

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

RICHARD M. NIXON, Individually and
as the former President of the
United States,

Plaintiff,

vs.

Administrator of General Services,
et al.,

Defendants.

No. 74-1852

Deposition of

RICHARD M. NIXON

VOLUME II

A P P E A R A N C E S

For the Plaintiff:

Miller, Cassidy, Larroca and
Lewin
by: Herbert J. Miller, Jr.
R. Stan Mortenson

For Intervening
Defendants:

William Dobrovir
Andrew S. Krulwich
Mark J. Spooner
Leonard B. Simon

For Defendant United
States of America and
Administrator of General
Services:

United States Department of
Justice.
Irwin Goldbloom
David J. Anderson

For Special Prosecutor,
Intervenor:

Watergate Special Prosecution
Force
Kenneth S. Geller, Assistant
Special Prosecutor

Also in Attendance:

Andra Oakes

1 SAN CLEMENTE, CALIFORNIA, FRIDAY, JULY 25, 1975, 1:00 p.m.

2
3 THE NOTARY: Mr. Nixon, this is a continuation of your
4 deposition that was commenced this morning, and you have been
5 previously duly sworn, and you are still under oath.

6 MR. NIXON: I understand.

7
8 RICHARD M. NIXON,
9 plaintiff herein, and having been previously first duly sworn,
10 testifies further as follows:

11
12 FURTHER EXAMINATION BY MR. DOBROVIR:

13 Q Mr. Nixon, when you were in the Office of the
14 President of the United States, did you have an aide by the
15 name of Gordon Strachan, S-t-r-a-c-h-a-n?

16 A He was an assistant to Mr. Haldeman and would be
17 one of my assistants.

18 Q He was one of your assistants?

19 A Yes.

20 Q And were you aware that Mr. Strachan was preparing
21 political matters, memorandums for Mr. Haldeman?

22 A Oh, he did prepare political memoranda; yes.

23 Q And you were aware of that at the time that he was
24 preparing them?

25 A Yes, I was aware that he was working on political
26 matters.

27 Q All right. Was that part of his official duties
28 as a member of the White House Staff?

1 MR. MORTENSON: Counsel, are you using the term "official"
2 in the context as it was defined earlier in this deposition, as
3 it pertains to constitutional or statutory obligations or are
4 you using it in a different context?

5 MR. DOBROVIR: I will strike the word official from the
6 question.

7

8 BY MR. DOBROVIR:

9 Q Was that part of his duty as a member of the White
10 House Staff?

11 A During the election campaign members of the White
12 House Staff, when it does not conflict with their primary
13 responsibility on official matters, have been traditional and
14 were in my administration assisting in campaign activities.

15 Q So that do you therefore claim the political matters,
16 memoranda that Mr. Strong prepared, as part of your presidential
17 materials?

18 A Yes.

19 Q I am going to show you, Mr. Nixon, a pamphlet, it
20 is ^{the} a statement of information, Appendix IV, Committee on the
21 Judiciary, House of Representatives, 93rd Congress, Second Session,
22 pursuant to House Resolution 803, Political Matters Memoranda,
23 September 18, 1972. And there are included in here some
24 nineteen separate documents. I would like to ask you if you
25 would look at these documents, please, and tell me which ones
26 you personally had seen earlier.

27 A I can't recall.

28 MR. MORTENSON: What pages, Counsel?

1 MR. DOBROVIR: I am asking the witness to look at
2 everything and tell me if he can recall which of those he has
3 seen earlier.

4 THE WITNESS: I can't recall.

5 MR. DOBROVIR: All right.

6 THE WITNESS: In a quick perusal of the documents, and I
7 haven't -- I mean it takes a little time to read it all, it does
8 not show my initials on them. Normally when I looked at a
9 document when it came to my attention either it had my initials
10 or a check mark. These were documents that Mr. Strachan and --
11 I see Mr. Haldeman's initials and his notes throughout.

12
13 BY MR. DOBROVIR:

14 Q Now, in seeking exclusive control over disclosure of
15 those documents, which of the interests that we earlier discussed
16 are you seeking to protect?

