

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

The Reporters Committee for
Freedom of the Press
1750 Pennsylvania Avenue, N.W.
Room 1112
Washington, D.C. 20006
(202) 298-7460

American Historical Association
400 A Street, S.E.
Washington, D.C. 20003
(202) 544-2422

American Political Science Association
1527 New Hampshire Avenue, N.W.
Washington, D.C. 20036
(202) 483-2512

James MacGregor Burns
High Mowing, Bee Hill Road
Williamstown, Massachusetts 02136

Nat Hentoff
25 Fifth Avenue
New York, New York

Donald G. Herzberg
2934 Edgevale Terrace, N.W.
Washington, D.C. 20008

William Leuchtenburg
86 Buena Vista Drive
Dobbs Ferry, New York 10522

Arthur Link
26 Mercer Street
Princeton, New Jersey 03540

J. Anthony Lukas
25 West 76th Street
New York, New York

Austin Ranney
American Enterprises Institute
1150 17th Street, N.W.
Washington, D.C.

No. _____

Clement E. Vose
20 Miles Avenue
Middletown, Connecticut 06457

Plaintiffs

vs.

Curys R. Vance, individually
and as Secretary of State
2201 C Street, N.W.
Washington, D. C.
(202) 655-4000

Daniel J. Boorstin, individually
and as Librarian of Congress
1st Street, between East Capitol
and Independence Ave., S. E.
Washington, D. C.
(202) 426-5000

Henry A. Kissinger
Suite 520
1800 K Street, N.W.
Washington, D. C.
(202) 872-0300

Defendants.

COMPLAINT

Plaintiff, for their complaint herein, alleges as follows:

I. NATURE OF THE ACTION

1. This is a civil action for declaratory, injunctive and mandamus relief. Plaintiffs sue as individuals engaged in the professions of education, journalism, history and political science, as organizations of such individuals, and as individual citizens and taxpayers. They seek review of the Department of State's denial of their Freedom of Information Act request for the transcribed secretarial notes of the telephone conversations

held by defendant Henry Kissinger during his service as Assistant to the President for National Security Affairs and Secretary of State. These notes are now in the process of being transferred to the Library of Congress pursuant to two unlawful agreements between defendants Kissinger and Boorstin that will deny the public access to them, except on such terms as defendant Kissinger determines, for twenty-five years or five years after the death of defendant Kissinger or the other parties to the conversation, whichever occurs later. Plaintiffs assert that these notes -- which reflect official conversations, were prepared and edited by government employees, stored in government facilities and used by other government employees as part of their duties -- have always been the property of the Department of State, and thus could not lawfully be disposed of by defendant Kissinger pursuant to private agreement. But for the unlawful agreements between defendants Kissinger and Boorstin, these historic documents would now be available for use, study and inspection by the Government and by private citizens seeking disclosure according to the established standards and procedures of the Freedom of Information Act.

This action seeks to prevent defendants Kissinger and Boorstin from effectuating the unlawful agreement transferring the notes to the Library of Congress and denying the public access thereto; to compel the Department of State, as their lawful owner, to regain custody of these notes; and to provide for an orderly examination of the notes and their release to plaintiffs and others on the basis of the standards for disclosure established by and under the Freedom of Information Act.

II. JURISDICTION AND VENUE

2. Jurisdiction is conferred on this Court by the Freedom of Information Act, 5 U.S.C. § 552, by the Administrative Procedure Act, 5 U.S.C. §§ 702-04, and by 28 U.S.C. § 1331 (federal question), § 1361 (action to compel federal officer to perform duty), and §§ 2201 and 2202 (declaratory judgment). The amount in controversy, exclusive of interest and costs, exceeds in monetary value the sum of \$10,000. A substantial portion, if not all, of the documents at issue in this action are now located within the District of Columbia, in the custody of defendants Boorstin or Kissinger, and many of the pertinent acts, occurrences and omissions (including the denial of plaintiffs' Freedom of Information Act request) transpired within the District of Columbia. Defendants are all found within, and are subject to service of process in, the District of Columbia.

III. DESCRIPTION OF THE PARTIES

3. The Reporters Committee for Freedom of the Press, founded in 1970, is the only organization in the nation exclusively devoted to protecting the First Amendment and freedom of information interests of the working press of all media. The Committee publishes a Press Censorship Newsletter, which is a compendium of all current governmental actions affecting the news media; it maintains a News Media Law Information Center and Press Law Citation Service; it conducts in-depth research projects on various First Amendment problems; and it assists reporters pursuing freedom of information claims.

