

A BUCHEN BRIEFING

Counsel Says Grant of Pardon to Nixon 'Can Imply Guilt'

By **PHILIP SHABECOFF**

Special to The New York Times

WASHINGTON, Sept. 10.—

The White House counsel, Philip W. Buchen, said today that the granting of a pardon to former President Richard M. Nixon "can imply guilt—there is no other reason for granting a pardon."

Answering reporters' questions at a White House news

Memo to Jaworski, excerpts from Nixon memo, Page 28

briefing, Mr. Buchen said he had advised President Ford that the offer of a pardon to Mr. Nixon carried the implication of guilt.

"This did not deter him," Mr. Buchen said.

Mr. Buchen spoke to newsmen after the White House released a memorandum from the special Watergate prosecutor's office listing 10 areas of possible criminal activity that may have involved former President Nixon and were under investigation when Mr. Nixon was pardoned.

The special prosecutor, Leon Jaworski, denied today rumors that he was about to resign in the wake of the pardon. [Page 28.]

Pardon Tied to Guilt

Mr. Buchen's comments on the implications of the President's pardon offer arose when he denied, in response to questions, that President Ford had ever asked Mr. Nixon to make a full statement of his role in the Watergate scandal.

However, Mr. Buchen's comments seemed to indicate that the White House regarded the acceptance of the pardon by Mr. Nixon as virtually tantamount to a confession of guilt and that, therefore, no separate statement was required.

"The fact that a man accepts a pardon means that the man believes it is necessary or useful to have it," Mr. Buchen said.

Then he added: "A pardon is not useful unless there is a strong probability of guilt."

The President did not demand a confession of guilt by Mr. Nixon as a condition of pardon, Mr. Buchen said, because "you do not put conditions on an act of mercy."

Later in his briefing, Mr.

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Buchen Says That Granting of Pardon 'Can Imply' Nixon's Guilt

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Buchen gave what seemed to be another indication that the President had made a presumption of guilt in offering his pardon.

Explaining why the White House had not asked for a second memorandum from the special prosecutor that outlined charges related specifically to the Watergate cover-up, Mr. Buchen suggested that that material already made public, particularly the White House tape recording of June 23, 1972, provided adequate information about the alleged cover-up.

"We didn't need any more than that," Mr. Buchen said.

At this point he was asked if his replies meant that the President had made a presumption of guilt when issuing the pardon and he gave the reply that President Ford had been advised of the implications.

The memorandum released today was prepared last week for Mr. Jaworski by his deputy, Henry S. Ruth Jr. Mr. Buchen said that the memorandum was used by President Ford while reaching his decision to pardon Mr. Nixon.

Areas of Inquiry

The memorandum, whose subject was "Mr. Nixon," began by stating that "the following matters are still under investigation in this office and may prove to have some direct connection to activities in which Mr. Nixon is personally involved."

The areas of investigation included Mr. Nixon's tax deductions, obstruction of justice in the Ellsberg case, wiretaps, misuse of the Internal Revenue Service, dairy industry campaign support in connection with milk price supports, testi-

mony about the International Telephone and Telegraph Company by former Attorney General Richard G. Kleindienst, and "the handling of campaign funds by Mr. [C. G.] Rebozo for the personal benefit of Mr. Nixon."

At the briefing today, Mr. Buchen said that Mr. Jaworski had asked that the final paragraph of the memorandum, which was dated Sept. 3, be called to public attention.

That paragraph said: "None of these matters at the moment rises to the level of our ability to prove even a probable criminal violation by Mr. Nixon, but I thought you ought to know which of the pending investigations were even remotely connected to Mr. Nixon. Of course, the Watergate cover-up is the subject of a separate memorandum."

Mr. Buchen said today that Mr. Jaworski sent the memorandum to the White House in confidence last week but now had advised him that the special prosecutor's office would have no objection to making it public provided "I were willing to accept responsibility for its release."

Articles in some newspapers today said that the President made his abrupt decision to pardon Mr. Nixon after being informed by the special prosecutor that there were 10 areas of possible criminal prosecution involving the former President. Ten areas are covered in the memorandum made public today.

A spokesman for the special prosecutor's office said today that Mr. Jaworski had agreed to release the memorandum in part to correct what he said was the false impression conveyed by those articles that the investigations were so serious

as to spur the pardon move. The spokesman noted that the memorandum had underscored the preliminary nature of the investigations.

The spokesman added that the White House had also been pressing hard for the release of the memorandum.

At today's briefing, Mr. Buchen insisted that there had been no discussion between Mr. Ford and Mr. Nixon or members of their staffs, before Mr. Nixon's resignation, about a pardon for Mr. Nixon.

"I know the man in the President's office quite well and I can assure you that there was no deal," Mr. Buchen said.

Asked why Mr. Ford had abruptly reversed himself after saying he would wait until the special prosecutor had acted on Mr. Nixon before deciding on a pardon, Mr. Buchen said, "An act of mercy can never be untimely."

A Reason for Switch

But he added that one reason Mr. Ford had changed his mind was that he had not been aware before last week that a President could offer a pardon before there had been an indictment.

Mr. Buchen said that, after the news conference of Aug. 28 at which Mr. Ford had said he would wait for the special prosecutor, "He reflected on the matter and then asked me to find out if he could move more quickly."

