

# Liddy Charges Nixon Prejudiced Case

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WASHINGTON, May 23 —

The attorney for G. Gordon Liddy contended today that President Nixon severely prejudiced his client's constitutional right to a fair trial when he told the nation in a televised speech on April 29 that Mr. Liddy's "refusal to talk" was one of the "obstacles to the case."

The attorney, Peter Maroulis, urged Judge Gerhard A. Gesell to dismiss the pending criminal charges against Mr. Liddy, who the lawyer said, has been "unfairly branded as being guilty." Mr. Liddy is one of five defendants accused of conspiracy in the burglary of the office of Dr. Daniel Ellsberg's former psychiatrist.

Judge Gesell said that the President's statement posed "a difficult problem" and indicated he would rule later on the request.

The judge also ordered defense and prosecution attorneys to appear in Federal District Court at 2 P.M. tomorrow, when the White House is expected to reply to two subpoenas for the personal files of Charles W. Colson and John D. Ehrlichman and two other defendants in the case, who like Mr. Liddy, are former White House aides.

## Subpoenas Issued

The subpoenas, which call for the White House to hand over some classified documents as well as hand-written notes of Presidential meetings, were issued late yesterday by Judge Gesell in the trial involving the White House security force known as the "plumbers."

Judge Gesell made it clear, however, that noncompliance or lack of full compliance with the subpoenas for personal files would not lead to an immediate clash.

He nodded his agreement

when William H. Merrill, a Watergate associate special prosecutor, said that "there could be all kinds of ramifications short of dismissal" depending on the White House's reaction and the relevance of the documents denied, if any.

Yesterday, Judge Gesell said that he might be forced to dismiss the trial if the Nixon Administration refused to provide subpoenaed national security documents deemed relevant.

In that instance, however, he was speaking not of the Colson-Ehrlichman personal files but of what he termed "particularized" subpoenas for classified documents that could shed light on the motives of the men involved in the break-in on Sept. 3, 1971, at the office of Dr. Lewis Fielding. The break-in was staged by the plumbers during on investigation of Dr. Ellsberg, who has said that he provided the press with the Pentagon papers, an account of United States involvement in Vietnam.

The judge, in what defense attorneys considered a significant gain, agreed Tuesday to permit the defendants to file their specific subpoenas for classified material next week.

## Relevance of Request

After a hearing on the relevance of the request, Judge Gesell said, he would decide whether to send the subpoenas forward. If the Administration then reneged, the judge said, there might be grounds for immediate dismissal.

The White House refused to say whether it would turn over the personal materials subpoenaed by Mr. Ehrlichman and Mr. Colson.

"Those subpoenas are being reviewed and will be addressed at the proper time," said Gerald L. Warren, the White House deputy press secretary.

If the White House does balk,

attorneys close to the case said, Judge Gesell will probably call for a hearing to determine the subpoenas' relevance.

The question of possible prejudice by President Nixon arose during the final day of extensive pretrial hearings. The judge has set June 17 as the tentative trial date.

Mr. Maroulis of Poughkeepsie, N.Y., also accused Henry E. Petersen, an Assistant Attorney General who worked closely last spring with President Nixon on the Watergate inquiry of incorrectly relaying a direct order of the President.

## Instructions to Petersen

The attorney noted that President Nixon said on April 29, the evening before he released edited transcripts of some key White House tapes, that during a conversation on April 15, 1973, he had told Mr. Petersen "to make clear not only to Mr. Liddy but to everybody that . . . everyone in this case is to talk and tell the truth."

According to a transcript of that speech, the President had also offered to "personally meet with Mr. Liddy's lawyer to assure him that I wanted Liddy to talk and to tell the truth."

At 11 P.M. on April 15, 1973, Mr. Maroulis told the court, he received a telephone call from Mr. Petersen, who relayed the President's plea about talking but did not report that the President was willing to meet personally with him.

"The chief of the Criminal Division took it upon himself," Mr. Maroulis said, "to communicate something different than the President told him to."

Judge Gesell seemed troubled by Mr. Maroulis's statement. "He presents to me a picture of possible gross interference" by Mr. Petersen, the judge said.