4. Plaintiff American Historical Association is a membership organization composed of approximately 18,000 members who are

engaged primarily in the teaching, study and writing of history. It was founded in 1884, and chartered by Congress in 1889, for the purpose of "the promotion of historical studies, the collection and preservation of historical manuscripts, and for kindred purposes in the interest of American history"

The constitution of the Association mandates that it "encourage the collection and preservation of historical documents," "insure equal access to information," and "foster the dissemination of information about historical records and research." The Association publishes the American Historical Review and sponsors lectures, conventions and symposia where its members report and discuss their research, based on their study of original documents and other historical materials.

5. The American Political Science Association, founded in 1903, is the major professional organization in the United States devoted to research and education about the art and science of politics and government. Most of its approximately 17,000 members are political scientists teaching in colleges and universities. Its membership also includes graduate students, lawyers, journalists, federal, state and local government officials and elected political representatives. One of the principal activities of the Association is facilitating the dissemination of scholarly information of interest to those engaged in the study of political science. Toward this end, the Association publishes two quarterly journals, The American Political Science Review and PS.

6. Plaintiff James MacGregor Burns is Woodrow Wilson Professor of Political Science at Williams College and President-elect of the American Political Science Association. Plaintiff Burns has been and is engaged in a continuing study of political

leadership and the Presidency. He has studied Presidential papers of several administrations. He has done research into the Presidency of Richard Nixon and intends to do further work on that subject. He is the author of several books on the Presidency and the recipient of various awards including the Pulitzer Prize in History, the National Book Award and the Francis Parkman Prize. He is co-author of a textbook entitled Government By The People concerning American political institutions. Said textbook is revised periodically, and plaintiff Burns is under contract with the publisher, Prentice-Hall, Inc., to supply further timely revised editions dealing with events subsequent to those covered in present editions. In order to continue his work, it is necessary that plaintiff Burns have access to the secretarial notes at issue in this action.

7. Plaintiff Nat Hentoff is a member of the Steering Committee of The Reporters Committee for Freedom of the Press. He is a staff writer for the New Yorker Magazine, a columnist for the Village Voice, and the author of a number of books on public affairs. Plaintiff Hentoff frequently writes on current public affairs and governmental problems and has written and will continue to write about those aspects of the Nixon Administration, including the activities of the Department of State and the conduct of American foreign policy, which he believes have affected, or might in the future affect, civil liberties and civil rights.

8. Plaintiff Donald G. Herzberg is Dean of the Graduate School of Georgetown University and Professor of Government. He is the former Director of the Eagleton Institute of Politics of Rutgers University and was Executive Director of the Presidential

Commission on Registration and Voting Participation. Plaintiff Herzberg has published works in the area of American government and politics, on political parties, political campaigning, elections, registration and voting and executive-legislative relations. In order to continue his scholarly pursuits of teaching and publishing, it is necessary for plaintiff Herzberg to be able to study the transcribed notes of defendant Kissinger's telephone conversations that are the subject of this litigation.

9. Plaintiff William Leuchtenburg is DeWitt Clinton Professor of American History at Columbia University. He has done research in presidential archives at the Franklin D. Roosevelt and John F. Kennedy libraries; has written books and articles on recent American history; and is now writing the final volume of the Oxford History of the United States, covering the period 1945-1977, which embraces the Nixon Presidency. Oxford University Press has contracted to publish this volume. Plaintiff Leuchtenburg has also contracted with Oxford University Press for a major revision of the Growth of the American Republic, which will include the Nixon Presidency. Plaintiff Leuchtenburg is author of A Troubled Feast, published by Little, Brown & Co., which covers the first Nixon term, and which plaintiff Leuchtenburg will soon revise to cover the period of the second administration. Plaintiff's ability to continue his research and writing about the Nixon years will be substantially affected if he is denied access to the important transcribed notes of conversations at issue in this action.

10. Plaintiff Arthur Link is Edwards Professor of American History at Princeton University and Director of the Woodrow Wilson Papers there. He is engaged in a continuing study of 20th Century

American history and conducts a course in 20th Century American history. He has worked extensively in the collections of papers of recent American presidents and plans to do such work and study in connection with the papers and other records of the Nixon Administration. He is the author of a textbook entitled American Epoch. Said textbook is in its fourth edition. Plaintiff Link intends to do revised editions in the future and such revised editions are expected by the publisher; Alfred A. Knopf. The materials at issue in this case are pertinent to and necessary to the proper preparation of such revisions.

