

# Unprecedented Court Subpoena

A SUBPOENA DIRECTING the President of the United States to appear in a courtroom to give testimony in a criminal case is highly unusual, and in fact subject to considerable legal doubts of its validity. Yet such an order is to go forward to President Nixon under the hand of Superior Judge Gordon Ringer of Los Angeles and with it, one suspects, will begin a new crisis for the President.

Since the subpoena comes from the courtroom where his much-admired former chief assistant, John D. Ehrlichman, is under indictment, the President, it can be imagined, will be torn between "fighting like hell" to resist it as an invasion of privileged presidential decision and desiring to do what he can out of friendship for Ehrlichman.

**RINGER'S IS NOT THE COURTROOM** in which Egil Krogh Jr. was sentenced last week, but the judge has Ehrlichman, G. Gordon Liddy and David Young — all by now household names — up on similar charges of burglary and conspiracy arising from the break-in over Labor Day weekend 1971 at the offices of Daniel Ellsberg's psychiatrist. What Ehrlichman's lawyers seek, and what the chief prosecutor told the judge he himself thought was "appropriate," is testimony from Mr.

Nixon himself about the setup of the "plumbers" unit that carried out that burglary. Krogh testified at his sentencing in a federal court that he acted under Ehrlichman's instructions to set up this top-secret group to find all that could be found about the origin of the Pentagon Papers. He said he also received direct instructions from Mr. Nixon personally, but these were to stop another leak. While the President has categorically denied he knew anything about the psychiatrist's office break-in, he has nevertheless said he gave Krogh instructions to find out all he could about Ellsberg's associates, that he emphasized to him the "crucial importance" of protecting national security, and that he assumed responsibility for all these actions though at no time had he approved or had knowledge of them.

**THAT MUCH OF THE PRESIDENT'S** position in the "plumbers" affair is well known and on the record. Beyond that, however, Ehrlichman's lawyers want to make the case that he and Liddy and Young were acting on Nixon's instructions as federal law enforcement officers, when the order for investigating Ellsberg was given. It seems probable that the President, if he elected to testify, would testify to just that. If he did, Ehrlichman, Liddy and Young would have put weight into their argument that a Los Angeles district attorney (or any other, for that matter) just doesn't prosecute police for getting their evidence illegally.

The California Superior Court's subpoena to the President is, in any case, the first such presidential subpoena in history. We may expect some time to pass before Mr. Nixon's lawyers allow a precedent to be made out of the unprecedented.