

'Executive Privilege' Dispute

A Judge's Order to

Washington

President Nixon yesterday claimed executive privilege in his communications with Maurice H. Stans about giving federal jobs to major campaign contributors, but a federal judge ordered Stans' files delivered to him for his decision.

"Get 'em here, get 'em here," Chief U.S. District Judge George L. Hart ordered Stans' lawyer Robert W. Barker. "Not today. Monday will do."

When Barker protested that Watergate prosecutors had not proven that the files were needed for their investigation, Hart cut him short:

"Counsel, bring them down Monday. I'll take a look at them."

Hart said he will follow the same principles laid down in the landmark case concerning seven of Mr. Nixon's secret tape recordings in which Judge John J. Sirica listened to the tapes, decided on the President's claims of executive privilege and then sent relevant portions to a grand jury.

Stans' lawyer submitted a letter from the White House saying that Mr. Nixon has claimed executive privilege on "advice" he received from Stans on all but four potential appointees to his administration.

Hart ruled after a 3½-hour hearing during which Watergate prosecutors sought enforcement of a subpoena for a large batch of Stans' records in connection with the continuing investigation into whether governmental favors were dispensed to major Nixon contributors.

Herbert W. Kalmbach, who is Mr. Nixon's former personal attorney and has pleaded guilty to promising

a European ambassadorship to J. Fyfe Symington in exchange for his \$100,000 gift to the 1972 Nixon campaign, appeared as a witness at the hearing.

Kalmbach testified he had had several discussions with Stans about the Symington matter and repeatedly reminded the former Commerce secretary that "I had

been authorized to commit to Mr. Symington a future ambassadorial European post" in exchange for his contribution.

Kalmbach was not asked and did not say who had given him that authorization.

Stans, who was Mr. Nixon's chief fund raiser in both 1968 and 1972, is contending

that the documents subpoenaed are his personal papers and thus protected from disclosure by the Fifth Amendment and executive privilege.

When asked about Kalmbach's plea at a February 25, 1974, news conference, Mr. Nixon said:

"Ambassadorships have

Stans

not been for sale, to my knowledge, ambassadorships cannot be purchased, and I would not approve an ambassadorship unless the man or woman was qualified clearly apart from any contributions."

A federal grand jury is investigating whether, in fact, governmental favors were traded for contributions to Mr. Nixon's 1972 re-election campaign.

The letter claiming executive privilege was written by presidential counsel J. Fred Buzhardt. It said it is "the position of the President" that talks with Stans remain secret.

"It is critical to the President's ability to perform his appointed function that he receive candid and uninhibited advice and comment on prospective appointees from persons within or without the government," Buzhardt wrote.

The letter, addressed to Barker, said executive privilege would be waived for Symington; Ruth Farcas, a \$200,000 Nixon contributor and ambassador to Luxembourg; Vincent de Roulet, former ambassador to Jamaica and a \$50,000 contributor, and Cornelius V. Whitney, who made a \$250,000 contribution that was returned amid speculation it was part of a deal involving the ambassadorship to Spain.

"The President has directed that I inform you that with advice given him on any other candidate for nomination, he will assert a claim of executive privilege and that you are authorized to so represent to the court and should the issue ripen, the President will file a formal claim of privilege," Buzhardt wrote.

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