

Ellsberg Jurors Sent Home

Los Angeles

The Pentagon Papers trial jurors were dismissed yesterday for the rest of the week and told to shield themselves from news about the case, now entangled with the Watergate scandal.

U.S. District Judge Matt Byrne is considering ordering a full-scale hearing into alleged Watergate and White House links to the Pentagon Papers case.

Defense attorneys declared they intend to show that President Nixon is legally "liable for subpoena of the court" to testify at such a hearing.

But a defense attorney later said there are no plans to actually subpoena Mr. Nixon, only to establish that Mr. Nixon is a potential witness.

DISMISS

Judge Byrne declined yesterday to make an immediate ruling on a defense motion to dismiss the case on grounds the government had deliberately withheld evidence.

The judge said that he wanted all motions to dismiss argued together tomorrow morning and that he hoped to make a ruling then.

Byrne earlier asked attorneys for both sides what

they thought should be the "scope" of a hearing into Watergate and White House involvement in the Pentagon Papers case.

Byrne dismissed the jurors after telling them that the prosecution had no further rebuttal witnesses and that the defense would present no more evidence in the trial. The jury has not been sequestered during the four-month trial.

DISGUISES

In another development yesterday, government documents released by Byrne confirmed reports that the Central Intelligence Agency provided disguises and a secret camera solicited by convicted Watergate conspirator E. Howard Hunt for a break-in at the office of Pentagon Papers defendant Daniel Ellsberg's psychiatrist.

The documents — undated, unsigned and bearing no letterhead — were given to the judge by the government. They said that General Robert E. Cushman, former deputy director of the CIA and now commandant of the U.S. Marine Corps, approved the initial request for help by Hunt in July 1971.

Ellsberg, 41, and Anthony Russo, 35 are charged with espionage, conspiracy and theft in the leak to news media of the Pentagon Papers, a top - secret study of U.S. involvement in the Vietnam war.

LIABLE

Ellsberg's attorney, Leonard Boudin, in lengthy arguments about the hearing being considered by Byrne,

said he would give the judge legal precedents to show that President Nixon himself would be "liable for subpoena" if such a hearing were held.

But Boudin later told reporters he has no immediate plans to try to subpoena the President. He said he wants only to establish that Mr. Nixon is a "potential witness" and may not be protected by the claim of executive privilege.

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