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## Nixon Ex-Aide Rejects 'Executive Privilege'

By Morton Mintz

A former special counsel to President Nixon has rejected administration's broad claims of immunity to questioning and says he will testify in behalf of a former Air Force official "brutally mistreated by his government."

The former aide-newsman Clark R. Mollenhoff-said executive privilege is being used to cloak an "unconscionable Air Force cover-up" in the case of A. Ernest Fitzgerald, who blew the whistle on cost overruns of \$2 billion in the C-5A transport program and later lost his job. A Civil Service Commission examiner is holding hearings on the Fitzgerald case.

Mollenhoff already given lawyers for Fitzgerald a "memorandum for the files" he prepared on Nov. 13, 1969, after meeting with Air Force officials on the Fitzgerald matter at the White House.

Mollenhoff also gave Fitzgerald's lawyers copies of let-ters to President Nixon and his counsel, John W. Dean III, in which he said:

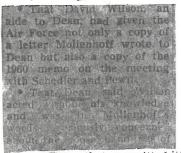
• That for months after the Air Force Office of Special Investigations had established there was no foundation for vague charges that Fitzgerald vague charges that Fitzgerald had violated security and had a conflict of interest, ton Air Force officials continued to smear Fitzgerald by repeating the charges to Mollenhoff at the White House as well as

at the White House as well as on Capitol Hill.

That Mollenhoff, challenged the officials, including Assistant Secretary Spencer J Schedler and Col. James Pewitt, his executive officer, to decument the report in wall. document the report in writing, but that they "stalled for weeks and months but hever did admit that they had no

oase."

That even Mr. "Nixon could not have known of "the enormity of the crime," because Air Fouce Secretary Robert C. Seamans Jr and his aides were able until reseatly to wrap the case in near-total secrety.



them to fall into the hands of refused to say. Had he come those who may be involved in prepared to tell the whole a conspiracy against Fitzger-

as asserted by Mr. Nixon is a only "insofar as I can," he told "disservice" most of all to the William L. Sollee, a lawyer for President because "he is usually the one most in the dark about the petty and dishonest

Although Mollenhoff, now chief of the Washington bureau of The Des Moines Register, stands ready to testify, the Air Force has objected.

As a result, appeals hearing examiner Herman D. Staiman has asked Fitzergerald's lawyers to submit written answers to these questions:

Were Mollenhoff's White House communications and conversations with executive conversations with executive branch officials "privileged"? Is Mollenhoff free to testify about them? Would he need prior White House authorization? Who can invoke the prior White House authorization? The second prior white House authorization? The second prior with the second prior wi authorization apart from the

hese papers that permitted itt to refuse to answer? He

"I came prepared to tell the • That executive privilege truth," but "the whole truth" Fitzgerald.

about the petty and dishonest activities of his subordinates who control the flow of information to the President."

Seamans, testifying on van.
30, invoked executive privilege in refusing to discuss the White House role in the firing of Fitzgerald on Nov. 4, Seamans, testifying on Jan. 1969, as assistant secretary for financial management. never received any instructions, but I will not say I did not receive any advice," Sea-mans said. "My view is that there should be executive privilege."

> Attorney Sollee said yesterday that next week he will file a paper asserting an unquali-fied right for Mollenhoff to testify without permission from

on Jan. 30, repudiated the con-Repeatedly in the hearing, Secretary Seamans, Assistant Secretary Scheduler and Col. Pewitt invoked the privilege. On March 7, for example, Pewitt refused to say whether he met with Mollenhoff on Nov. 13, 1969, on the grounds that this was "privileged in ormation."

Had someone directed Pew "miscards" is sistent Air Force contention at an economy cutback forced out Fitzgerald. The firing, Mr. Nixon said, "was a decision that was submitted to me. I made it and I stick by it." The next day, however, presidential press secretary Ronald Ziegler said that Mr. Nixon realized on reading the conference transcript that he rmation."

Had someone directed Pew-"misspoke."