17 MR. MORTENSON: Counsel, you have given the witness here
18 a book of, as you have described them, nineteen documents and
19 if you propose that we spend three or four or five hours
20 necessary to review and in detail the nineteen documents covering,
21 I don't even know how many papers, and to line by line which is
22 necessary to determine which interests are being protected, I
23 don't think that it is reasonable to request that time be spent
24 here. I think that the record reflects that plaintiff is claiming
25 those as part of the presidential materials and that the
26 pleadings in this case reflect the interests to be protected as
27 challenge to the suit.

28 THE WITNESS: 151 pages.

1 MR. DOBROVIR: All right.

2 MR. MORTENSON: I think the record should also reflect,
3 since those are public matters of public knowledge at this point,
4 that plaintiff does not seek to maintain the exclusive right to
5 control disclosure thereof.

6 MR. DOBROVIR: I will show you, Mr. Nixon, a one-page
7 document called Memorandum for H. R. Haldeman from Gordon
8 Strachan on White House stationery. And I would like the
9 reporter to mark this as Intervenor Defendants' Exhibit A.

10 THE NOTARY: The one-page document handed to me by
11 counsel, consisting of a memorandum for H. R. Haldeman from
12 Gordon Strachan, dated May 11, 1971, subject Timmons' Investi-
13 gation of San Diego as 1972 Convention Site, will be marked
14 Defendants' in Intervention Exhibit A, to the deposition, for
15 identification.

16
17 BY MR. DOBROVIR:

18 Q My first question is: Have you ever seen that
19 particular document before?

20 A I can't recall having seen the document. I can
21 recall discussion of the substance of the document.

22 Q All right. Now, do you claim that document to be,
23 or the original of that document to be part of your presidential
24 materials?

25 A Yes, I do.

26 Q What is the basis for that claim?

27 MR. MORTENSON: I object on the legal conclusion basis.
28 The claims are set forth in the pleadings in this case.

1 MR. DOBRIVIR: Is the basis for your claim that that is a
2 matter of personal privacy?

3 MR. MORTENSON: I object to the question on the ground
4 just stated.

5 MR. DOBROVIR: The witness has stated in his Affidavit
6 and earlier in the ^{course} questions of this deposition has defined where
7 it is personal and private. I don't think that those are legal
8 conclusions. If, however, you instruct the witness --

9 MR. MORTENSON: You have not asked him whether he considers
10 this a political document. You have asked whether he claims
11 this and what interests it is to protect.

12 MR. DOBROVIR: I just asked him if that is, that document
13 is a personal or private document.

14 MR. MORTENSON: I didn't hear that question. But that is
15 a question I think he can respond to.

16 THE WITNESS: It is not personal nor private.

17
18 BY MR. DOBROVIR:

19 Q That is political? *What is political?*

20 A Yes.

21 Q Does that document have anything to do with the
22 performance of your official duties as President?

23 A As what?

24 Q As President?

25 A No.

26 MR. DOBROVIR: Now, this will be Defendants' Exhibit
27 next in order.

28 THE WITNESS: If I might project here, for purposes of

1 clarification of perhaps Counsel's line of questioning, that as
2 we pointed out throughout this suit and pleadings and the
3 Affidavit and like the President of the United States traditionally
4 serves in many capacities, his primary responsibility, of course,
5 is what has been termed official. He is Commander in Chief of
6 the Armed Services and he has constitutional duties. Another
7 hat the President wears is that of being the leader of his
8 political party and, of course, connected therewith is the
9 President's own personal political activities that he may be
10 engaged in. For example, when he is running for reelection.
11 Then in addition to that a President also is a citizen with
12 personal contacts and private contacts. He is also a family
13 man and if he has children a father as well as a husband.

14 This is in the category of what we would call
15 political information and I claim that that is part of it. I
16 claim it is part of the subject matter of this suit.

17 THE NOTARY: The document handed to me by counsel,
18 consisting of 124 pages listing names and contributions, will
19 be marked Defendant Intervenor's Exhibit B, to the deposition,
20 for identification.

21
22 BY MR. DOBROVIR:

23 Q Exhibit B is a list of names and numbers which is
24 described in another lawsuit by a witness as a list of campaign
25 contributors that was maintained by Rose Mary Woods.

