

National Security May Be Issue

Nixon's New Watergate Adviser

Washington

President Nixon's new special counsel on Watergate, J. Fred Buzhardt Jr., once carried on a long battle with Senator Sam Ervin (Dem.-N.C.) over disclosure of what the Nixon administration considered national security information.

Administration and Capitol Hill sources who remember that clash see his appointment as a sign that the Nixon administration intends to use national security as justification for some aspects of the Watergate affair—and as a shield against disclosing further information.

The White House announced that Buzhardt has joined the staff as special counsel, to spend full time on Watergate matters. It was explained that Leonard Garment, who has been serving as presidential counsel, had a too heavy workload.

Associates of Garment said, however, they did not believe he had asked to be relieved of responsibilities for Watergate. Garment is considered by many to be one of the most liberal members of the Nixon administration.

Buzhardt has been general counsel of the Department of Defense since August 1970. Following announcement of his new job, aides to Senator Ervin recalled Buzhardt's resistance to Ervin's efforts to gain information from the Pentagon about military surveillance of civilian political activities.

Testifying before a Senate subcommittee headed by Ervin in March 1971, Buzhardt defended collection of such information by the military, as long as there was no direct interference with civil rights.



J. FRED BUZHARDT
Pentagon lawyer

Later, Ervin and Buzhardt, along with other Pentagon officials, engaged in a prolonged correspondence stemming from the senator's unsuccessful efforts to get additional witnesses and documents for his investigation.

Ervin then wrote Secretary of Defense Melvin R. Laird to complain about the military's attitude. He cited among other examples of non-cooperation, portions of letters from Buzhardt.

In one such example Buzhardt explained the refusal to release materials to the committee on grounds of "consistent executive branch policy." In another Buzhardt wrote: "I do not believe it appropriate that the general officers in question appear before your subcommittee."

Ervin commented: "If I were suspicious person, I would draw the inference that the subcommittee had been given the 'run-around.'"

In his letter to Laird, Ervin included the text of a proposed Senate resolution authorizing the subcommittee to subpoena the witnesses and materials it wanted.

Only then, subcommittee staffers said, did the Pentagon release some of the requested material.

Ervin aides also recall Buzhardt's appearance before another subcommittee hearing, on executive privilege, in which he defended the administration position

that the president had broad authority to shield members of his staff from congressional inquiry.

Buzhardt's name also came up in the Daniel Ellsberg trial in Los Angeles, when a defense witness said Buzhardt might have been responsible for trying to suppress evidence damaging to the prosecution.

The witness, Edward A. Miller, a retired air force colonel, testified that he had written a study for the government which concluded that release of the Pentagon papers would not hurt the national defense.

Miller said he had seen a confidential memorandum, which originated in Buzhardt's office, ordering the removal of his report from the Pentagon's files. But he said he was not certain it was Buzhardt who had ordered his removal. And Buzhardt testified that he had never given such an order and never even heard of Miller's report.

Last week it was disclosed that Buzhardt had refused permission to convicted Watergate conspirator E. Howard Hunt Jr. to see classified defense department documents relating to the Pentagon papers in 1971. Hunt had been given permission by the state department to look through its cable files.

Those who believe the White House may rely heavily on a national security defense in the Watergate

case cite reports that the White House sought to withhold information from the judge presiding over the Ellsberg trial on grounds it might hurt the national security. The White House said these reports were "unfounded."

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