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Nixon Yields Some Memos In Milk Suit

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Trimming back its claims of executive privilege, the White House offered a series of secret administration memos for private judicial review yesterday in connection with a lawsuit over a disputed increase in milk price supports.

Acting White House counsel Leonard Garment stressed, however, that the most sensitive documents sought in the case were still being held back.

He told the U.S. Circuit Court of Appeals here that President Nixon had authorized the step in order to narrow the issues at stake.

In an affidavit filed with the appellate court yesterday afternoon, Garment said he was turning over seven memos to Ralph Nader and other plaintiffs in the case, and submitting 24 others, six of them censored, for a court ruling on their release.

The censored segments of the six memos and another 36 memos—all "central to the decision-making process by the President and his staff"—are being kept in White House custody, according to the court pleadings.

Acting on Mr. Nixon's orders, the White House had as-

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serted executive privilege in July for all 67 memos concerning the dairy farm industry and the controversial 1971 increase in milk price supports.

U.S. District Court Judge William B. Jones rejected Garment's sweeping claims of secrecy and ordered all of the documents turned over to him for in camera (in chambers) inspection.

The Justice Department appealed the decision on Garment's behalf, putting the issue before the appellate court.

The documents had been subpoenaed in a lawsuit brought by Nader, Public Citizen, Inc., and other consumer groups who charged that the higher price supports were a payoff for early campaign contributions to Mr. Nixon's 1972 re-election effort.

Garment said a study of the administration memos showed some were simply "reports on news items and staff activity mainly in support of govern-

mental actions and decisions already reached." These, he said, were being turned over to the plaintiffs' attorney, William A. Dobrovir.

The 18 memos and censored versions of six others turned over to the Circuit Court of Appeal under seal, Garment said, involved White House staff working papers on such questions as the impact of price supports on the supply of milk and White House staff estimates of what Congress was likely to do about the subsidies.

The Justice Department, in a memo filed with Garment's affidavit, described these as "technical advisory documents" that were being offered for court review because of "their less sensitive nature."

Garment made clear, however, that the White House would continue to fight to maintain the secrecy of the biggest batch of documents—36 memos with supporting papers and portions of six others.

Among these were a series of memos dealing with a March 23, 1971, meeting at the White House between Mr. Nixon, then-Secretary of Agriculture Clifford Hardin, and more than a dozen representatives of three dairy farm co-

ops that had already started a series of campaign contributions for Mr. Nixon eventually totaling \$422,500.

Hardin had refused to increase the government's milk price supports on March 11, 1971, but he reversed himself two days after the White House meeting.

Other documents that Garment said are still being withheld include five prepared by then-White House counsel John W. Dean III in 1972 about the Nader suit.

Garment described the documents which Mr. Nixon still wants kept secret as falling into four categories:

- "Candid opinions delivered in confidence" about the views of members of Congress, congressional staffs and the public concerning milk price supports.

- Documents concerning the efforts of Mr. Nixon and the White House staff to present the administration's concerns and actions "to interested publics" and particularly to the dairy industry, "in a fashion designed to elicit a sympathetic hearing."

- Documents addressed to the President, including briefing papers or memoranda as well as White House memos "reflecting events at meetings

with the President and decisions reached by the President."

- Memos from Dean about the lawsuit, which was filed early in 1972.

In submitting the new breakdown, Garment asked the appellate court either to send the dispute back to Judge Jones for a new look or to take charge of the case itself in light of the fresh distinctions. What remains to be decided, the court was told, are papers dealing "with the core" of executive privilege where the White House feels its claims strongest.

Attorney Dobrovir was un-

impressed. "It's obvious that they have withheld the memos that would seem from their description to have the most value as evidence in this case," he said. "The court must still get all the documents."

In the parallel fight over Mr. Nixon's Watergate tapes, Special Prosecutor Archibald Cox urged the appellate court not to "shrink from entry of a coercive order" requiring the President to produce those recordings.

Cox made the plea in a supplementary brief filed with the court in the wake of its Tuesday hearing on the issue.

The prosecutor argued that U.S. District Court Judge John J. Sirica, by refusing to order Mr. Nixon to give the tapes directly to the Watergate grand jury here, in effect excluded evidence that it needs.

Suggesting that a direct order against Mr. Nixon is warranted, Cox said a ruling short of that might have uncertain impact in light of Mr. Nixon's public suggestions that he is waiting for a "definitive" decision from the Supreme Court.

The White House has until next Wednesday to submit its response.