26 The first question is: Have you ever seen this
27 document?

28 A I do not recall having seen the document. It is

1 possible that I, however, could have seen the list of names
2 because it was Miss Woods' function, among many other functions,
3 to, after the campaign, because I had no contact when I could
4 possibly avoid with contributors, after the campaign election
5 it was her function to set up various events to where I could
6 express my appreciation. In that connection I might have seen
7 this document. My best recollection, however, was what I saw
8 was a list of names which we had dinners, receptions, et cetera,
9 et cetera, which covered most of the major political contributors
10 and some who didn't contribute very much.

11 Q Did you instruct her to maintain that list?

12 MR. MORTENSON: Objection. That calls for the substance
13 of discussions between plaintiff and members of his staff, which
14 we claim privileged in the suit.

15 MR. DOBROVIR: I am not asking, Mr. Mortenson, if there
16 was a tape of such instructions.

17 MR. MORTENSON: I know you did not ask that.

18 I will object to that question or any other question
19 that calls for substance of plaintiff's conversation with members
20 of his staff.

21
22 BY MR. DOBROVIR:

23 Q Was that document prepared by her in the course of
24 her duties as your secretary or maintained by her if it wasn't
25 prepared by her in the course of her duties as secretary?

26 A Yes. She, like other members of the staff, whatever
27 was within her ability to work on the campaign, where that did
28 not interfere with her primary responsibility to do work

1 involving official responsibilities with my official responsi-
2 bilities as President.

3 MR. DOBROVIR: Would you mark this, please.

4 THE NOTARY: The six-page document handed to me by
5 counsel, consisting of a memorandum dated April 23, 1969, from
6 Richard G. Kleindienst, Deputy Attorney General, to John
7 Erlichman, Counsel to the President, Re: ITT-Canteen Merger,
8 will be marked Defendants in Intervention Exhibit C, to the
9 deposition, for identification.

10

11 BY MR. DOBROVIR:

12 Q Now, Mr. Nixon, I am showing you a memorandum from
13 Richard Kleindienst and Richard W. McLaren to John Erlichman
14 titled ITT-Canteen Merger. And my first question is: Have you
15 ever seen that document before?

16 A I have no recollection of ever seeing it.

17 Q Now, is that document claimed by you as part of the
18 presidential materials involved in this lawsuit?

19 A Well, to the extent in view of this line of
20 questioning, that memoranda are prepared and sent to members of
21 the White House Staff from the Executive Agencies or a member
22 of the White House Staff to a member of the White House Staff,
23 to the extent that those have traditionally been considered to
24 be the presidential material, I claim that this is presidential
25 material. And it has been the case in the past, as I understand.

26 MR. DOBROVIR: I am showing you a memorandum dated
27 July 20, 1971, for Bud Krogh from John Dean. I will ask the
28 reporter to mark it.

1 THE NOTARY: The ten-page document handed to me by
2 counsel, consisting of a memorandum for Bud Krogh from John
3 Dean dated July 20, 1971, with attachments, will be marked
4 Defendants in Intervention Exhibit D to the deposition, for
5 identification.

6 MR. MORTENSON: Counsel, I am going to ask what the
7 source of these documents are? Are they documents that came
8 from the White House files? Were they produced from other
9 sources? Because the Complaint here encompasses the materials
10 that have been impounded under Court Order, as part of the
11 materials of the Nixon Administration.

12 To the extent that these are not documents that
13 are included among those materials which did not originate
14 from those sources, it is impossible for us to make a deter-
15 mination of whether they are encompassed by this litigation.

16 MR. DOBROVIR: All of the documents which I have are
17 documents which I understand are copies of documents that are
18 in the presidential materials that were subpoenaed either by
19 the Special Prosecutor's Office and turned over to the Special
20 Prosecutor's Office by the White House during the incumbancy
21 of Mr. Nixon or were subpoenaed by the House Judiciary Committee
22 and were turned over to the House Judiciary Committee during
23 the incumbency of Mr. Nixon.

24 MR. MORTENSON: Is there anything in the record which
25 indicates that the original, or at least the carbon copy from
26 which you have obtained a carbon copy of the memorandum marked,
27 I believe it is, Defendants' in Intervention C, came from the
28 White House files as opposed to the files of the Deputy Attorney

1 General?

2 If there is no basis other than your assumption,
3 is impossible for the plaintiff to speak with any assurance a
4 to whether or not that is a document which we claim ownership
5 under this litigation.

