

## WATERGATE

# Four Walls Close In on Nixon

Whatever psychic relief and favorable publicity are generated by the President's foreign travels, they cannot stop or even slow the machinery that threatens the Nixon presidency. Last week, as Nixon prepared to go abroad, Capitol Hill and Washington courtrooms produced only bad news for him.

The House Judiciary Committee began to climb out of its rut and seemed ready to quicken the march toward impeachment. Charles Colson, a former member of Nixon's innermost circle, confessed his criminality and professed a desire to tell all that he knows about Watergate. It was revealed that a federal grand jury had named the President as an unindicted co-conspirator in the Watergate cover-up case—the first official citation of direct criminal association ever brought against a U.S. President. Adding to Nixon's judicial problems, a federal judge openly threatened to cite him for contempt of court. Last week's major actors and their roles:

### I. RODINO PROMISES ACTION

Alarmed at the President's previous success in slowing the impeachment inquiry by withholding evidence, House Speaker Carl Albert summoned Judiciary Committee Chairman Peter Rodino and urged him to push on despite that obstacle. Rodino replied that the committee was gaining momentum and should meet a target date of July 15 for taking its vote. That would be a month earlier than predicted two weeks ago. The House would then have time to decide the issue by Labor Day. If impeachment is voted—current estimates show a pro-impeachment margin of at least 70 members in the House—the Senate trial could begin in September.

Albert and other Democratic House leaders suggested that Rodino could avert any dilatory tactics by Nixon Lawyer James St. Clair if the committee completed its closed-door staff presentation of evidence and then voted without calling witnesses. "St. Clair could keep every witness on the stand for three days," one top Democrat warned. But Rodino replied that Republicans on the committee will insist that such witnesses as John Dean, Charles Colson, John Ehrlichman, H.R. ("Bob") Haldeman and John Mitchell be called and tested under cross-examination. Rodino advised that this should be permitted, but that tight controls, including a one-day limit for each witness, should be imposed.

Key Democrats on the committee have advised party leaders that a Judiciary vote in favor of impeachment is now all but certain. "We've got enough to impeach the guy now," said one Democrat. "We're putting together a fail-proof case." TIME has learned that the

committee staff has begun to prepare articles that will accuse the President both of offenses that are indictable in criminal practice and of broader violations that deal with a President's particular legal responsibilities. Each article will be accompanied by evidence of specific Nixon actions to support the charge.

The thrust of the six articles—which are still subject to change—is that Nixon has 1) failed to execute faithfully the laws of the U.S., 2) failed to fulfill other constitutional responsibilities, 3) subverted the Constitution, 4) participated in an obstruction of justice, 5) participated in the subornation of perjury and 6) defied the Congress in its proper constitutional authority and is in contempt of the Congress.

### II. COLSON CONFESSES GUILT

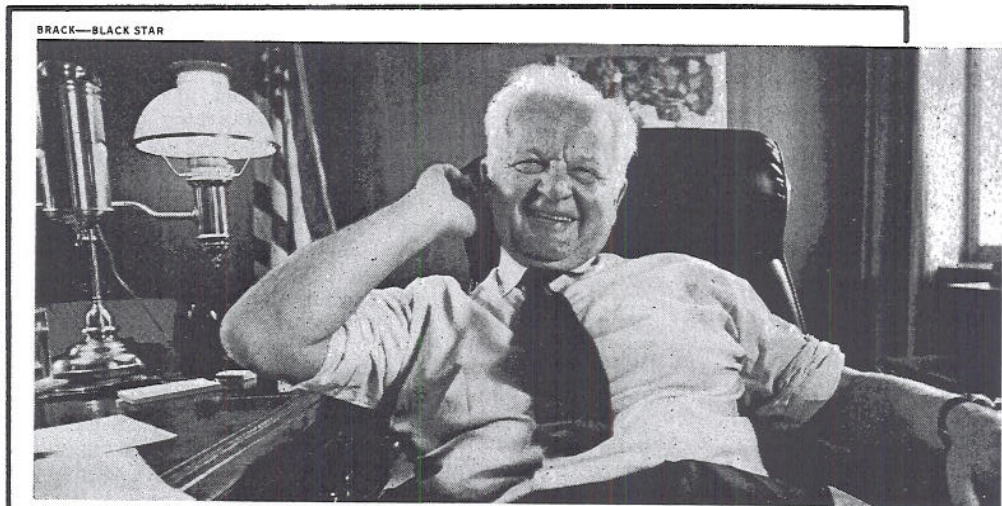
No one seemed more surprised than Presidential Counsel St. Clair when David Shapiro, the attorney for Charles Colson in the Ellsberg burglary case, stepped up behind him in Judge Gerhard Gesell's courtroom and confided: "We're going to plead guilty to one count of obstructing justice." Incredulous, St. Clair asked Shapiro to repeat the statement. He did. A St. Clair aide, John McCahill, hurriedly borrowed a dime from



PRESIDENTIAL COUNSEL ST. CLAIR  
A broken commitment.

another aide, and rushed to telephone the news to Nixon's top White House assistant, Alexander Haig.

