

Nixon Stand Called  
'Affront to Justice'

## Judge Rips Withholding Of Data

Washington

U.S. District Judge Gerhard A. Gesell, weighing the possibility of citing President Nixon for contempt of court, said yesterday that Mr. Nixon's rejection of a court-approved procedure for producing White House documents in the "plumbers" case was "offensive" and "borders on obstruction."

Visibly angry, the judge rebuked James D. St. Clair, the President's Watergate lawyer, for refusing John D. Ehrlichman and his attorneys access to all of Ehrlichman's personal notes of presidential meetings. St. Clair had agreed at a hearing Monday to make the documents available.

"When your better instincts were in control," Gesell said to St. Clair, "You agreed to it. And you were vetoed, and it's wrong. You know it's wrong. We all know it's wrong."

Leaning forward in his chair, he told St. Clair: "I hope you will lend your best efforts as a distinguished member of the bar to reverse this obvious affront to the process of justice."

"I've been astounded by the position taken today — totally astounded," Gesell said. "The point that the President of the United States will not let this man be represented by counsel is offensive. I think it borders on obstruction."

The judge's comments were made after J. Fred Buzhardt, the White House counsel, testified during a brief hearing yesterday morning that Mr. Nixon retains the ultimate authority and control over the Ehrlichman papers, which have been stored under Secret

Service guard as part of the presidential files.

Gesell requested the hearing after William C. Frates, one of Ehrlichman's attorneys, formally moved to

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place into contempt "those in control" of the papers. Earlier the judge had denied "without prejudice" Frates' request for immediate dismissal of the charges against his client.

As one of four defendants accused of conspiring to burglarize the office of Daniel Ellsberg's former psychiatrist in 1971, Ehrlichman has sought access to all of the original notes of his meetings with Mr. Nixon, which were turned over to the White House central file system after his resignation one year ago.

Gesell, who said he convened the hearing "so I can take appropriate action under the contempt statute," later told defense attorneys that he would rule Monday on the Ehrlichman papers. Court sources said the judge could order a hearing to determine whether Mr. Nixon, as the chief federal officer in charge of the documents, was in contempt of court.

A number of authorities, queried about Gesell's actions, expressed doubt that a federal judge could enforce a presidential contempt order. The authorities said Mr. Nixon could simply ignore the citation, leaving Gesell with the alternative of sending it over to the House

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impeachment committee or asking Leon Jaworski, the Watergate special prosecutor, to convene a grand jury to investigate possible obstruction of justice charges.

The question of Ehrlichman's access to his personal papers seemed to have been settled Monday, when St. Clair assured Gesell that the White House would permit Ehrlichman and his attorneys to have full access to all of his notes, said to fill two cardboard boxes. St. Clair also promised to provide a private room and stenographic material for Ehrlichman and the attorneys.

On Tuesday morning, however, St. Clair and Buzhardt — apparently acting on instructions from the President — informed the group that the White House would instead screen the notes to remove what it deemed irrelevant material before turning it over.

St. Clair attempted to justify the switch in procedure by telling Gesell at the beginning of yesterday's hearing that "it is our view" that Ehrlichman could go through his files alone, pick out possibly relevant materi-

al and, if the court agrees on the relevance, "We'll review it with the President and determine whether it could be released."

Gesell characterized the White House's action as being in "complete disregard of the court's order" and angrily declared that "We're talking about enabling a man charged by the federal government with a serious crime to be allowed to have counsel review notes" that could be exculpatory.

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