

Nixon Retracts His Statement He Ordered Fitzgerald Ouster

By JOHN HERBERS FEB 2 1973
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NYTimes

WASHINGTON, Feb. 1—President Nixon retracted today a statement he made at his news conference yesterday that he had ordered the dismissal of A. Ernest Fitzgerald, the Air Force analyst who had disclosed soaring costs and alleged waste in production of the C-5A transport plane.

Mr. Fitzgerald's dismissal, in November, 1969, is currently the subject of a Civil Service Commission hearing. Mr. Fitzgerald contends that he was dismissed for disclosing before a Congressional committee some \$2-billion in cost overruns. The Air Force contends that his job was one of a number dropped in an economy move, and thus he was not dismissed at all.

If left unchanged, Mr. Nixon's statement of yesterday could have wrecked the Air Force's case before the Civil Service Commission.

President Nixon was asked about the matter yesterday at his news conference in connection with the use of executive privilege, specifically in the refusal of Air Force Secretary Robert C. Seamans Jr. to disclose at the Civil Service hearing any part that the White House had played in the dismissal.

Executive privilege not to testify has been used to protect conversations between

Administration officials and the President, but Mr. Seamans seemed to be expanding its use to conversation with anyone in the Executive branch.

Nixon Statement Quoted

"Let me explain," Mr. Nixon said at his news conference. "I was totally aware that Mr. Fitzgerald would be fired or discharged or asked to resign. I approved it, and Mr. Seamans must have been talking to someone who had discussed the matter with me. No, this was not a case of some person down the line deciding he should go. It was a decision that was submitted to me. I made it, and I stick by it."

This, in effect, repudiated the Air Force's contention in the dismissal hearings that Mr. Fitzgerald had not been dismissed.

Civil Service regulations say that employes covered by the Civil Service Law cannot be dismissed without just cause.

Today, Ronald L. Ziegler, White House press secretary, was asked why Mr. Nixon had dismissed Mr. Fitzgerald. He said that there was some question about the statement made at the news and that he would have to confer with the President.

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Additional paragraphs, same story, as carried by SFChronicle 2 Feb 73:

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TRANSCRIPT

Ziegler later said the President had read the transcript of the news conference and concluded "he was mistaken in regard to Fitzgerald. The President did not have put before him the decision regarding Mr. Fitzgerald."

Ziegler said a search of the records had been made and that no record could be found of the matter being

brought to the President's attention.

"He simply mistook himself," Ziegler said.

This, then, seemed to confirm the impression that the use of executive privilege had been expanded by Seamans because he invoked it not to protect a conversation with the president but with someone else in the administration.

Ziegler contended that use of executive privilege was not improper because it related to "a matter done totally within the executive branch."

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