11. Plaintiff J. Anthony Lukas is a member of the Steering Committee of The Reporters Committee for Freedom of the Press. From 1962 to 1972 he was a domestic and foreign correspondent for the New York Times, and he currently is a free-lance writer who has published articles in the New York Times Magazine, Harpers, Esquire, Saturday Review and other publications. He is a senior editor of (MORE), a national magazine on the press. He is the author of two special issues of the New York Times Magazine dealing with the Watergate affair. He is a Neiman Fellow and a Pulitzer Prize winner. Plaintiff Lukas is currently preparing, and may prepare in the future, articles on the Administrations of Richard M. Nixon and Gerald Ford. In order to prepare accurate, timely and scholarly works, it is essential that plaintiff Lukas examine and study the transcribed notes of defendant Kissinger's official conversations that are at issue in this action.

12. Plaintiff Austin Ranney is Professor of Political Science at the University of Wisconsin and President of the American Political Science Association. Plaintiff Ranney is

engaged in research dealing with changing American attitudes toward their national political institutions, including the growth of the feeling of political alienation from their government on the part of the citizens of the United States, and, specifically, from the institution of the Presidency during the Nixon Administration. Plaintiff Ranney's field of study includes, in addition, the legal regulation of political campaign expenses. In order to fulfill his obligations as a scholar and author, it is necessary for plaintiff Ranney to study the transcribed notes of conversations that are the subject of this litigation.

13. Plaintiff Clement E. Vose is John E. Andrus Professor of Government of Wesleyan University and Representative of the American Political Science Association to the Archives Advisory Board of the U.S. Archives and Records Service. As Professor of Government plaintiff Vose is engaged in general research in American government and politics and has a special interest in the preparation and publication of material on a continuing basis on availability and use of scholarly material in libraries and other depositories. In order to prepare effectively and publish source material publications, it is necessary for plaintiff Vose to study the transcribed notes of conversations that are the subject of this litigation.

14. All of the plaintiffs have direct, immediate and specific legal interests in assuring that the original notes of conversations at issue in this action are preserved, maintained and controlled as property of the United States Government and its citizens. As educators, journalists, historians and political scientists, plaintiffs presently desire, and in the future will desire, to study, compile, analyze, interpret and report on the

telephone conversations of defendant Kissinger reflected in the transcribed notes at issue herein. All of the plaintiffs are presently being injured by the unavailability of these materials and they will be irreparably injured in the future if the agreements between defendants Kissinger and Boorstin, described below, are carried out.

15. Defendant Cyrus R. Vance is the Secretary of State. In his official capacity, defendant Vance is responsible for seeing that the Department of State meets its obligations under the Freedom of Information Act, including the obligation to reclaim and make available to the public the Department records that are the subject of this action.

16. Defendant Daniel J. Boorstin is the Librarian of Congress. In his official capacity, defendant Boorstin executed the agreements with defendant Kissinger that effect the transfer to the Library of Congress of the transcribed secretarial notes that are the subject of this action. As Librarian of Congress, defendant Boorstin is currently the custodian of portions of those notes.

17. Defendant Henry A. Kissinger was Assistant to the President for National Security Affairs from approximately January 20, 1969 until approximately August, 1973. From that time until on or about January 20, 1977, defendant Kissinger was Secretary of State. The documents at issue in this action are the secretarial notes of defendant Kissinger's telephone conversations during the time he held these positions. Defendant Kissinger is one of the parties to the agreements pursuant to which the notes were transferred to the Library of Congress, and he and his designees now have custody of portions of those notes.

IV. NATURE OF THE SECRETARIAL NOTES

18. On information and belief, substantially all of the telephone conversations of defendant Kissinger concerning official matters were monitored or recorded while he served as Assistant to the President for National Security Affairs and Secretary of State.

19. On information and belief, verbatim transcripts of these conversations, or secretarial notes that reflected their contents substantially verbatim, were prepared after the conversations occurred.

20. On information and belief, these transcripts or notes (both hereinafter referred to as "secretarial notes") were prepared by Government employees in the discharge of their official duties, on government time and with the aid of equipment, materials, office space and other services of the United States.

21. On information and belief, the secretarial notes of defendant Kissinger's conversations were retained in the normal course of Government business and stored in Government files.

