

# Nixon Won't

## Testify for

## Ehrlichman

### Washington

President Nixon will refuse to testify personally in the California trial of his former aide, John D. Ehrlichman, despite a court order won by the defense, the White House said yesterday.

A Nixon spokesman left open the possibility that the President might answer written questions in the state court trial.

Earlier in the day, Attorney General William B. Saxbe criticized the court order as unrealistic "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."

Saxbe told reporters he has ordered a Justice Department study to determine whether the subpoena sets a precedent for summoning the President to testify in a broad range of legal proceedings involving the government.

At the request of Ehrlichman's lawyers, California Superior Court Judge Gordon Ringer said Tuesday he will instruct Mr. Nixon to appear as a material witness in the trial of Ehrlichman and two other defendants in the White House "plumbers" burglary case.

Ringer said yesterday that he will not sign the subpoena until next week.

Mr. Nixon's refusal to ap-

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pear could, in the longrun, benefit Ehrlichman's case by giving him a basis for arguing that testimony vital to his defense is being withheld.

Ehrlichman and the other defendants, former White House aides David Young and G. Gordon Liddy, have contended that they should not be prosecuted for activities conducted in good faith as part of their official duties.

The three have been charged with conspiracy and burglary for the break-in at the Beverly Hills office of Daniel Ellsberg's psychiatrist.

Deputy White House press secretary Gerald L. Warren said Mr. Nixon's attorneys "will recommend to the President that he respectfully decline to appear . . . on constitutional grounds" and that Mr. Nixon will heed their advice.

He said, however, that Ehrlichman's lawyers have discussed with Mr. Nixon's chief Watergate lawyer, James D. St. Clair, the possibility that Mr. Nixon might respond to written questions.

In Los Angeles, however, Ehrlichman attorney Douglas Dalton said: "We're going to continue in our efforts to have the subpoena

issued out of the court in Washington." He added: "We have no present plans to confer with White House counsel prior to a hearing."

Ehrlichman apparently sought Mr. Nixon's testimony to buttress his contention that his 'Plumbers' activities were conducted in compliance with a presidential directive. Ehrlichman has denied knowledge of the actual break-in until after it was carried out.

Mr. Nixon ordered the 'Plumbers' unit established to investigate leaks of secret information, including the Pentagon Papers.

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