

Dear Jim, the suit to which you referred yesterday is Nader's, for access to the Nixon v.p. papers. Today's Post, via Tax Reform Research. If I can judge from the story, which does have several inaccuracies, they have not taken the necessary political approach, I suppose because they lack the understanding or don't have the interest or shun the method I'm not about to suggest what I think they should do and I do think they can't win without getting the 1955 act declared unconstitutional. MacKenzie is, I believe, wrong in saying that Johnson adm lawyers invoked the law to obtain autopsy documents. Reverse. And less than correct in what I take to be reference to my suit, 2569-70, saying that the restrictions were challenged unsuccessfully. One respect only: copies to keep. I got access. In the future, when my writing reaches the point, I may well ask for access to specified parts. HW 12/29/73

Nader Group Seeks Nixon Papers' Rule

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By John P. MacKenzie
Washington Post Staff Writer

A tax reform group affiliated with Ralph Nader asked yesterday for a court ruling that President Nixon never owned the papers for which he claimed a \$576,000 deduction when he shipped them to the National Archives.

In a suit under the Freedom of Information Act, Robert M. Brandon, director of the Tax Reform Research Group, said the United States already owned all or almost all of the pre-presidential papers Mr. Nixon purported to donate late in 1969.

The suit, which seeks access to the documents currently sealed by agreement between President Nixon and the archives, could have implications for the dispute over whether the President validly used the transfer of papers to reduce his federal income tax.

Critics of the deduction have contended—as Brandon claims in his suit—that the transfer was irregular and that the General Services Administration, which operates the archives, never validly accepted the gift.

Beyond that, Brandon's suit argues that even if the gift was valid, the archives had no legal right to accept the restrictions Mr. Nixon has placed on access to the papers dating from his time as Vice President.

Tax authorities, who so far have not challenged the deduction, would not be bound by any decision in a suit between Brandon's tax group and the GSA, but a ruling in Brandon's favor might put a cloud over the transaction and the Internal Revenue Service's acceptance of it.

The suit was filed in U.S. District Court here by the tax group, a unit of Ralph Nader's Public Citizen, Inc. It was assigned to Judge Joseph C. Waddy.

Under the 1966 Freedom of Information Act, any citizen

may obtain a court order for access to documents unless they fall under some congressionally recognized exemption.

According to the suit, GSA assistant administrator G. C. Gardner Jr. denied Brandon's request for access last month, citing the 1955 Federal Libraries Act as authority. That law permits the GSA to accept papers of government officials "subject to restrictions agreeable to the administrator as to their use."

The law was designed to encourage persons possessing historically valuable documents to turn them over to the Archives without argument over actual ownership.

Lawyers in the Johnson administration invoked the law in 1967 to obtain evidence from the autopsy of President Kennedy from his family. Restrictions on public access to the materials, which GSA accepted, were challenged unsuccessfully in court under the information act.

Mr. Nixon has stipulated that his permission is required before anyone may see the vice presidential papers while he is President. The gift also gives Mr. Nixon the right to copy and use the documents and to change the conditions of the gift.

Brandon said yesterday that his suit does not depend on the result of an inquiry which is being conducted at the President's request, by the congressional Joint Committee on Internal Revenue Taxation into the legality of the deduction.