

# MARSHAL SERVES NIXON A SUBPOENA IN COVER-UP CASE

Ex-President Also Accepts  
a Second Order Demanding  
Deposition in Rights Suit

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GETS PAPERS ON COAST

Testimony as a Witness for  
Ehrlichman Is Sought at  
Watergate Plot Trial  
NYTimes

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Special to The New York Times

WASHINGTON, Aug. 29—

The Justice Department announced today that a United States marshal had served two subpoenas on former President Richard M. Nixon at his estate in San Clemente, Calif.

The subpoenas call for Mr. Nixon's testimony as a defense witness at the Watergate cover-up trial scheduled to start Sept. 30 and for a deposition in a civil suit growing out of his appearance at a rally for the Rev. Billy Graham in Charlotte, N.C., in 1971.

John Wilson, a spokesman for the Justice Department, said that Mr. Nixon personally accepted the subpoenas at his home at 6:10 P.M. yesterday. Mr. Wilson declined to identify the marshal who had served the papers and would not comment on the circumstances surrounding the service.

## Delayed by Marshal

The subpoena in the Watergate conspiracy case was issued Aug. 15, but Gaylord Campbell, United States marshal in Los Angeles, had delayed serving it while holding discussions with Ronald L. Ziegler, the former White House press secretary, and others still on Mr. Nixon's staff. He gave no further explanation for the delay.

That subpoena was issued at the request of John D. Ehrlichman, former chief adviser to Mr. Nixon for domestic affairs. Mr. Ehrlichman is one of six former White House and Nixon political aides charged with conspiring to cover up the June 17, 1972, burglary of the Democratic national headquarters at the Watergate office building.

Mr. Nixon, who was still

President when the indictment was handed up by a Watergate grand jury on March 1, was named as a co-conspirator in the case but was not indicted.

## Sent to House Panel

Leon Jaworski, the special prosecutor, chose at that time not to argue in court the constitutional issue of whether a sitting President could be indicted. Instead, the grand jury sent evidence bearing on Mr. Nixon's actions during the alleged cover-up to the House Judiciary Committee, which was conducting an investigation into whether the President should be impeached.

Mr. Nixon resigned the Presidency Aug. 9 after the committee recommended that he be impeached by the House.

The second subpoena is part of a \$100,000 damage suit against H. R. Haldeman, the former White House chief of staff, and seven other men. All eight are accused of invading the civil rights of 21 young people who allege they were denied entry to the Billy Graham Day rally on Oct. 15, 1971, and were roughed up.

## Defendants in Plot Case

That subpoena requires Mr. Nixon to appear Sept. 24 at Santa Anna, Calif., and answer questions under oath in connection with the suit.

Mr. Haldeman, like Mr. Ehrlichman, is a defendant in the cover-up conspiracy case, along with former Attorney General John N. Mitchell; Gordon C. Strachan, a former aide to Mr. Haldeman, and Kenneth Wells Parkinson, a former lawyer for the Committee for the Re-election

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tion of the President.

There was still no word on whether Mr. Nixon might now be indicted in the case. The special prosecutor's office declined all comment but was known to be studying the matter.

Lawyers close to the case have argued that it might be impossible for Mr. Nixon to receive a fair trial. They speak of the difficulty of finding jurors who have no opinions about Mr. Nixon, whose political career stretches back to 1946.

One old Nixon hand at the White House argued strongly against putting the former President on trial, saying that there had been pervasive adverse publicity against Mr. Nixon.

He also advanced the theory that Mr. Nixon, who is entitled to a jury of his peers, had no peers. He argued a jury would have to be made up of

former Presidents. Mr. Nixon is the only living former President.

Charles Morgan Jr., director of the Washington office of the American Civil Liberties Union, took issue with the White House official.

"The entire Watergate case arose out of this brand of rotten thinking," he said.

## 'No Man Wears a Crown'

"The American Revolution was fought to make certain that kings were not tried by kings and in this country were not to exist at all," Mr. Morgan said. "To say that the President is above the law as it applies to the lowest American citizen is to refute the entire basis for this country and our form of government. Here every person is king; yet, as it was so aptly put, no man wears a crown."

One lawyer close to the defense in the cover-up case said that he thought the question of choosing a fair-minded jury for a former President was an important issue. Asked if such a jury could be picked, he replied, "I don't think so, myself."

But he suggested that Mr. Nixon might be indicted after

the jury for the cover-up trial was chosen and requested. This would follow a pattern Mr. Jaworski set when he delayed the indictment in the cover-up case until the jury was sequestered in the New York City trial of Mr. Mitchell and former Commerce Secretary Maurice H. Stans.

Prof. Yale Kamisar of the University of Michigan Law School said that the jury selection problem was neither unique nor a bar to prosecution.