting himself to contempt; he can decline to answer specific questions by asserting his Fifth Amendment protection against self-incrimination, or he can testify.

### Questions Not Disclosed

If Mr. Nixon does testify under direct examination by Mr. Ehrlichman's attorneys, he may then be cross-examined by lawyers for everyone in the case—the prosecution and the five co-defendants.

Those lawyers would be limited to the material discussed during the direct examination. Mr. Hall declined today to disclose the questions he was contemplating, but an earlier motion by the Ehrlichman defense indicated that the defense would attempt to place the blame on Mr. Nixon and two other co-defendants, H. R. Haldeman, Mr. Nixon's former chief of staff, and John N. Mitchell, former Attorney General.

It is thus possible that other defendants will also have Mr. Nixon subpoenaed. Lawyers for several of the defendants said today that they had either not considered doing so or were postponing decision until the trial was underway.

Mr. Ehrlichman, Mr. Haldeman and Mr. Mitchell all asked earlier this week for a delay in the trial, citing such factors as the need to review the White House tape recordings surrendered in compliance with the prosecution's subpoena and the allegedly prejudicial publicity caused by Mr. Nixon's resignation.

A fourth defendant, Robert C. Mardian, joined in the request today. In papers filed by

his lawyers, Tom C. Green and David Bress, Mr. Mardian cited the pretrial publicity and asked, in addition, that he be given a separate trial.

Kenneth W. Parkinson, another defendant, has opposed the requests for a delay, arguing that he should be tried separately, and that if his trial began Sept. 9, it could be finished in a month.

### Court Hearing Monday

John M. Bray, attorney for the sixth defendant, Gordon C. Strachan, said today that he expected to inform Judge Sirica of his position on the question at the judge's hearing next Monday.

Pretrial publicity is a possible ground for delaying a trial or for dismissing the charges. The basic question in motions based on publicity is the ability to pick an unbiased jury, however, and as a result such motions are not usually decided until jury selection is scheduled to begin.

Mr. Jaworski, in the response he filed today to the various defense motions, suggested that the court might want to examine the question of publicity some time "in the future." But, he said, "there is no need at this time" to do so. The need for additional time for trial preparation is ground enough to grant a delay, he said.

### Perjury Trial Delayed

LOS ANGELES, Aug. 15 (UPI)—The trial of John D. Ehrlichman, who is charged with perjury in the break-in at the office of Dr. Daniel Ellsberg's former psychiatrist, was postponed today until Jan. 6.

With the agreement of Deputy District Attorney Stephen Trott, Superior Court Judge Gordon Ringer put the case over until the completion of Mr. Ehrlichman's trial in Washington on a Watergate cover-up charges.

### Argentina Honors Columbus

Christopher Columbus never reached Argentina but there is a statue of him in Buenos Aires, donated by the Italian community. The statue faces the port, with its back to the continent he discovered.



Criminal  
CIVIL SUBPOENA

D.C. Form No. 1 (Rev. 1-63)

**United States District Court**  
FOR THE  
**DISTRICT OF COLUMBIA**

UNITED STATES OF AMERICA,

*m.*  
JOHN M. MITCHELL, et al.

Cr. Case No. 74-110

To RICHARD M. NIXON  
Presidential Compound  
San Clemente, California

YOU ARE HEREBY COMMANDED to appear in the United States District Court for  
District of Columbia  
at John Marshall & Constitution in the city of Washington, D. C.  
on the 9th day of September, 1974, at 9:30 o'clock A. M. to testify on  
behalf of defendant John D. Ehrlichman  
in the above entitled action, and to remain until called in for trial of that cause, when  
called.

August 14, 1974

Andrew C. Hall  
Attorney for Defendant Ehrlichman  
66 W. Flagler Street  
Miami, Florida 33130

By *[Signature]*  
Deputy Clerk

United Press International

Subpoena issued for Richard M. Nixon to testify in Washington at trial of John N. Mitchell and others. It was signed by Andrew C. Hall, John D. Ehrlichman's lawyer.