A statement of Colson's confession was then read by Assistant Special Prosecutor William Merrill. It said that Colson had admitted having devised "a scheme to obtain derogatory information about Daniel Ellsberg," who at the time was facing trial for leaking the Pentagon papers. Colson wanted Ellsberg to "be tried in the newspapers" even though this would have an "adverse ef-



Judge Gerhard A. Gesell's scalding lectures to James St. Clair are typical of the outspoken jurist's conduct on the bench. A Yale Law School graduate (1935) and longtime Washington attorney in both private and Government practice, Gesell, a Democrat, was appointed to the federal judiciary by Lyndon Johnson in 1967. He generally takes a libertarian line and has been a tart critic of Government wiretapping, restrictive anti-abortion laws and the Nixon Administration's mass arrests during the 1971 May Day antiwar demonstrations. Noted for facing judicial issues

head-on, Gesell has been both helpful and damaging to Nixon in the President's judicial showdowns. He rejected the Administration's attempts to stop publication of the Pentagon papers in the *Washington Post* in 1971, but sided with Nixon in ruling that the Senate Watergate committee had not shown a sufficient need for presidential tape recordings to override Nixon's claim of Executive privilege. If he cites Nixon for contempt in the Ellsberg case, Gesell, 63, may become as well known as his father, the late child psychologist and pediatrician Arnold Gesell.

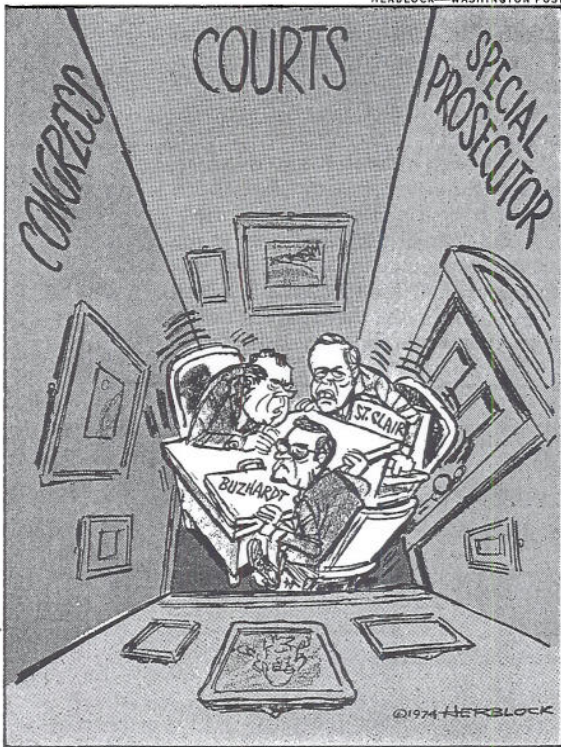


fect on his right to a fair trial." Colson's aim was to "neutralize" Ellsberg as a critic of Nixon's Viet Nam policies. Colson also conceded having written a "scurrilous and libelous memorandum" about one of Ellsberg's attorneys.

Colson thus did not admit that he had been part of a conspiracy to burglarize the Los Angeles office of a psychiatrist consulted by Ellsberg, as charged by a federal grand jury. That count against Colson was dropped, as was his indictment as a conspirator in the Watergate cover-up. But Colson's confession undercuts any defense claim that the Los Angeles burglary had a public-spirited purpose; it was plainly part of an attempt to smear Ellsberg. As a result of his guilty plea, Colson faces a possible prison sentence of five years and certain disbarment.

Colson explained in a statement

HERBLOCK—WASHINGTON POST



"Does it seem to you to be getting a little close in here?"

read to reporters that he had "watched with a heavy heart the country I love being torn apart these past months by one of the most divisive and bitter controversies in our history." Clearly referring to impeachment, he said that "the prompt and just resolution of other proceedings, far more important than my trial, is vital to our democratic process. I want to be free to contribute to that resolution no matter whom it may help or hurt—me or others."

Still, there was skepticism about Colson's motives (see following story) and some uncertainty about any testimony he may now give. "I think he'll help the President," said a Colson intimate. "And he'll knock hell out of John Dean."