22. On information and belief, the secretarial notes reflect the decisions, policies, deliberations, analyses, actions and contemplated actions in which defendant Kissinger and numerous other government employees participated in the course of discharging their official duties.

23. On information and belief, the secretarial notes were used as a record of official communications that could help defendant Kissinger recall prior conversations and events and insure appropriate administrative follow-up.

24. On information and belief, the secretarial notes were reviewed by defendant Kissinger and his subordinates for these purposes while they performed Government business.

25. On information and belief, the secretarial notes pertain, in whole or in part, to the ongoing affairs of the United States and are essential to the orderly maintenance of the established policies of the Government and to the ongoing deliberations, analyses and decisions that the Government is now conducting.

26. As documents prepared by and for Government employees as part of the ongoing governmental process, the secretarial notes have always been the property of the Department of State, not of defendant Kissinger as a private citizen, and constitute "agency records" within the meaning of the Freedom of Information Act, 5 U.S.C. § 552.

27. Under the statutes and established policies of the United States, including the Freedom of Information Act and the Federal Records Act, the officers, employees and agents of the United States are required to preserve the secretarial notes and, subject only to those exceptions provided by law, to make such notes available to the citizens of the United States, including plaintiffs, for purposes of inspection, study and reporting.

28. As journalists, historians, educators and political scientists, plaintiffs are an inherent part of the ongoing political process. This process depends on continuing and informed analysis, interpretation, and debate concerning issues of public interest and importance. Plaintiffs cannot perform this function if they are denied access to the notes of official conversations and other materials that reflect or relate to the policies, decisions and deliberations of the Government.

V. THE AGREEMENTS BETWEEN DEFENDANTS
KISSINGER AND BOORSTIN

29. On November 12, 1976, defendants Kissinger and Boorstin entered into a Deed of Gift and Agreement (hereinafter the "First Agreement"). Under this Agreement, a copy of which is annexed hereto as Exhibit A, defendant Kissinger, acting as a private citizen, donated to the United States as a gift a collection of personal and governmental papers in his possession. Under paragraph 3 of the First Agreement, defendant Kissinger undertook to deliver both sets of documents to the Library of Congress within three months of the Agreement's execution.

30. Paragraph 4 of the First Agreement provides that personal papers donated to the Library will not be available to public access until 25 years after the date of the Agreement or five years after the death of defendant Kissinger, whichever is later. Under paragraph 5 of the Agreement, public access to government papers donated to the Library will be unavailable for the same period and, thereafter, will be allowed only if the originating agency of the papers in question has determined that they contain no classified or restricted information.

31. Until public access is permissible pursuant to paragraph 4, examination of papers, subject to the First Agreement is limited by paragraph 5 to: (a) employees of the Library of Congress that have been jointly approved by the Librarian of Congress and defendant Kissinger; (b) persons who have received the written permission of Defendant Kissinger; and (c) after defendant Kissinger's death, persons who have received the written permission of a committee to be named in defendant Kissinger's will.

32. Under paragraph 6, defendant Kissinger is permitted unrestricted access to all papers covered by the Agreement during his lifetime. The Library of Congress is required to provide defendant Kissinger with working space where he can use the papers, and to permit examination of the papers by all research assistants of defendant Kissinger who have appropriate security clearances.

33. On November 11, 1976, Monroe Leigh, Esquire, then the Legal Adviser of the Department of State, wrote a memorandum to defendant Kissinger which considered whether the secretarial notes of defendant Kissinger's telephone conversations were the property of the Department of State, or instead were personal papers which defendant Kissinger could retain when he left office. The memorandum, a copy of which is annexed hereto as Exhibit B, concluded that the notes were not agency records but personal papers and therefore were the private property of defendant Kissinger.

34. On December 24, 1976, defendants Kissinger and Boorstin entered into a Second Deed of Gift And Agreement (hereinafter "Second Agreement"). Under this Agreement, a copy of which is annexed hereto as Exhibit C, defendant Kissinger donated to the Library of Congress the "transcribed secretarial notes of his telephone conversations." The Second Agreement incorporates by reference all the terms and conditions of the first Agreement of November 12, 1976 and further provides that public access to the notes will be permitted only with the consent, or upon the death, of the other parties to the telephone conversation in question. Thus, except when defendant Kissinger decides to release them to the public or to selected individuals, the notes of his telephone conversations will become available to interested persons such as plaintiffs only after this further

condition has been met and after the passage of twenty-five years or five years from defendant Kissinger's death, whichever is later.

