

# Nixon Delays Public Access To His Papers

By EILEEN SHANAHAN

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Washington — On the day Richard M. Nixon announced his intention to resign the presidency, he also wrote a letter changing the terms of his gift of pre-presidential papers to the National Archives.

The letter, addressed to Arthur F. Sampson, administrator of the General Services Administration, which runs the archives, provided that no one should have access to Mr. Nixon's papers until Jan. 1, 1985, without his personal permission.

Mr. Nixon originally donated the papers with a stipulation that access to them would be restricted only so long as he was President.

## Deductions Disallowed

The change of date affects both of the gifts of pre-presidential papers that he has previously made.

The first papers were donated in 1968, after Mr. Nixon was elected President but before he took office, and the validity of the gift or the tax deduction taken for it has not been the subject of any formal legal challenge.

The second was a much larger gift, and the tax deductions of more than \$400,000 that Mr. Nixon claimed were disallowed by the Internal Revenue Service. The possibility that fraud was involved in arranging the tax deduction has been referred for investigation to the special Watergate prosecutor, Leon Jaworski.

There appeared to be only a slim likelihood that the tax status of the papers would be affected by Mr. Nixon's attempt to postpone the date when scholars and others could have access to them.

## A Court Test

However, lawyers who are involved in a different suit testing the whole question of who owns the papers — the suit also potentially tests the ownership of the papers of all

public officials — felt that Mr. Nixon's action might improve their chances of victory.

The lawsuit was filed by Robert M. Brandon, director of Ralph Nader's Tax Reform Research Group. It asserts that the public should have immediate access to the papers under the Freedom of Information Act.

The suit is pending before the U.S. Court of Appeals for the District of Columbia. The Department of Justice, acting on Mr. Nixon's behalf, won the case in the federal district court.

Brandon's suit declares, among other arguments, that the papers were produced by persons, including Mr. Nixon, who were all on the public payroll and that, therefore, there is no basis for asserting private ownership.

## Not Valid Gift

Brandon and his lawyer, Larry Ellsworth, believe that Mr. Nixon's latest action strengthens another aspect of their suit, in which they argue that no valid gift of the second batch of papers was

That assertion rests upon the fact that Mr. Nixon never signed the deed of gift and an who did, Edward L. Morgan, former White House deputy counsel, lacked the authority to do so.

Mr. Nixon's attempt to postpone the date of access to the papers shows that he is still exercising rights of ownership, Brandon and Ellsworth argue.

The deeds to both sets of papers both state that Mr. Nixon reserved the right "to modify or remove" the restrictions on access to the papers.

The two Nader lawyers argue, and some other lawyers agree, that this language is generally interpreted to mean that the restrictions may be made less extensive, but not more so.