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8 Sep 75 - Anniversary of pardon

suit
Nixon (tapes and papers) - Justice Department submits 100-page brief to three-judge federal panel which is considering Nixon's challenge to constitutionality of the Presidential Recordings and Materials Preservation Act of 1974. Brief asks the panel to reject his claim to ownership of the tapes and documents, and to uphold the constitutionality of the statute.

The brief cites what it terms "threats to the integrity of the Presidential materials," such as the 18½-minute gap in one WH tape, for which "no satisfactory explanation has ever been provided;" "material differences" between WH transcripts and those made by the special prosecutor and the House Judiciary Committee; Nixon's repeated assertions of ignorance of the cover-up until March 1973, although transcripts "indicated to the contrary;" the dismissal of Cox when "he persisted in demanding" certain tapes. Brief also notes that Nixon "resigned rather than face the prospect of impeachment where the entire story might have come out."

The brief says these examples "will suffice to show that Congress had a rational basis for perceiving that his Presidential materials might not pass intact into the custody of the United States if he were permitted to have custody of them, even temporarily." It also cites "what Congress perceived, again quite rationally, as Mr. Nixon's propensity to distort the historical record."

Brief also challenges Nixon's assertion that only he and his family may review the materials and decide which are to be made public, noting that such a review by them would be unworkable since the material consists of 42 million documents and 838 reels of tape of five or six hours' duration.

A companion brief is filed by lawyers for a group of historians and journalists, citing many of the same arguments given by the Justice Department.

NYT: "Originally, the special Watergate prosecutor had intervened in the case. However, in court papers filed today, ... the prosecutor's office asked to withdraw from the case, [saying] that it had already examined all relevant materials and tapes, pursuant to an agreement with Mr. Nixon's counsel allowing it access. And, it said, 'the positions that the special prosecutor was prepared to

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support in this litigation will be presented by the United States.'" AMP-A

The three-judge panel is to hear oral arguments 22 Sep 75.

NYT 9 Sep 75, Lesley Oelsner

SFC 9 Sep 75 [UPI]

SFEx 9 Sep 75 [AP]

- Nixon deposition in this suit, entry 20 Aug 75.

Special prosecutor withdraws as intervenor in Nixon suit - entry, Nixon, tapes and papers.

Halperin - Documents filed (no date) by Halperin's lawyers, in an attempt to justify their request to question Nixon personally, are made public today. A hearing is scheduled "later this month" before U.S. District Judge John Lewis Smith Jr. on whether Nixon must answer under oath about the tapping of Halperin's telephone. AMP-B

The documents show Nixon personally ordered that information from a "national security" wiretap be sent to Haldeman, after the FBI reported that the tap showed only political discussions, with no indication that any national security matters were discussed by Halperin during the 21-month period of the wiretap. Nixon also ordered that such wiretapping reports no longer be sent to Kissinger.

WXP 9 Sep 75, Timothy S. Robinson

Haldeman - See entry, Halperin, documents filed

"The Pardoner's Tale" - In column written for anniversary of the pardon Anthony Lewis says its "consequences ... have not dissipated. They are as they were foreseen a year ago, if anything more serious.

"A few days before the pardon a conservative commentator, George Will, warned that only letting the law take its course against Mr. Nixon could prevent him from 'polluting American history' with future talk of his innocence. The pollution has begun.

"His deposition in the suit over the tapes and papers, ... makes wonderful reading for fans of the unchangeable Mr. Nixon. There were the old lies, delivered in as

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brazenly imperious a tone as ever....

"Reading the deposition, one was struck again by the utter lack of contrition in this man. There is no consciousness of guilt in him, nor shame, because he does not have within him those standards of truth and decency that are the premises of civilized society....

"And so we face the prospect of Richard Nixon pushing his way back into our lives....

"For just a moment, in the summer of 1974, there was a chance to ... confound the cynics who say the right the powerful too often escape justice. The pardon destroyed that chance....

"Worst of all, Mr. Ford threw away the opportunity to give this tired country a fresh political start. That could only have been done by making a decisive break with the past - a break that required not physical courage but the courage of imagination. Americans talk today as if they had given up on politics and politicians. Ours is a politics of weariness, of helplessness, and it began a year ago."

NYT 8 Sep 75, Anthony Lewis

China (Ford) - Ford's visit to China is planned for "around Thanksgiving [27 Nov]."

NYT 8 Sep 75, William Safire - China file

(8 Sep 75) AMP

(A)- For comment, see
 Entry 9 Sep 75, same heading (by James Reston)
 12 Sep 75, same heading (by George Will)

(B)- See entry 22 Sep 75, Halperin suit.