That may yet happen, but TIME has learned from knowledgeable people

close to Colson that as he began telling his story to investigators last week, the initial outlines contradicted Nixon's public Watergate defense. Colson is saying that he talked with Nixon in both January and February of last year about a Watergate cover-up. In January, he says, he told the President: "Something is going on here that is very wrong. There's got to be an investigation." Colson quotes Nixon as replying: "What do you think we ought to do?" Colson's answer: "I'll see what I can find out."

By February, Colson contends, he had learned of John Mitchell's approval of payments to the original Watergate defendants. Colson promptly warned the President that these payoffs were taking place. Nixon's alleged reply: "What do you mean? Mitchell says he is innocent." Colson claims that he then told Chief of Staff Haldeman that Mitchell must step forward and take the blame for the payoffs. According to Colson, Haldeman answered: "If Mitchell goes, he's going to take you with him." Colson said he was not worried about that. He asserts that he also warned Ehrlichman and Dean about the cover-up—and got unconcerned responses.

Colson made similar statements in an interview with the *New York Times* a year ago—but he interpreted the alleged conversations with Nixon as evidence that the President had been unaware of the cover-up.

Nevertheless the Colson account conflicts with Nixon's claim that he first learned about the cash payoffs and cover-up from Dean on March 21. As Colson tells it, Nixon was warned two months earlier—and took no action. When Nixon finally accepted the resignations of Ehrlichman and Haldeman in April 1973, Colson now says, the President told him: "God bless you—you were right all along." Colson may, however, put his statements about the President in a less damaging light under cross-examination.

Colson is also telling investigators that he and the President discussed clemency for Watergate Conspirator E. Howard Hunt shortly after Hunt's wife Dorothy died in an airplane crash in December 1972. Whether Colson contends that Nixon approved such clemency could not be learned. Nixon has denied giving any such approval but is quoted in his tape transcripts as admitting to "somebody" that "commutation should be considered on the basis of his [Hunt's] wife's death." There is no practical difference between commutation of sentence and Executive clemency.

### III. GESELL STUDIES CONTEMPT

After receiving the sensational Colson plea, the sharp-tongued Judge Gesell turned to the tense situation created by Ehrlichman's efforts to gain access to his personal White House files for his defense in the Ellsberg burglary case. Gesell had threatened to dismiss the charges against Ehrlichman if any evi-

idence held by the White House was denied him. On Monday, St. Clair had agreed that Ehrlichman, his attorney William Frates and a stenographer could see the files.

But when Ehrlichman and Frates arrived at the White House on Wednesday, Frates was told to remain in his car on the White House grounds. Only Ehrlichman could browse through his files—stacks of yellow legal pads—and he could not take any notes on what he saw. He could only indicate what he wanted; then a junior White House attorney, Geoff Shepard, would mark the passage and show it to Presidential Attorney Fred Buzhardt. Buzhardt would screen this and consult with St. Clair, who presumably would take the matter up with Nixon. The process, according to Frates, produced "only an inch or so" of material. Ehrlichman finally protested and left.

Back in court, St. Clair absorbed his second severe scolding from the judge. "Will you produce Mr. Ehrlichman's notes?" Gesell asked. "I don't produce this material; the President does," replied St. Clair, "and he has not given me the authority to so state."

Shaking his head, Gesell declared that he would hold an immediate hearing on who had custody of the papers "so that I can consider use of the contempt statute." In a strange judicial scene, St. Clair, who earlier had been grinning and sometimes winking at Ehrlichman, was then allowed to question him. "Now those files were made by you on company . . . I mean, Government time, is that correct? Is it fair to say that some items on that pad affect the national security? Does your attorney have security clearance?"

**Totally Offensive.** Impatiently, Gesell interrupted. "When you make a commitment in open court, you make it to me," he said, shaking a finger at St. Clair. "You broke it. I didn't think it was necessary in dealing with you to seek assurances in writing. I will determine what evidence goes to the jury, not Mr. Ehrlichman, not you, not the President." Called to the stand, Buzhardt testified that Ehrlichman's files were in Nixon's sole control and that only the President could authorize access to them.

The judge turned back to St. Clair: "The White House conduct in this case is totally offensive," he declared. "It borders on obstruction." Referring to the barring of Ehrlichman's lawyer from the files, Gesell added: "It's absurd. I don't see how I can tolerate it. I'm astounded, totally astounded. It's totally offensive to our entire concept of justice."

St. Clair protested: "The President has to deal with the Constitution as he sees it, and with all due respect, it's his decision and not yours."

Gesell retorted: "I don't think he understands the consequences of what he's doing. He thinks Mr. Frates' access rais-