

Gesell Rejects Broadcast Plans For Tapes Over Commercial Use

By Harry F. Rosenthal
Associated Press

The White House tapes played at the Watergate cover-up trial cannot be made available for broadcasting and home recording at this time, a federal judge ruled yesterday.

U.S. District Court Judge Gerhard A. Gesell said applicants have failed to come up with a plan to make the tapes public that would prevent commercialization or undignified use.

The three television networks, the public Broadcasting System and a record firm had been told by the judge last Dec. 5 to come up with a plan "which does not permit over-commercialization of the evidence."

In response, they submitted plans recently.

"The proposals will not be accepted," Gesell ruled.

Gesell said, "The burden is upon the applicants to come forward with a satisfactory plan to be administered without profit by some responsible agency or person . . . it is a prerequisite to any plan that commercialization of the tapes or any undignified use of the material be minimized.

"Applicants have failed even to consider these matters." At issue are 28 White House recordings played at the recently concluded trial of John N. Mitchell, H.R. (Bob) Halde- man, John D. Ehrlichman, Robert C. Mardian and Kenneth Wells Parkinson. Former President Nixon is one of the participants in all the conversations.

Gesell had ruled in December that while the applicants had no constitutional right to the tapes, they had "come into the public domain and the public should have the opportunity to hear them."

But he warned at the time that before the tapes could be released certain obstacles had to be overcome, such as removing material that was excluded from the jury.

Anticipating a heavy demand for copies, he said the court clerk's office was not equipped with trained personnel and suggested the applicants suggest a "satisfactory mechanism and procedure."

In his order yesterday, Gesell said the applicants "suggest no responsible agency

or person to administer the plan and merely undertake to place all of these problems back on the court which is not equipped with necessary funds, technology or manpower."

Gesell denied all pending applications for the tapes "without prejudice"—meaning the matter can be raised again.

But he transferred the case

back to U.S. District Court Judge John J. Sirica, who was unable to handle the tapes applications at the time they were forwarded because he was busy with the cover-up trial.

In their response to the judge's original request, the network had said they estimated there were 18 to 22 hours of tapes involved.