

Nader Lawyers Seek Suit On '71 Milk Support Rise

By George Lardner Jr.
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Lawyers for Ralph Nader have demanded that government prosecutors bring suit to recover public funds spent as a result of President Nixon's controversial 1971 decision to increase milk support prices.

They maintained that ample evidence has been compiled to show that the so-called "milk deal" was "a classic conspiracy to defraud the United States."

The demand came in a letter to acting U.S. Attorney Earl J. Silbert from Nader's chief lawyer in the milk controversy, William A. Dobrovir. He said that federal laws make it the explicit duty of U.S. attorneys to attempt to recover any government money spent because of fraudulent schemes.

"We are aware, of course, that the head of the conspiracy appears to be Richard M. Nixon, currently President of the United States," Dobrovir said in the four-page letter. "You will agree, of course, that he is not by virtue of that office placed above the law."

U.S. District Court Judge William B. Jones has been presiding over a three-year-old civil suit brought by Nader and several consumer groups in an effort to set aside the 1971 price support increase as illegal.

Jones has hinted that he may dismiss the suit as moot and declared that he doubts he could grant any relief even if the 1971 increase were illegal. When Nader's lawyers urged him recently to order

the filing of a government suit to recover the public funds that were spent, Jones told them to take that up with the U.S. attorney's office themselves.

In the May 16 letter to Silbert, Dobrovir cited a Department of Agriculture estimate of the loss to the Treasury from the increased price support of \$125 million.

Mr. Nixon has defended the 1971 decision as entirely proper. The President knew of a \$2 million campaign pledge from dairy-farm interests at the time he ordered the higher price supports, but the White House has denied that this influenced him.

According to the White House, Mr. Nixon was prompted by nothing more than "traditional political considerations," such as the loss of the farm vote in the 1972 election.

Dobrovir, however, maintained that evidence compiled in the Nader suit and in investigations by Watergate prosecutors, the Senate Watergate committee, and the House Judiciary Committee was sufficient to justify a government suit to recover damages.

Federal law, the letter said, provides that "any person . . . who enters into any agreement, combination or conspiracy to defraud the government of the United States by obtaining or aiding to obtain the payment or allowance of any false or fraudulent claim" shall be fined \$2,000 and liable for double the amount fraudulently obtained.

A companion statute, Dobro-

vir told Silbert, makes it the duty of U.S. attorneys to inquire into any violations and to seek to recoup the money lost.

Dobrovir maintained that those who might be sued, in addition to Mr. Nixon, include the three huge dairy co-ops that lobbied for the 1971 increase as well as a number of Mr. Nixon's former White House aides, Cabinet officers and fund-raisers.

"The gist of the conspiracy," the Nader lawyer charged, was that the dairy co-ops would commit \$2 million for Mr. Nixon's re-election, which they did first in 1970 and then reaffirmed on March 24, 1971. Mr. Nixon ordered the higher price supports on March 23, 1971, but no announcement was made until March 25.

Starting on March 22, 1971, Dobrovir said, the three dairy co-ops involved — Associated Milk Producers, Inc., Mid-America Dairymen, Inc., and Dairymen, Inc. — contributed about \$627,000 to Mr. Nixon's re-election campaign.

In addition, AMPI also gave \$100,000 in cash to President Nixon's personal lawyer and chief fund-raiser, Herbert W. Kalmbach, in 1969.

Asking Silbert for a prompt decision, Dobrovir indicated that the issue will be taken to the U.S. Circuit Court of Appeals here if Silbert is unwilling to file suit.

He said the same demand was being made of Silbert's boss, Attorney General William B. Saxbe.