

Nixon Letter on Ellsberg Break-in

Washington

President Nixon, in a letter sent two weeks ago to a federal judge, declared that the so-called White House Plumbers unit was operating under his delegated authority when it broke into the office of Dr. Daniel Ellsberg's former psychiatrist in 1971, highly reliable sources said yesterday.

The letter was sent to U.S. District Judge Gerhard A. Gesell, who will preside over the trial of six men indicted in the break-in. Gesell placed the letter under seal April 30.

Lawyers interviewed yesterday said the President's letter could prove significant in the pending trials — now set for June 17 — because the Watergate prosecutors must prove that the "intent" of the defendants was to commit a crime.

With the submission of Mr. Nixon's letter, some lawyers said, the defendants have greatly improved their chances of successfully arguing that their intent was to follow the President's instructions on a matter of national security.

Other lawyers suggested that the President's letter would have minimal impact on the trial because of the intent of the Watergate prosecutors to focus on what they believe to be the goal of the defendants involved in the burglary — to get politically damaging information about Ellsberg for later use.

In his previous public statements, Mr. Nixon has not discussed the Plumbers in terms of his delegation of presidential authority. He came close to that kind of assessment on May 22, 1973, when he noted that "because of the emphasis I put on the crucial importance of protecting national security, I can understand how highly have felt justified in engaging in specific activities that I would have disapproved had they been brought to my attention."

"Consequently, as Presi-

dent," Mr. Nixon added, "I must and do assume responsibility for such actions despite the fact that I, at no time, approved or had knowledge of them."

In the two-page letter, according to some who knew about it, Mr. Nixon said he made the full delegation of his presidential powers in an attempt to stem a series of newspaper leaks that he perceived to be a threat to national security and foreign relations.

One source, who has had

Back Page Col. 2

From Page 1

access to the precise wording of the letter, reported that Mr. Nixon had written, in effect, that it was his intention, which he believed authority under the Constitution and the law should be used, if necessary, to bring a halt to the disclosures.

Deputy White House press secretary Gerald L. Warren confirmed that a private communication had been sent by the President to Gesell, but refused to comment on its contents.

Last March 7 a federal grand jury here indicted John D. Ehrlichman and Charles W. Colson, two former high-ranking White House aides, and four other men for their role in the Sept. 3, 1971, break-in of the Beverly Hills, Calif., office of Dr. Lewis F. Fielding.

Fielding had previously refused to discuss Ellsberg with FBI agents.

The defendants have contended they carried out the break-in — in the belief that it "was a bona fide government investigation that was not clearly illegal or im-

proper in September, 1971, because of its national security purpose."

Gesell has agreed to hear arguments next week on the constitutional questions raised by the Fielding burglary.

The President's letter was sent in response to an order issued last month by Gesell, who told the special Watergate prosecutor's office to submit any evidence of presidential involvement in or knowledge of the break-in to the court.

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