6 MR. DOBROVIR: I cannot say with assurance, of course,
7 ^{where it reposes} ~~whether we possess~~ the original from which that copy was made.

8 MR. MORTENSON: Well, if that is the case, I have no way
9 of knowing whether or not John Erlichman received this document
10 placed in his files or received this document and returned it
11 to the Deputy Attorney General. I have no basis for knowing
12 whether this document is included in the presidential materials
13 and therefore it is impossible for me to permit the witness here
14 to speculate as to whether or not that document is the document
15 which is claimed under this litigation.
16

17 BY MR. DOBROVIR:

18 Q Do you have before you the Krogh-Dean memorandum?
19 A Yes.

20 Q That is Exhibit D.
21 .Have you ever seen that document before?

22 A No, I can't recall having seen it.

23 Q Do you claim the original of that document as part
24 of your presidential materials involved in the lawsuit?

25 MR. MORTENSON: Again, Counsel, I have to interrupt to say
26 that that is a document where the original reposes in the
27 presidential materials that are now impounded as part of this
28 lawsuit. That will influence the answer.

MR. DOBROVIR: I believe it is.

2
3 MR. MORTENSON: Well, if you have a basis for that I
4 will accept the basis for your belief. And with that we can
5 answer your question. If you are assuming that it is, all we
6 can do is assume that if it were there we might take position
7 one way or the other.

8 MR. DOBROVIR: Perhaps I can ask the question
9 hypothetically.

10 BY MR. DOBROVIR:

11 Q If the original of that document still is in the
12 White House, would you claim it as part of your presidential
13 materials?

14 A Yes.

15 Q Yes?

16 A This is distinguished from the document Mr. Mortenson
17 was referring to earlier, communication within the White House
18 itself.

19 Q Thank you.

20 Is that a personal or private document?

21 A This document?

22 Q Yes.

23 MR. MILLER: To whom, Counsel?

24 MR. DOBROVIR: To Mr. Nixon as defined by him earlier
25 today.

26 MR. MORTENSON: Are you talking about the first page,
27 Counsel?

28 MR. DOBROVIR: The entire document.

1 THE WITNESS: It would depend after a very quick persual
2 of a very long document, for context.
3

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4 BY MR. DOBROVIR:

5 Q Why don't you focus on the very first page and
6 have the testimony reflect only as to the first page.

7 (At this time plaintiff and plaintiff's counsel confer.)

8 THE WITNESS: I would consider this primarily a political
9 document.

10
11 BY MR. DOBROVIR:

12 Q That is primarily a political document.

13 Is there any other aspect to it that relates as to
14 why you would claim this as part of the presidential materials?

15 A Well, it was obviously not written, the memorandum,
16 for the private purposes of Mr. Dean or Mr. Krogh, it related
17 to general policy of the Administration. I would consider it to
18 be political, a political document and within the claim that we
19 are making in this suit.

20 Q Does it relate at all to their official functions
21 as members of the President's staff?

22 A Without knowing the background I couldn't say.

23 MR. DOBROVIR: Would you mark this, please.

24 THE NOTARY: The four-page document handed to me by
25 counsel, consisting of a memorandum from George Bell dated
26 June 24, 1971, for John Dean, Jerry Warren and Van Shumway
27 entitled Subject: Opponents List, will be marked Defendants'
28 in Intervention Exhibit E, to the deposition, for identification.

1 BY MR. DOBROVIR:

2 Q Have you ever seen that document before? (91)

3 A I have no recollection of having seen it; no.

4 Q Were you aware, at the time of the preparation of
5 that document, that a list of twenty opponents was being prepared
6 by Mr. Bell?

7 A By Mr. Bell?

8 Q Or by anyone in your staff?

9 A I can answer the question only in a broader sense,
10 that in campaigns there is always the custom to determine those
11 who are supporters and in the various areas that might affect
12 the outcome of a campaign in the business world, political world
13 and needless to say, we, of course, not only prepared -- there
14 were prepared, certainly for the campaign organization, not only
15 a document of this sort but also a document indicating those
16 who were supporters. We have both.