A "significant" factor leading to the President's decision to grant the pardon was that he was advised that there would be a year or more delay before a trial of the President could begin, Mr. Buchen said.

He added that the question of Mr. Nixon's making a plea had never come up and that

the former President would have stood trial if indicted.

In response to questions, Mr. Buchen denied that he had deliberately misled J. F. terHorst, who resigned Sunday as Mr. Ford's press secretary, about the fact that the President was planning to grant a pardon.

Query About Emissary

When Mr. terHorst asked him why President Ford's emissary, Benton L. Becker, was in California with Mr. Nixon's lawyer, Herbert J. Miller Jr., Mr. Buchen said he replied that it had to do with negotiations over the disposition of Mr. Nixon's documents. Such a discussion did take place.

Mr. Buchen admitted that he had not told Mr. terHorst that Mr. Becker carried the draft of a pardon with him but added that Mr. terHorst had not specifically asked.

However, Mr. Buchen conceded that "I can see how he could have been misled."

The White House also made public today a memorandum to the special prosecutor prepared by Mr. Miller, Mr. Nixon's lawyer. The 17-page document argued that Mr. Nixon should not be indicted and prosecuted because he could not get a fair trial by an impartial jury.

Some of the areas of investigation outlined in the memorandum from the special prosecutor's office describe specific acts while others refer to broader areas of possible wrongdoing.

The tax investigation of the gift of the President's Vice Presidential papers involves Mr. Nixon's claim of a \$576,000 deduction based on an admittedly backdated deed.

The Ellsberg obstruction-of-justice investigation involves

testimony by a former White House aide Charles W. Colson, that the President had urged him to spread damaging information about Daniel Ellsberg while Dr. Ellsberg was on trial in the Pentagon papers case.

The wiretap matters under investigation include President Nixon's acknowledgement that he had ordered a wiretap of John Sears, a White House official, because he was worried about leaks of national security information.

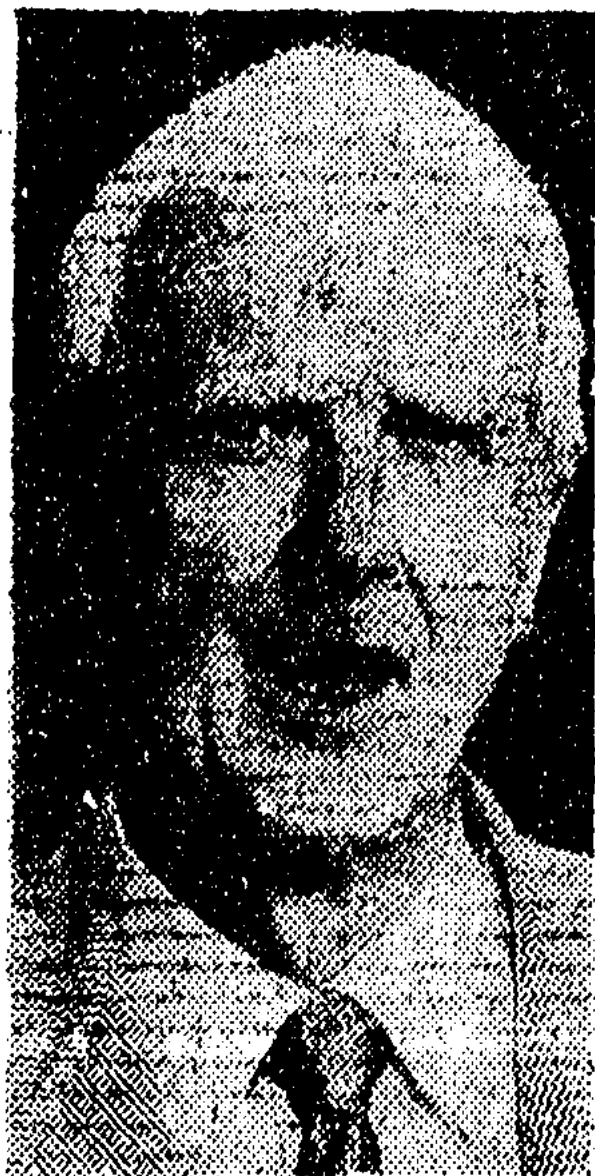
Allegations about the misuse of the Internal Revenue Service include accusations that the White House obtained information from tax records for political purposes and tried to have the I.R.S. harass the Administration's "enemies."

Charges about the milk industry involve the alleged raising of milk price supports in return for massive campaign contribution pledges by several milk cooperatives.

Questions about the challenge to the renewal of licenses of television stations owned by the Washington Post Company were raised when a White House tape transcript quoted Mr. Nixon as making threats about those stations after The Post published an unfavorable article.

The I.T.T. investigation involves testimony by Mr. Kleindienst before the Senate Judiciary Committee that pressure had not been put on him by the White House to drop an antitrust case. The testimony was later found by committee investigators to be untrue.

Finally, the campaign funds handled by Mr. Rebozo were, among other things, allegedly used to buy jewelry for Mrs. Nixon as a birthday gift from her husband.



Associated Press

Philip W. Buchen, White House counsel, briefing reporters yesterday.

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