

Nixon Invokes Privilege On Milk Meeting Tape

9/19/73

By George Lardner Jr.
Washington Post Staff Writer

The White House disclosed yesterday that President Nixon's 1971 meeting with dairy industry leaders two days before a controversial increase in milk price supports was tape-recorded.

White House special counsel J. Fred Buzhardt reported that Mr. Nixon has decided to invoke executive privilege to keep the recording secret.

Marking what appeared to be a new first in executive privilege, Buzhardt also invoked it for a White House memo recommending "a presidential photo opportunity with dairy industry leaders" at an earlier meeting.

(A 'photo opportunity' is White House press office jargon for a few moments of picture-taking by news photographers during presidential meetings.)

The disclosures were made

in connection with a lawsuit charging that the increase in milk price supports was a pay-off for early contributions to the President's 1972 re-election campaign.

According to dairy co-op leaders, the 1971 increase in milk price supports added roughly \$500 million to \$700 million to the income of dairy farmers.

The increase was ordered by then-Secretary of Agriculture Clifford Hardin two days after the March 23, 1971, meeting at the White House with Mr. Nixon and more than a dozen representatives of three politically active dairy farm co-ops. Hardin, who also attended the meeting, had ruled less than two weeks earlier that no increase was justified that year.

The three co-ops—Associated Milk Producers Inc., Mid-

See MILK, A14, Col. 1

MILK, From A1

America Dairymen Inc. and Dairymen Inc.—donated \$422,500 to Mr. Nixon's campaign, much of it through dummy committees secretly organized on Mr. Nixon's behalf.

U.S. District Judge William B. Jones has already ordered the White House to produce some 67 administration memos concerning the dairy industry and the 1971 price increase for his private inspection. Government lawyers are fighting in the U.S. Circuit Court of Appeals here to keep the most sensitive of these documents secret.

The tape recording of the allegedly crucial White House meeting and still other documents were discovered as a result of a "continuing search" requested by Ralph Nader's Public Citizen Inc. and other plaintiffs in the case. Their attorney, William A. Dobrovir, specifically asked if the meeting had been taped.

In an affidavit submitted to Judge Jones, Buzhardt said "it is believed that a tape recording was made" although he said he had not listened to it yet. He said Mr. Nixon is claiming privilege for it anyway because of his views about the separation of powers and about the need to keep his conversations confidential.

Other documents that have come to light, Buzhardt reported, include:

- An Aug. 12, 1970, memo from one unnamed presidential assistant to another unnamed presidential assistant "recommending a presidential 'photo opportunity' with dairy industry leaders" and a Sept. 2, 1970, "decision memorandum . . . proposing 15 brief meetings with the President, one of which is a 'photo opportunity' with dairy industry leaders."

- An undated memo listing a one-hour schedule of meetings for Mr. Nixon on Sept. 9,

1970, including "a scheduled 10-minute 'photo opportunity' with two dairy industry leaders." Attached to this is a briefing paper for the President about the meeting.

Two key officials of the Associated Milk Producers, Harold S. Nelson and David Parr, have said in depositions that they had a private meeting with Mr. Nixon in advance of the now much publicized March 23 meeting, but they said they could not recall the date. They indicated that it dealt with arrangements for the March meeting.

Buzhardt said the Aug. 12 and Sept. 2, 1970, memos "concern only the First Amendment protected activities of the President and his staff and are considered to be privileged . . ." He said the memos dealt with "the mechanics" and "advisability" of a presidential meeting with dairy industry leaders, but had no bearing on the 1971 price supports.

Turning to the Sept. 9 schedule, including the briefing paper for what was apparently the short meeting with Nelson and Parr, the special White House counsel said these "go to the core of presidential decision-making where the need for confidentiality is greatest . . ."

Buzhardt also cited portions of a Feb. 1, 1972, White House memo dealing with "political contributions and the subject lawsuit" (which had just been filed) and a list of still secret contributions to the Nixon campaign. He said the White House was willing to submit these for Judge Jones' inspection.

Dobrovir countered with a motion demanding immediate access to the tape and all the documents. He called the recording of "the greatest evidentiary importance" and emphasized that the meeting was publicly announced and the list of those present published by the White House.