17 Q Excuse me?

18 A We have both.

19 Q Yes. Was that document prepared by Mr. Bell in the
20 course of the performance of his duties as a member of your
21 staff?

22 A As I have pointed out before, a staff member of
23 any public elected official who is running for re-election can
24 and almost invariably does to the extent that he does not
25 interfere with his primary responsibility in official government
26 business, work during a campaign for the success of whoever is
27 his superior.

28 Q Now, is that the kind of document disclosure of

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1 which would have a chilling effect on advice to be given to you
2 by members of your staff in the future or by members of a
3 President's staff to a President in the future?

4 A It very well might; yes.

5 Q In what way? Can you expand on that?

6 A Because the fact that the individuals who are named
7 in the document were considered by a staff member to be opponents
8 of the Administration, may or may not have been individuals --
9 as a matter of fact, on the other side of the coin, individuals
10 who were listed as supporters might have been concerned about
11 being so listed. And in view of the fact that it would inhibit
12 their opportunity to change their minds the next time around,
13 which many people do. And I would say therefore that this type
14 of document is one that could well inhibit their freedom of
15 action. Well, if you want to put it, freedom of expression and
16 association and so forth in the future. I am referring to
17 people that are named.

18 Q Excuse me?

19 A I am referring to people that are named, I said.

20 MR. DOBROVIR: We will mark this as Exhibit F.

21 THE NOTARY: The three-page document handed to me by
22 counsel, consisting of a transcript of September 15, 1972,
23 meeting will be marked Defendants' in Intervention Exhibit F,
24 to the deposition, for identification.

25
26 BY MR. DOBROVIR:

27 Q This is an exhibit which is a copy of Pages 614
28 through 616 of Book 2 of the Statement of Information of the

1 House Judiciary Committee pursuant to House Resolution 803.
2 This consists of a portion of the transcript of the September
3 15th, 1972, meeting, a portion of the transcript of a tape
4 recording of such a meeting.

5 I would like you to focus in particular on the
6 portion at the bottom of Page 614, which is ascribed to President
7 and from there on down through to the bottom of Page 616, the
8 words "That's right" are ascribed to Dean.

9 I would like to ask you first if you recall that
10 conversation?

11 A Oh, I recall having a conversation; yes.

12 MR. MORTENSON: Which portion did you direct him to look
13 at?

14 MR. DOBROVIR: Starting at the bottom of the first page
15 where it says "President" and then about eight or nine lines
16 and then the rest of it to the bottom of the last page where it
17 says "Dean: That's right."

18 MR. MORTENSON: Counsel, is this the entire transcript of
19 the entire conversation?

20 MR. DOBROVIR: Of course not, counsel.

21 MR. MORTENSON: Do you have the entire transcript?

22 MR. DOBROVIR: I do not.

23 MR. MORTENSON: What is your question?

24 MR. DOBROVIR: First of all, does the witness remember
25 the conversation that I have designated?

26 MR. MORTENSON: The portion of the conversation that
27 you have designated?

28 MR. DOBROVIR: That is right.

1 THE WITNESS: I can recall it in general, not specifically.

2
3 BY MR. DOBROVIR:

4 Q Now, is that conversation claimed by you, is the
5 tape recording of that conversation claimed by you as part of
6 the presidential material involved in the lawsuit?

7 MR. MORTENSON: Counsel, we have stipulated every one
8 of the White House tape recordings and everything contained
9 thereon is a part of the presidential materials claimed under
10 the statute.

11 MR. DOBROVIR: Fine.

12
13 BY MR. DOBROVIR:

14 Q Is that conversation, do you consider that conver-
15 sation personal and private?

16 MR. MORTENSON: Unless Counsel can produce the entire
17 transcript so the witness can evaluate that portion of the
18 conversation, Counsel, in light of the entire conversation I
19 don't think the witness can respond.

20 MR. DOBROVIR: Very well.

21
22 BY MR. DOBROVIR:

23 Q I have here a pamphlet entitled Transcript of the
24 Eight Recorded Presidential Conversations September 15. This
25 is a printed version rather than a typewritten version, which
26 is the document I have handed you, and it covers from Pages
27 1 through 19.

