

# Doctors Report Nixon Unable To Testify

Washington

Former President Nixon is too ill to testify now in the Watergate coverup trial either in Washington or in California, a panel of doctors told the trial judge yesterday.

The three court-appointed doctors said Mr. Nixon should not even be questioned at his home for five weeks. It will be 11 weeks or more, they said, before he is sufficiently recovered from the October 29 operation on his left leg to travel to Washington "without excessive risk."

The report confronted U.S. District Judge John J. Sirica with a major problem, since estimates are that the trial may be over by Christmas or soon after.

Sirica gave no hint yesterday of what he will do. He has the option of dismissing a subpoena demanding Mr. Nixon's testimony or somehow delaying the end of the trial. Lawyers said the matter will be discussed next week.

A defense source indicated there may be a request next week that the judge send the jury home a few days before Christmas and reconvene the trial in early January after a deposition is taken or Mr. Nixon's questions and answers are recorded on videotape.

It was considered unlikely that Sirica would adopt such a course because the jury has been sequestered — separated from family and news accounts — since October 11.

Since he resigned the presidency August 9, Mr. Nixon has twice been hospitalized for complications stemming from phlebitis and a blood clot in his left leg.

Mr. Nixon had been subpoenaed by John Ehrlich-

man, one of the five defendants in the Watergate coverup trial, and his testimony was also sought by some of the other defendants, including H.R. Haldeman, John Mitchell, Robert Mardian and Kenneth Parkinson.

The physicians' panel, headed by Charles A. Hufnagel, a cardiovascular surgeon at Georgetown University Hospital, examined Mr. Nixon at his home in San Clemente last Monday.

Without going into the medical reasons for their unanimous opinion, the three doctors on the panel said:

- "Mr. Nixon is not presently able to travel to Washington, D.C. to testify." The doctors said they couldn't predict when he could make such a trip, but if there are no further complications they estimate it "should be possible by Feb. 16, 1975."

- Mr. Nixon isn't able to

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testify near his home. Without further complications he may be able to testify in a courtroom near his home by February 2.

- Mr. Nixon is not well enough to give a deposition — a sworn question-and-answer statement. Without further complications "we would estimate that he should be able to give a deposition in his home by January 6."

And such a deposition, the doctors said, should be taken "in no more than two daily sessions of no longer than

one hour each" with adequate rest between sessions.

"A physician should be in attendance to monitor Mr. Nixon's condition during the taking of the deposition," the doctors said. In addition to Hufnagel, the panel included cardiovascular specialists Dr. Richard S. Ross of Johns Hopkins University Hospital and Dr. John A. Spittell of the Mayo Clinic in Minnesota.

The doctors said they spoke with Dr. Eldon Hickman, who operated on Mr. Nixon's leg on October 29 at the Memorial Hospital Medical Center in Long Beach, Calif., and that they examined his records, X-rays and laboratory data before making their physical examinations.

"If required by the court, the panel can submit the medical reasons and data upon which it based its report," the doctors said. "This would involve specific information regarding his condition, which we have been instructed is confidential."

William Frates, Ehrlichman's attorney, said he was prohibited by Sirica's gag rule from commenting on the development.

But he said he did not plan to challenge the report because "these are the finest doctors in the world."

Sirica excused the jury early for the luncheon recess when he received the report. The jury, which has been sequestered, knows nothing of the subpoena for the former President.

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