35. While the Second Agreement vests nominal title to the secretarial notes in the Library of Congress, the prerogatives and incidents of ownership remain with defendant Kissinger, and the notes are effectively still held as his private property.

36. The Second Agreement would allow a private citizen, defendant Kissinger, to draw a curtain of secrecy over important policies, decisions and deliberations of the United States Government from January 20, 1969 through January 20, 1977.

37. The Second Agreement is void, and of no force and effect, for the following reasons, among others:

(a) The secretarial notes of defendant Kissinger's official conversations have always been the property of the Department of State, not of defendant Kissinger as a private citizen, and therefore could neither be transferred, donated or otherwise disposed of by a private citizen;

(b) The secretarial notes of defendant Kissinger's official conversations are "agency records" within the meaning of the Freedom of Information Act, 5 U.S.C. § 552 and enforcement of the terms of the Second Agreement would therefore deprive plaintiffs and others of their right to be informed of, and to have access to, the decisions, policies and deliberations of the Government as provided by that Act;

(c) The Second Agreement would deny plaintiffs access to and use of information concerning government policies, decisions and deliberations equal to the access available to defendant Kissinger and his designees and thus violates the First and Fifth Amendments to the United States Constitution;

(d) The Second Agreement violates the requirements of 44 U.S.C. §§ 3301-14, which establish strict and exclusive procedures for the disposal of records of the Government and which provide that records having "administrative, legal, research, or other value" should be retained;

(e) The Second Agreement violates Article IV, Section 3 of the Constitution, which provides that officers and employees of the United States lack the power and authority to dispose of or transfer property of the United States except as authorized by rules and regulations established by Congress; and

(f) The Second Agreement is in violation of 44 U.S.C. §§ 3101-07, which require each federal agency (i) to preserve records relating to the "organization, functions, policies, decisions, procedures and essential transactions of the agency. . .," (ii) to establish a continuing program for the "creation, maintenance and use of records in the conduct of current business. . .," (iii) to "establish safeguards against the removal or loss of records" deemed to be necessary and required by the agency, and (iv) to inform and assist the Administrator of General Services and the Attorney General in the prevention of "any actual, impending or threatened unlawful removal, defacing, alteration or destruction of records in the custody of the agency. . . ."

38. Even if the Second Agreement had been entered into by defendant Kissinger in his official capacity as Secretary of State, or were now so construed, it would still be void, and of no force and effect, for the following reasons:

(a) The Second Agreement violates the procedures for disposing of Executive Branch records required under 44 U.S.C.

§§ 3301-14 and therefore is contrary to Article IV, Section 3 of the Constitution; and

(b) The Second Agreement would deny plaintiffs and other members of the public access to the secretarial notes on the same terms as defendant Kissinger and his designees and thus violates the First and Fifth Amendments to the Constitution.

39. In agreeing to the terms of the Second Agreement, defendant Boorstin has exceeded his lawful authority as Librarian of Congress. Accordingly, the Library of Congress has no legal right to the secretarial notes of defendant Kissinger's telephone conversations and its continued possession of those notes is contrary to law.

VI. THE ARCHIVIST'S REQUEST

40. By a letter dated January 4, 1977 to defendant Kissinger, the Archivist of the United States indicated that portions of the secretarial notes covered by the Second Agreement might be official records which the United States Government had an obligation to retain. The letter, a copy of which is annexed hereto as Exhibit D, cited the Archivist's responsibilities under Federal statutes (44 U.S.C. §§ 2103, 2904, 2905 and 3303a and 44 U.S.C. § 2107) and requested that GSA archivists be permitted to review defendant Kissinger's secretarial notes to determine whether they met the definition of official records under these laws.

41. In a memorandum dated January 14, 1977, Monroe Leigh, Esq. considered the Archivist's request and concluded that it was improper. Inter alia, the memorandum, a copy of which is annexed as Exhibit E hereto, re-affirmed the Department's position that the secretarial notes of defendant Kissinger's conversations were his personal records.

VII. PLAINTIFF'S FREEDOM OF INFORMATION
ACT REQUEST

42. By a letter dated January 13, 1977, plaintiffs, through their attorneys, submitted to the Department of State a request under the Freedom of Information Act for, inter alia:

"All transcribed secretarial notes of the telephone conversations held by Henry Kissinger during his government service as Assistant to the President for National Security Affairs, commencing on or about January 20, 1969, and during his service as Secretary of State, extending through the present time. These documents include all of the "transcribed secretarial notes of [Secretary Kissinger's] telephone conversations" referred to in the Second Deed of Gift and Agreement, dated December 24, 1976, between Secretary Kissinger and Daniel J. Boorstin, Librarian of Congress."

