

U.S. Offers To Defend Nixon in Suits

By Bob Kuttner

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The Justice Department yesterday confirmed that it has offered to continue representing former President Nixon in five civil suits filed before Mr. Nixon left office.

Mr. Nixon's chief lawyer said last night the offer had been accepted.

In a letter dated Sept. 24, Assistant Attorney General Henry E. Petersen asked Mr. Nixon's lawyer, Herbert J. Miller, whether the Justice Department should continue defending Mr. Nixon in separate civil suits filed by actress Jane Fonda, former National Security Council aide William A. K. Lake, Elmer Davis, John Sinclair and the Socialist Workers Party.

Miller, reached at his Pottomac, Md., home, said he had accepted the department's offer. He added that he is continuing to represent Mr. Nixon in other civil suits.

Justice Department spokesman Robert J. Havel confirmed the Petersen letter. However, Havel said it was not necessarily an offer to defend Mr. Nixon against other lawsuits that might be filed in the future.

"We'd have to look at whether his official duties as President were involved," Havel said. "We will consider them on a case-by-case basis."

Reports of Petersen's offer came as a surprise to Watergate Special Prosecutor Leon Jaworski, according to Jaworski's press aide, James Doyle. Havel confirmed that Jaworski had not been consulted, but added, "If he is at all interested in any of the cases, we'd have to drop it."

However, knowledgeable sources said there was some concern in the special prosecutor's office that the Justice Department's action put the government on both sides of

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litigation involving Mr. Nixon, whom Jaworski is expected to call as a witness in the Watergate cover-up trial.

Questions were also raised concerning why Petersen, as chief of the Criminal Division, was the author of a letter offering to continue representing Mr. Nixon in civil suits.

The department's Civil Division said he was the author of a letter of

One official of the department was unaware of the Petersen letter, but added that it was common for the Criminal Division to represent the government in civil suits involving wiretaps.

In the five civil suits, Mr. Nixon is named along with other government officials. For example, one of the plaintiffs, Lake, a former National Security Council aide is suing seven present and former officials, including Mr. Nixon, Secretary of State Henry A. Kissinger and former Attorney General John N. Mitchell in connection with wiretaps placed on his phone over a period of nine months in 1970.

Lake's original lawyer was Nathan Lewin, a law partner of Herbert Miller, who is Mr. Nixon's lawyer. Lewin had to drop the late case because of the potential conflict.

Lewin is continuing to represent the Jewish Defense League as plaintiff in another lawsuit alleging improper government wiretaps. Mr. Nixon is not one of the plaintiffs.

Lewin said he saw no conflict in his law firm's defending former President Nixon on the other side of a wiretap case. If the government continues to defend Mr. Nixon, Lewin added, "an interesting question is who pays the legal bill if the government loses."

Justice Department officials last night had no immediate explanation for why only five cases were listed in the Petersen letter, since Mr. Nixon is a defendant in other civil suits.

In one such case, attorney Miller yesterday filed a motion on Mr. Nixon's behalf to dismiss a \$10 million damage suit filed by New York attorney Henry B. Rothblatt, charging that pressure had been applied on four Watergate conspirators to drop him as their lawyer.

The Justice Department declined to release a copy of the Petersen letter, saying that it related to confidential matters between a lawyer and his client.