Nixon's Case For Quashing Dairy Memos

Washington

The Nixon administration contended yesterday that inspection of White House papers by the judiciary — even in s e c r e t — would "do irreparable injury to the principle of the separation of powers."

Moving t o protect the White House's flanks on the contested doctrine of executive privilege, Justice Department lawyers made the argument in a last - minute effort to block production of 67 official memos concerning the dairy industry and the government's controversial 1971 increase in milk price supports.

U.S. District Judge William B. Jones had ordered the government to submit the documents today for his private inspection. The papers are being sought by consumer groups who charged in a lawsuit filed last year that the higher price supports were a payoff for early contributions to Mr. Nixon's 1972 re - election campaign.

Citing what they described as the White House viewpoint, the Justice Department asserted that "t h e mere production of these documents in camera (in chambers) creates a substantial breach in the constitutional doctrine of separation of powers."

Compliance w i t Judge Jones' ruling, the government lawyers suggested, could also compromise the President's claims of executive privilege in the face of subpoenas by special Watergate prosecutor Archibald Cox and the Senate Watergate investigating committee.

"In view of the related questions of executive privilege now being adjudicated . . . in several other cases of great public importance, the subject is obviously one which should be preserved for appellate consideration without the necessity for interim compliance," the justice department contended in asking for the stay.

Overriding White House protests in the milk fund case after a July 27 hearing, Judge Jones ruled that the documents involving t h e dairy industry should be submitted to him so that he could determine which ones, if any, should be handed over to the consumer groups pressing the lawsuit.

Washington Post