

Ehrlichman Trial Date Set

By Timothy S. Robinson
Washington Post Staff Writer

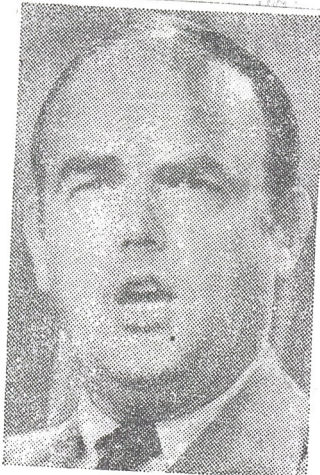
U.S. District Judge Gerhard A. Gesell yesterday set a June 26 trial date for former top White House aide John D. Ehrlichman and three other persons charged with crimes in connection with the Ellsberg break-in.

The formal reinstatement of Ehrlichman to the case and the new trial date came after Judge Gesell ruled that certain White House documents sought by the former aide were not relevant to his defense. In doing so, he accepted a White House-prepared list that showed the documents related to Ehrlichman's other duties when he was President Nixon's chief domestic adviser.

However, Gesell maintained that, if Ehrlichman can narrow his subpoena to a specific document that is relevant and has not been produced by the White House, he will order it produced.

"No claim of privilege is made with regard to any of these documents, nor could such a claim justify the sup-

See GESELL, A5, Col. 1



JOHN D. EHRLICHMAN
... unhappy at process

GESELL: From a "impression of material in the possession of the Government that is necessary to the defense in a criminal prosecution." Gesell said in a memorandum released yesterday afternoon explaining the status of the case.

The judge's ruling apparently ends, at least temporarily, a three-week clash between Gesell and the White House over who would make the ultimate determination of whether sub-

poenaed White House documents would be turned over to the court.

Both sides appeared to have felt victorious. The judge said in his opinion that he could still order documents produced from the President for use in a criminal trial and the White House produced a large number of relevant documents while maintaining its claim that only the President could make the decision to release them.

The subpoenaed files were Ehrlichman's own handwritten notes of conversations with the President and other White House aides, which the President ordered locked up in the White House when Ehrlichman resigned on April 30, 1973, during the unfolding Watergate scandal.

After repeated clashes between Gesell and White House lawyers, that made the situation appear irresolvable, the judge on Wednesday ordered a separate later trial for Ehrlichman. That was seen by Ehrlichman's attorneys as a victory because it gave them several tactical advantages in their defense of the case.

However, after a few minor concessions on the part of the White House, the judge changed his mind and said it would be possible to reinstate him to the case if the trial were moved from its original June 17 starting date.

The White House then waived the claim of executive privilege on the documents it had produced to Ehrlichman's attorneys and presidential counsel J. Fred Buzhardt submitted a sworn affidavit saying that no other subpoenaed material was relevant to the break-in case.

After those moves on Wednesday Gesell indicated he might reinstate Ehrlichman and delay the trial. The formal action by the judge yesterday came after Ehrlichman had searched White House files for other documents that he felt would be helpful to his defense.

His attorneys tried to con-

vince the judge early yesterday morning that the additional documents were relevant, but the judge accepted the White House representation that they related to other matters.

Ehrlichman had wanted all of his handwritten notes of conversations with the President and other White House aides to prove that the break-in had not been discussed at meetings with other alleged coconspirators, but instead that he had been meeting with them on legitimate White House business.

Gesell suggested that the White House list of the topics that were discussed at those meetings was enough in itself for Ehrlichman to prove the meetings were on legitimate White House business, and that he did not need the notes themselves.

"However, Mr. Ehrlichman continues to have access to his White House files, and he may at any time, through the issuance of tightly drawn subpoenas, require the production of further documents necessary to his defense," Gesell said. The judge added that any further subpoenas served on the White House must receive his personal approval and specifically state why the subpoenaed material is relevant to Ehrlichman's defense.

Ehrlichman and his attorneys continued to express dissatisfaction over the White House procedure for review of the documents. Only the former aide can review the notes, which are kept under guard at the White House while his attorneys must sit in an adjoining room for consultation.

"It's a very difficult and laborious process to get (the evidence)," Ehrlichman told reporters.

Ehrlichman continued to maintain his innocence of the charges and said that "right from the beginning of this episode I have hoped for an opportunity to see full disclosure of the evidence."

Ehrlichman, former White House aide G. Gordon Liddy and Miami's Eugenio Martinez and Bernard Barker are charged with conspiring to violate the civil rights of Dr. Lewis Fielding, who was Pentagon Papers codefendant Daniel Ellsberg's psychiatrist, by breaking into Los Angeles office.