

Slightly longer column, NYT 10 Sep 75, filed W/gate.

# Leaving Bad Enough

Washington

**F**ORMER PRESIDENT Richard Nixon is said by his friends to have recovered his health, but there is very little evidence that he has recovered his judgement or his sense of history.

He keeps insisting to his friends and his former colleagues in the government that he has hustled out of office by the smarties and pushers of politics and press, and what is even more surprising, he keeps inviting analysis of his record and thus adds to his torment. He simply won't leave bad enough alone.

His suit to compel the government to hand over to him and his family ownership and control of the presidential papers of his admin-

istration is only the latest evidence of his historical and moral blindness.

For this has merely compelled the Ford Administration, which has pardoned and defended him more than almost anyone else, to insist that in looking for a protector of documents, it would surely not be Mr. Nixon; to reject his claim of "ownership" on the ground that he had "a propensity to distort the historical record," and "would not be a trustworthy custodian, even temporarily," of that record.

Despite all the proved evidence that he knowingly distorted the Watergate record, he now presents himself to the court as a reliable protector of that record and as defender of the rights of people he bugged and recorded without their knowledge or consent.

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**I**N THE process, however, he has unwittingly done the country a favor, for by this suit he has forced the government to think through the problem of presidential papers and to make clear, as the Justice Department argues, that "the proprietary rights of a former president simply cannot be held to outweigh the public's interest in the continuity of government . . ."

When the Congress passed the Presidential Recordings and Materials Preservation Act last year, it had three main purposes: 1. To insure the preservation of the White House tapes and other presidential materials for historical purposes; 2. To insure that this material would be available to succeeding administrations for the conduct of the public's business; and 3. To insure that present and future generations would be able to trace the extraordinary events that led to Nixon's resignation.

Nixon charges that this act violated his constitutional rights, and deprived him of his "ownership" of these materials. What it clearly did, of course, was to deny him the possibility of altering or destroying the historical record and of continuing his cover-up into the next generation. He also claims that it deprived him of his "ownership" of these materials, and he argues that he is merely insisting on rights other presidents had before him and protecting the integrity of the presidency which he disgraced.

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**A**S THE presidency was increasingly institutionalized, it became a veritable paper factory. The Justice Department testified that the Herbert Hoover Library contained about one million pages. Franklin Roosevelt, in over three terms, including the New Deal and the Second World War, amassed approximately 10.5 million pages of documents.

President Eisenhower, in two terms, collected 11 million pages, and then came the explosion; President Kennedy, in less than one term, 13 million; President Johnson, in one and a half terms, 17 million; and President Nixon, after one and a half terms, now claims some 42 million pages as his presidential materials.

"The suggestion by Mr. Nixon," the Justice Department observed, "that he, his wife and his daughters can perform the segregating out of private material from the official is, to put it kindly, unrealistic."

"As the record establishes, there are not only 42 million documents, but 888 reels of tape which are each five to six hours long. The time involved in the review of this material by four individuals would be in itself be prohibitive."

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**E**VEN IF time and competence were not compelling factors, however, Nixon has now put the government in the position not only of suggesting that he is untrustworthy, but primarily of insisting that the government itself must have priority over the control of papers compiled by its servants in their official capacities.

This case is limited to Nixon's special case and will not settle the question of future presidential papers, but at least it has disclosed the fallacy and dangers of Nixon's preposterous arguments, and reminded us of this strange mentality that decided to bring the question up.