

White House Cites Executive Privilege

WEDNESDAY, JULY 18, 1973

in Withholding Nixon's Tape Recordings

ZIEGLER IMPLIES SECRET CATEGORY

Says Contents Are in Class
of Papers — Buzhardt
to Issue Statement

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Special to The New York Times

WASHINGTON, July 17—The White House cited the doctrine of executive privilege today in taking measures to prevent the disclosure of information about tape recordings of President Nixon conversations.

Gerald L. Warren, the deputy White House press secretary, mentioned executive privilege when asked this afternoon on what ground Mr. Nixon had ordered the Secret Service to refuse to answer questions posed by the Senate Watergate committee. The Secret Service installed the White House recording equipment.

This morning, Ronald L. Ziegler, the press secretary, indicated that the contents of the tapes themselves would be withheld because they fell into the category of Presidential papers.

Neither would comment on an apparent contradiction with the President's statement of May 22, in which he declared, "Executive privilege will not be invoked as to any testimony concerning possible criminal conduct or discussions of possible criminal conduct in the matters under investigation, including the Watergate affair and the alleged cover-up."

Dean Cited Conduct

John W. Dean 3d, the ousted White House counsel, has testified that in discussions with

Mr. Nixon in February, he mentioned the possible criminal conduct of himself as well as H. R. Haldeman and John D. Ehrlichman, two other former aides. The discussions were among those taped.

Throughout the day, White House spokesmen sought to avoid questions on the matter, explaining that a further statement would be made shortly by J. Fred Buzhardt, the special Presidential counsel on Watergate matters. But they were peppered with inquiries and either Mr. Ziegler or Mr. Warren responded nearly 50 times that they had nothing further to make public.

Despite Mr. Nixon's illness, the White House moved swiftly last night on the question of the tapes, beginning shortly after their existence was made public on Capitol Hill by Alexander P. Butterfield, a former Presidential aide.

First, Mr. Buzhardt confirmed the essentials of Mr. Butterfield's testimony in a letter to Senator Sam J. Ervin Jr., chairman of the Watergate Committee.

4 Met at Bethesda

Then, according to Mr. Ziegler, Mr. Buzhardt and Leonard Garment, the acting White House counsel, drove to Bethesda for a two-hour meeting with Mr. Ziegler and Gen. Alexander M. Haig Jr., Mr. Nixon's chief of staff.

Informed sources said that that meeting produced the decision to withhold the tapes from the committee and to send the letter to Treasury Secretary George P. Shultz, ordering the Secret Service to

give no testimony "concerning matters observed or learned while performing protective functions for the President or in their duties at the White House." The Secret Service is an arm of the Treasury.

The letter was prompted, as Mr. Nixon suggested in the text, by "the current efforts which I am informed are being made to subpoena present or former members of the White House detail of the Secret Service." The letter was drafted and sent last night.

Discussed With President

This morning, the tape problem as well as other Watergate matters were discussed with the President for about 40 minutes by the same four men who had met at the hospital last night.

When Mr. Ziegler emerged to brief reporters shortly before noon, he deflected almost all questions relating to the tapes.

But when he was asked whether the tapes would be considered Presidential papers, he replied, "Of course, they would be, certainly." Since Mr. Nidon had said on July 7 that such papers would not be supplied to the Ervin committee under the doctrine of executive privilege, Mr. Ziegler was in directly serving notice that the tapes would be withheld from the Senators as well.

Neither he nor Mr. Warren would make that statement directly, though they were pressed.

Executive privilege is the doctrine, unstated in law or the Constitution but sanctified by long observance, that holds that Presidential communications within the executive branch are protected if disclosure would impair the orderly functioning of government. Controversy has repeatedly arisen as to how wide the protection is.

Mr. Ziegler made only one other substantive disclosure, asserting that, to his knowledge, the Presidential suite at the hospital was not equipped with automatic recording devices.