A copy of plaintiffs' request is annexed hereto as Exhibit F.

43. By a letter dated January 28, 1977, the Department denied plaintiffs' request for access to the secretarial notes of defendant Kissinger's official telephone conversations. A copy of this letter is annexed hereto as Exhibit G. As the ground for its denial of plaintiffs' request, the Department asserted that the notes were not "agency records" subject to the Freedom of Information Act and, in any event, the notes were no longer in the Department's custody:

"The first part of your request pertains solely to the secretarial notes of telephone conversations involving former Secretary of State Kissinger. As you are aware, the Department's Legal Adviser concluded last year that these papers are not agency records under either the Freedom of Information Act or the Department of State regulations on record keeping. Instead, under the Department's regulations, these notes could be retained by Secretary Kissinger when he left office.

"These conclusions are reflected in memoranda of the Legal Adviser, dated November 11, 1976 and January 14, 1977. Based on these conclusions, Dr. Kissinger donated all of the notes in question to the Library of Congress. All of the notes have been delivered to the Library of Congress, and they are presently owned by and in the custody of the Library."

The letter also stated that, because of the ground for the denial, an appeal to the Department's Council on Classification Policy was necessary neither under Department regulations nor under the Freedom of Information Act:

"In conclusion, the Department cannot accede to the first portion of your request, on the ground that the papers requested are not agency records of the Department of State and are not in the custody or control of this Department. It is our view that this portion of your request is not technically subject to an appeal because the Department's appeal procedures (22 CFR 6.8) apply only where there has been a denial of existing "agency records" under one of the statutory exemptions of the Freedom of Information Act."

44. In order to discharge the functions and responsibilities of his profession, each of the plaintiffs has a particular and substantial need to obtain access to the secretarial notes of defendant Kissinger's phone conversations. Plaintiffs have in the past engaged in, and intend in the future to engage in, research, writing, analysis, interpretation and reporting on matters of current and historical importance and interest, including the Presidency and the decisions, policies and deliberations of the Government. Some of the plaintiffs are subject to contracts and professional commitments to publish books and other studies of the Nixon Administration. Their ability to fulfill their responsibilities will be thwarted if their right of access to the presidential materials is temporarily or permanently denied. Plaintiffs will also be damaged if access is granted to defendant Kissinger or his designees prior to the time that plaintiffs have access to such materials.

45. The secretarial notes of defendant Kissinger's conversations constitute valuable, irreplaceable information

resources of profound importance to plaintiffs in the conduct of their professions, and plaintiffs will be irreparably injured if custody of these materials remains in the Library of Congress under the terms specified by the two Agreements.

WHEREFORE, plaintiffs pray:

(a) That the Court declare that legal and equitable title to the secretarial notes has always been in the Department of State and not in defendant Kissinger;

(b) That the Court declare the First and Second Agreements to be null, void and of no legal effect insofar as they purport to effect a transfer from defendant Kissinger as a private citizen to the Library of Congress of the transcribed secretarial notes of defendant Kissinger's official telephone conversations;

(c) That the Court declare that the secretarial notes are now, and always have been, "agency records" subject to the Freedom of Information Act;

(d) That the Court issue an order in the nature of mandamus requiring the Librarian of Congress, defendant Boorstin, to relinquish custody over the secretarial notes and the Secretary of State, defendant Vance, to re-possess them;

(e) That the Court issue an order requiring the Secretary of State to produce to plaintiffs all the secretarial notes except those exempt from disclosure under one of the specific exemptions of the Freedom of Information Act;

(f) That the Court issue an order impounding the secretarial notes of Secretary Kissinger's telephone conversations during the pendency of this action so that the notes will not be destroyed or modified and so that plaintiffs are assured of

access to the notes on an equal footing with defendant Kissinger and his designees in the event they prevail in this action; and

(g) That the Court order such further relief as it may deem just and proper bearing in mind the rights of the plaintiffs to have access to governmental information.

Charles A. Horsky

Charles A. Horsky

Peter Barton Hutt

Peter Barton Hutt

Robert Matthew Sussman

Robert Matthew Sussman

COVINGTON & BURLING
888 Sixteenth Street, N.W.
Washington, D. C. 20006
(202) 452-6000

Attorneys For Plaintiffs

Dated: February 7, 1977