

Agnew Guard Held Illegal

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The comptroller general ruled yesterday that it is "beyond question" that President Nixon had no legal authority to provide Secret Service protection for Spiro T. Agnew after he resigned as Vice President.

In a strongly worded opinion that contained implicit criticism of the administration's position on the issue, Elmer B. Staats said Mr. Nixon's claim of inherent executive power is "without foundation."

Staats described as "untenable" a Jan. 31 Treasury Department statement de-

new. Responding to an interim finding by Staats on Jan. 28 that there appeared to be no justification for protecting Agnew, Treasury officials had said they were only following what they considered to be a "reasonable directive" of the President.

Staats' most recent—and apparently final — finding was in a letter to Rep. John E. Moss (D-Calif.), who had asked for a conclusive opinion. Moss, in turn, wrote to Treasury Secretary George P. Shultz demanding that Agnew's protection be ended immediately.

"It is a violation of law to continue to do so, particularly in light of the lack of any authorization or appropriation

for such a purpose," Moss told Shultz.

Moss also wrote to Rep. George H. Mahon (D-Tex.), chairman of the House Appropriations Committee, asking for an investigation of the expenditure of funds for the protection of Agnew.

In his interim report, Staats said that from Oct. 10, when Agnew resigned and pleaded no contest to a charge of income tax evasion, to Dec. 15 the cost of the Secret Service protection totaled \$89,222.

The Secret Service has not revealed how many agents have been assigned to Agnew, and has said only that they have continued their protec-

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tion of him at the request of Mr. Nixon and Shultz.

Government sources said yesterday that the manpower costs of protecting Agnew have remained fairly steady since Dec. 15 at approximately \$30,000 a month, but that the expenses of the agents has dropped off steadily to about \$1,000 monthly because the former Vice President has not been traveling extensively.

In November, Secret Service officials said that their protection of Agnew would probably be ended in mid-April, which would be approximately six months from when Agnew left office.

As a precedent for protecting a former Vice President, the Treasury Department had cited Hubert H. Humphrey, who was guarded for about six months after he left the vice presidency in 1969.

Treasury officials have also noted that Sen. Edward M. Kennedy (D-Mass.) was given protection in September and October, 1972, after the assassination attempt on Alabama Gov. George C. Wallace.

Asked whether the White House would order the lifting of Agnew's guard, deputy press secretary Gerald L. Warren said yesterday, "I know of no change to announce."

He said he expected Staats' opinion to be taken under advisement by White House officials.

The Treasury Department

said it will have no comment until it responds to Moss's letter.

In his opinion, Staats said that the 1964 law that provides for Secret Service protection for incumbent Presidents and Vice Presidents, and for former Presidents for their lifetimes, contains no provision for guarding former Vice Presidents.

"It is thus beyond question that there is no statutory authorization for protection of former Vice Presidents," he wrote.

The same act, Staats said,

does give the President discretionary authority to order the protection of distinguished foreign visitors to the United States, and of official U.S. representatives abroad.

Staats said it was clear that in ordering the protection of Agnew, Mr. Nixon had relied upon his inherent power in "the conduct of foreign affairs."

"No such justification appears to be present in this case. Accordingly, the claim of inherent executive power is without foundation," Staats declared.