

investigations

A Subpoena for Mr. Nixon

PAT NIXON had returned to Washington from Camp David last weekend to greet 150 wives of the National Religious Broadcasters in the White House state dining room.

"I told them to pray for the press," Mrs. Nixon quipped. "Does the press need prayers?" she was asked. "We all do — who doesn't?" she answered. "Is the press the cause of the President's problems?" a reporter persisted. "What problems?" replied the First Lady.

Week by week, the sum and substance of those problems had been coming into clearer and sharper focus through the legal workings of Congress and the courts.

In the most startling judicial development to date, a Superior Court judge last week set an historical precedent in ordering President Nixon subpoenaed to testify at the trial of three former White House aides accused of the burglary of Daniel Ellsberg's psychiatrist's office.

Citing the Aaron Burr treason trial of 1807, in which Chief Justice John Marshall ordered Thomas Jefferson to turn over a letter to the court, as establishing the precedent that a President could be subpoenaed, Judge Gordon Ringer last week ruled the Presi-

dent was "a material witness for the defense."

Judge Ringer, presiding justice of the Superior Court in Los Angeles county, thus complied with a defense motion to order the President to give testimony at a pre-trial hearing in the case on Feb. 25 and also to appear for the trial that is scheduled to begin April 15.

The order came in response to a motion filed by attorneys for defendant John Ehrlichman, Mr. Nixon's former domestic affairs adviser, which asked, with the support of the prosecution, that the President either be subpoenaed or that written statements be obtained from him. Ehrlichman's lawyers

The Burr treason trial was cited as a precedent

were attempting to show that the Ellsberg burglary had been committed in the interest of national security.

Ehrlichman and co-defendants David Young and G. Gordon Liddy were seeking Mr. Nixon's testimony to support their assertion that they were acting as federal law enforcement officers in whatever role they played in the break-in at the office of Ellsberg's psychiatrist.

This assertion was crucial to their claim that they were victims of "discriminatory prosecution" when the Los Angeles county grand jury indicted them last September 4 for conspiracy and burglary. In essence, they maintained that the charges should be dismissed because they had been acting as law enforcement officers and it was not normal policy of the Los Angeles county district attorney's office to prosecute policemen who illegally obtain evidence.

President Refuses

However White House lawyers advised Ehrlichman's attorneys that the President would not voluntarily appear in their client's behalf. Having been turned down, Ehrlichman then sent his lawyers before Judge Ringer to ask that a subpoena be issued for the President.

But at midweek, Deputy Presidential Press Secretary Gerald Warren announced that White House attorneys would "recommend to the President that he respectfully decline to appear . . . on constitutional grounds."

Meantime, another key figure in the "plumbers" unit, Egil (Bud) Krogh, was sentenced last week to serve six months in prison for his part in the Ellsberg case break-in.

Krogh had pleaded guilty on November 30 to a single count of conspiracy to violate the rights of Dr. Lewis Fielding, the psychiatrist who had been treating Ellsberg and whose office was



KROGH

broken into Sept. 3, 1971 by Liddy and three others.

All week long there had been reports that Krogh would drop a bombshell in the continuing investigation of the Watergate scandals. But a 12-page statement by Krogh that was widely distributed among newsmen contained nothing explosive.

In fact, he insisted, President Nixon did not authorize the burglary "directly or indirectly." Krogh, supervisor



JUDGE RINGER

of the White House agents who broke into the office of Daniel Ellsberg's psychiatrist, thus discounted reports that his marching orders had come "right out of the Oval Office."

He said he had only one contact with President Nixon on the work of the special investigations unit known as the plumbers. "In that meeting," said Krogh, "Dr. Ellsberg's name did not appear to be mentioned." However, he added, John Ehrlichman, then the President's domestic adviser and Krogh's superior, gave the unit authority to engage in "covert activity to obtain information on Dr. Ellsberg."

Porter's Plea

Still another Watergate figure, Herbert Porter, also was in court last week. Porter, the former scheduling director of the Committee for the Re-election of the President, pleaded guilty to a charge of lying to the FBI during its early inquiry into the Watergate affair.

Porter explained that Jeb Stuart Magruder, then second-in-command at the re-election committee, had asked him to think up a rationale for transferring about \$350,000 to G. Gordon Liddy, later convicted in the Watergate burglary. Porter said he suggested they tell the FBI that the money had been spent on college age students who supposedly were paid to infiltrate radical groups. Later, when Magruder told his story, Porter backed him up.

U.S. District Court Judge William Bryant released the baby-faced, 35-year-old Porter on his own recognizance for the approximately one month it will take to complete a pre-sentencing investigation.

Meantime, the Senate Watergate Committee last week abruptly postponed a new round of hearings scheduled to begin this week to avoid prejudging the trial of two former Cabinet members — former Attorney General John Mitchell and former Commerce Secretary Maurice Stans — both accused of exerting influence on behalf of Robert Vesco, a financier facing a federal suit, in exchange for a \$200,000 contribution to the President's re-election campaign.