## SFChronicle NOV 1 6 1973 No Nixon Subpoena --For Now

Los Angeles

A judge refused yesterday to subpoena President Nixon in pretrial hearings in the Daniel Ellsberg burglary case, but he left open the possibility of the defense issuing a modified summons to the President.

Superior Court Judge Gordon Ringer said during a pretrial hearing that he lacks jurisdiction to issue a subpoena against the President to turn over tapes and memos of conversations with the defendants—four former White House aides.

But he told defense lawyers they have the power to "issue a subpoena on a resident of California" in a criminal case. Mr. Nixon, whose voting address is at San Clemente, legally is a California resident.

## CONSPIRACY

John Ehrlichman, Egil Krogh, David Young and G. Gordon Liddy are charged with conspiracy and burglary in the 1971 break-in of the office of Daniel Ellsberg's psychiatrist.

The defense contends they were operating within the scope of their authority as federal officials investigating national security leaks. The goal of the break-in was information for a personality profile of Ellsberg, who leaked the so-called Pentagon Papers to the news media.

Norbert Schlei, Krogh's lawyer, requested the subpoena of the President as part of "discovery proceedings" in which the defense is entitled to see the prosecution's evidence.

Ringer's ruling appeared to leave it up to the defense to attempt to subpoena Mr.

Nixon and the tapes for the trial, currently set to start December 19.

The judge rejected an earlier defense motion that would have required the prosecution to obtain tapes of 12 conferences and telephone calls involving the President and the defendants.

He said that while the prosecution must show the defense what evidence it actually possesses, it does not have to go "doorbell ringing" to gather defense-specified evidence it otherwise would not have.

United Press