

# Judge halts bottle law enforcement

By GORDON ATCHESON

At the request of several local merchants, Circuit Court Judge Edward Deake yesterday issued a temporary restraining order preventing Ann Arbor from enforcing its non-returnable bottle ordinance.

The order will delay enforcement of the law which would have gone into effect today, until at least June 6, when a pre-

## to talk history'

"The Constitution is silent on the issue of Presidential subpoenas," he said. "But on the basis of historical precedent, and under the constitutional doctrine of separation of powers and by the very nature of the executive office, it appears the President is not amenable to judicial process or to subpoenas issued by Congress."

Kauper made these points in response to the recent statement by White House press secretary Ronald Ziegler that it would be "constitutionally inappropriate" for the President to be ordered to give sworn testimony, informal statements or written responses to questions in connection with judicial or congressional investigations of the Watergate affair.

liminary hearing is scheduled on a lawsuit filed by the merchants.

**THE CLASS ACTION** suit against the city claims that the ordinance denies local retailers "equal protection under the law" as guaranteed by the state and federal constitutions.

During the preliminary hearing, Deake is expected to call for an extensive hearing exploring the ordinance's "merits." Deake also has the prerogative to continue the restraining order beyond the June 6 date.

The ordinance, approved by City Council March 19, requires local merchants to collect deposits on all beer and soft drink containers they sell. The merchants must also redeem all such containers.

**THE ORDINANCE** for all practical purposes eliminates beverages sold in non-returnable bottles from the city.

Those named as plaintiffs in the suit include the Capitol Market, Falsetta Market, Buster's Food Mart, Big 10 Party Store, Van's Market, and Calvert Brothers. They have, however, filed the suit on behalf of all other retailers within the city who sell beer and soft drinks.

Deake stated in the restraining order that the ordinance appears to do "serious damage" to the merchants' businesses.

**ASSISTANT CITY ATTORNEY** Bruce Laidlaw said the implications of the suit

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"go beyond the wisdom of the ordinance and into the realm of such a measure's very constitutionality."

The court's ruling in this case could set a precedent affecting other cities' efforts to enact similar legislation, according to Laidlaw.

"A heavy burden of proof lies with the plaintiffs," Laidlaw said. "They may have a difficult time providing that proof without the ordinance first going into effect."

A SPOKESWOMAN for the Ecology Center, which played a major role in designing the ordinance, said the group is "upset and can only hope the measure goes into effect as soon as possible."

The suit contends the ordinance is "unconstitutionally vague" in providing penalties for noncompliance.

"Many of the plaintiffs sell . . . beverages which will not be available in returnable containers . . . unconstitutionally depriving the plaintiffs of their business in said commodities," the suit further alleges.