

Ford Defers Giving Nixon Tapes, Files

By Jules Witcover

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President Ford yesterday deferred shipment of White House tape recordings and documents to former President Nixon but his spokesman said the action "in no way constitutes a denial that the materials are the personal property of the former President."

A source in the office of Watergate Special Prosecutor Leon Jaworski said, however, the law is being researched to determine whether there is any legal basis for turning the tapes over to Mr. Nixon, or any legal basis for withholding them. By tradition, presidential papers have been regarded as the personal property of a President.

White House press secretary J. F. terHorst, speaking for President Ford's new legal counsel, Philip W. Buchen, said delivery of the tapes was being held up to allow "timely consideration of possible legal issues" raised by the Watergate special prosecutor and others.

The delay, terHorst said, "merely allows for orderly and more studied efforts to resolve questions of when and under what conditions possession

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and sole control of the property should be transferred."

The formal decision to defer delivery to Mr. Nixon came in the wake of a meeting between Buchen, outgoing Nixon White House counsel J. Fred Buzhardt, and three representatives of Jaworski Thursday.

In addition to their possible use here in Watergate prosecutions, U.S. District Court Judge Fred Nichol in Minnesota Thursday ordered the transfer of tapes blocked on grounds they might be needed in the Wounded Knee trial.

TerHorst in his statement appeared to take pains to stress that the basic decision that the materials belong to Mr. Nixon for ultimate disposition was not being challenged by the Ford White House. The opinion that the materials belong to Mr. Nixon was made by Buzhardt and James St. Clair, Mr. Nixon's chief defense lawyer on Watergate special counsel Wednesday.

Source in Jaworski's office said yesterday, however, that his representatives had "raised questions" about that basic decision, though not to the point of contesting it. Discussions are to continue next week, this source said.

TerHorst also said he could "flatly deny" that President Ford was angered by the manner in which that decision was reached and that Buzhardt was fired as a result of it.

But in breakfast meeting earlier yesterday with reporters, the press secretary said the ruling "obviously was a factor" in Buzhardt's sudden replacement by Buchen as White House counsel.

The President, terHorst said, "should not be in the position where he has to take legal advice from the attorney for Mr. Nixon on Watergate-related matters."

The matter, he said, was under review with the prosecutor's office and was "in a holding pattern."

Meanwhile terHorst's efforts to produce a White House lawyer for a press briefing to explain the opinion that the tapes are Mr. Nixon's personal property failed again yesterday.

On Wednesday, he had said he would try to get Buzhardt to brief the newsmen, but Buzhardt declined. Shortly there-

after, terHorst told the breakfast meeting yesterday, he advised President Ford that lawyers who worked on Mr. Nixon's Watergate defense "shouldn't be advising him on Watergate matters," and on Thursday Mr. Ford quickly named Buchen to replace Buzhardt.

TerHorst said Thursday he would ask Buchen to brief the press, but instead yesterday the press secretary read a long statement in which Buchen declined on grounds of the confidentiality of his "lawyer-to-client" relationship with Mr. Ford.

"He (Buchen) intends to respect that relationship by making no public disclosures

about his opinions or points of concern which might anticipate actions of the President or might weaken their effectiveness," terHorst said. "Mr. Buchen believes that these are proper standards for conduct for any lawyer and throughout his professional career he has tried to adhere to these standards."

TerHorst said President Ford "has as yet taken no action" on disposition of the tapes. TerHorst said he knew of no request from the former President that the tapes be sent to him.

Buchen's decision not to brief the press precipitated a long round of questions to terHorst yesterday about press

policy in the new administration, and whether individual White House aides would determine whether they would talk to reporters.

TerHorst said he did not "intend to be a traffic cop" on press contacts with White House staff members, and that he assumed White House officials would be "responsible enough" to decide what they could say.

Behind the whole discussion of the disposition of the tapes was a clear determination by the Ford White House to avoid becoming enmeshed in any aspect of the Watergate affair.

"We don't want to get caught in the backwash of Watergate for things the Pres-

ident had nothing to do with," terHorst told the breakfast meeting.