

Nixon Keeps Milk Price Data Secret

Washington

At the direction of President Nixon, White House lawyers declined yesterday on the ground of executive privilege to disclose the contents of nearly 100 official documents sought by Ralph Nader in a lawsuit to roll back the price of milk.

The Nader suit, filed in January 1972, accuses the Nixon administration of "improperly and unlawfully" raising the federal price level for raw milk—a decision worth \$500 million to \$700 million a year to dairy farmers—in return for dairy industry campaign contributions to Mr. Nixon's 1972 re-election campaign that exceeded \$422,000.

The case is still in the pre-trial stages.

The President's insistence on blocking disclosure of the documents — White House memoranda, correspondence and "internal communications" on the milk price question and the milk campaign gifts — was made in an affidavit filed in the U.S. district court here by Leonard Garment, acting counsel to the President.

AFFIDAVIT

Garment's affidavit said he was opposing a Nader subpoena for the milk case

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documents "at the direction of the President."

It said the President invoked the chief executive's claim of immunity from such a subpoena because the release of such evidence "would be injurious to the public interest."

The affidavit, placed before U.S. District Judge William B. Jones, said the White House also had invoked the privilege protecting "the lawyer-client relationship" between Mr. Nixon and his White House legal staff.

Jones is expected to hold a hearing on the contention of William A. Dobrovir, Nader's lawyer, that the concept of executive privilege is not absolute.

Dobrovir told newsmen he will argue strenuously for disclosure.

PROTECT

Executive privilege is the doctrine that the internal advisory communications of the executive branch de-

serve protection from public disclosure to preserve the President's flow of "frank recommendations, opinions and considerations," as Garment put it yesterday in his affidavit.

The doctrine also raises a constitutional question of the separation of powers between the executive, judicial and congressional branches of government. Can a court, for example, compel the President to produce documents in a civil lawsuit.

MEETING

The milk conflict began in 1971 when the White House abruptly overruled the published decision of former Secretary of Agriculture Clifford M. Hardin to hold the line on the federally fixed price paid to dairy farmers. Hardin's decision, based on departmental economic studies, was not to permit a price increase aggressively sought by the dairy farm industry.

Hardin's decision was announced on March 12, 1971.

By March 23 a White House meeting was arranged between Mr. Nixon, Hardin and 16 top executives of the largest milk marketing cooperatives, which held hundreds of thousands of dollars in their "political action" trust funds.

And on March 25, with little explanation, Hardin's office announced a reversal of his 13-day-old hold-the-line position.

Hardin subsequently resigned.

Documents and testimony already subpoenaed and filed in the milk suit have since revealed that close associates of Mr. Nixon, including Herbert W. Kalmbach, the President's former law-

yer, and Murry M. Chotiner, a Nixon confidant and a former White House assistant, were involved in lobbying for the milk price reversal or in collecting the campaign contributions of the dairymen that immediately followed it.

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