

. . . Duty Under Law

In ruling that the national security tent cannot be stretched to cover illegal entry, Judge Gesell also, in effect, warned President Nixon that his stonewalling may be tantamount to obstruction of justice.

Since the case involves decisions or actions taken by John Ehrlichman and Charles Colson, both former Presidential aides, their White House files and records are undeniably pertinent to their defense. At issue is not, as Presidential lawyer James D. St. Clair has claimed, the confidentiality of "the decision-making process of the executive branch"; the question is simply what was said and done to authorize the break-in.

In response to Mr. St. Clair's maneuver, Judge Gesell said Mr. Nixon's refusal to turn over the subpoenaed documents would deprive the defendants of a fair trial, thus forcing the court to dismiss the case. It would then place the President in the position of "deliberately" aborting the trial.

The question thus narrows, in Judge Gesell's words, to "the President's duty to enforce the criminal laws of this country where his former confederates are under indictment." That is the judicial message Mr. St. Clair took to the President. It is a message the House Judiciary Committee should also find it difficult to ignore.

The New York Times

Published: May 28, 1974

Copyright © The New York Times