

Eventually, They'll Be Destroyed

Agreement on Nixon

Washington

Former President Richard M. Nixon and the Ford administration have agreed that Mr. Nixon's White House tapes will be preserved temporarily under an elaborate double lock and key system for possible use in court, it was announced yesterday.

Under the agreement, however, Mr. Nixon may order destruction of any of the tapes after five years and all of the tapes will be destroyed automatically in ten years or upon the former President's death, whichever comes first.

The agreement, negotiated at President Ford's request and announced along with Mr. Nixon's pardon, gives the government physical possession of the tapes and Mr. Nixon's White House papers, but the former President retains almost complete control over access to the material.

The provision for destruction of the controversial tapes was made "to guard against the possibility of the embarrassment or harass any tapes being used to injure, person and properly to safeguard the interests of the United States," Mr. Nixon said in a letter spelling out details of the complex agreement.

Mr. Nixon has said that recording equipment was originally installed in his White House offices for historical purposes, but the agreement apparently forecloses such use of the tapes, except by Mr. Nixon or, indirectly, by others as a result of court proceedings.

"This is his desire, consistent with the fact that the conversations involve people who had no idea they were being recorded," White House Counsel Philip W. Buchen said yesterday.

"I'm sure historians will complain, but they (the conversations) should not have been recorded in the first place."

Buchen said the administration had sought the

agreement as a way of escaping involvement in protracted legal disputes over the material, some of which already is being sought by various Watergate defendants.

The agreement provides that if the government is served with subpoenas, Mr. Nixon will be notified immediately to oppose release of the subpoenaed material. Failure to abide by a court decision would subject Mr. Nixon to contempt penalties, Buchen said.

Mr. Ford's chief legal adviser said he began negotiations with the former President's lawyer and others after receiving an opinion from Attorney General William B. Saxbe that the White House material is Mr. Nixon's personal property but that the government would be subject to subpoenas so long as the material was in its custody.

Buchen said the discussions for handling Mr. Nixon's material, much of which was left behind in Washington when he resigned, "Started independently" of the pardon question, and was not a precondition, but there were indications the agreement on tapes and documents was part of a package.

Significant distinctions are made between the tapes and the letters, memoranda and other documents classified

as Presidential Papers, but the agreement provides that all the material shall be stored by the government near Mr. Nixon's San Clemente estate and that he shall

Tapes

be provided with office space and staff assistance for working on the material.

With respect to the tapes, the agreement provides:

- They will remain on deposit until Sept. 1, 1979, at which time they become a gift to the government by the former President.

- After Sept. 1, 1979, the government will destroy any tapes singled out for destruction by Mr. Nixon and all tapes will be destroyed at his death or on Sept. 1, 1984, whichever comes first.

- Mr. Nixon will not remove originals of any tapes, except as a result of court orders, and no tapes may be copied unless the former President and the government agree.

With respect to his White House documents, Mr. Nixon said in the letter that he intends eventually to donate "a substantial portion" to the government for release "with appropriate restrictions, for research and study."

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