28 A Yes.

1 MR. DOBROVIR: Would you like me to show that to the
2 witness, Mr. Mortenson?

3 MR. MILLER: The entire conversation?

4 MR. DOBROVIR: Yes.

5 MR. MORTENSON: If you have it.

6 MR. DOBROVIR: It is the transcript of that entire tape
7 as published by the House of Representatives.

8 MR. MORTENSON: Counsel, do you know who prepared the
9 transcript?

10 MR. DOBROVIR: I believe that the record shows that that
11 transcript was prepared by the staff of the House of Repre-
12 sentatives.

13 MR. MORTENSON: Then we can't vouch for the accuracy
14 and I am not prepared to have the witness speculate as to
15 whether something is personal, private or official.

16 The material that I see here on the first page,
17 Page 614, is marked "unintelligible," and that conversation,
18 that portion which was unintelligible to whoever transcribed
19 this for the House Judiciary Committee, may very well be a
20 private reference or political reference or official reference.
21 And for this witness to speculate as to what this conversation
22 is or what this portion of the conversation is without having
23 the recording to review it is impossible and I will direct him
24 not to answer.

25 MR. DOBROVIR: You are challenging the authenticity of
26 the House of Representatives transcript?

27 MR. MORTENSON: What I am saying, we have no basis to
28 establish the authenticity.

1 MR. DOBROVIR: Are you familiar with the new Federal
2 Rules of Evidence, Mr. Mortenson?

3 MR. MORTENSON: Maybe you can read them to me.

4 MR. DOBROVIR: I don't have them with me but they do
5 provide that official documents of the United States are
6 evidence in their published printed-form.

7 MR. MORTENSON: I am not sure that is an official document
8 of the United States. It is a Congressional document. If you
9 want --

10 MR. DOBROVIR: You are challenging the authenticity of
11 that pamphlet as an official publication of the House Judiciary
12 Committee?

13 MR. MORTENSON: I am saying it very well may be a document
14 of the House Judiciary Committee.

15 If you are asking this witness to speculate or to
16 draw a conclusion as to whether that conversation is personal,
17 private, or official, the only way he is prepared to do that
18 is to review the recording, to hear the conversation and make
19 the determination and not to base that speculation on a document
20 prepared by the House Judiciary Committee.

21 I have no basis whether it is an official document
22 or not, to know that portion marked "unintelligible" is in fact
23 unintelligible. It may have been unintelligible to the person
24 who prepared the transcript but it may not be unintelligible
25 to the witness, which would directly influence as to whether
26 he could respond to your question.

27 THE WITNESS: A very good example of that occurred when
28 during the course of the tortuous proceedings the story appeared

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1 in major newspapers to the effect that on a conversation with
2 Mr. Dean, a taped conversation on February 28th, that he had
3 said, had told me that according to the transcript Judge Sirica
4 was a very, in effect, tough judge and that I responded by
5 saying "He is a gol' darn Wap." That was not only printed in
6 the New York Times, it was on television and on radio. It was
7 never adequately retracted.

8 What the tape actually was when I listened to it,
9 because I recall, I knew that I had never used that term, I
10 knew I didn't have that opinion. What the tape actually said
11 when he said "He is a tough judge" was that "That is the
12 kind I want."

13 Now, I am not indicating that the individual, whether
14 Special Prosecutor's Office, because here, whether the leak came
15 from there to the House Judiciary Committee, I don't know, I am
16 not indicating that it was done deliberately, but I am indicating
17 that these tapes, having listened to a few and particularly
18 those where conversations run together, these tapes in many
19 cases are read and in different ways and the transcripts there-
20 fore may not reflect accurately what was said.

21
22 BY MR. DOBROVIR:

23 Q Now, let's see if perhaps we can resolve this.

24 In connection with this conversation, Mr. Nixon, do
25 you remember the reference to Edward Bennett Williams, which
26 the House of Representatives Judiciary Committee Transcript
27 indicates you made?

28 A Yes. Yes, I remember a reference to him.

1 Q You do remember that?

2 A I don't --

3 Q You do not remember? I am sorry.

4 A I said I remember a reference to Edward Bennett
5 Williams.

6 Q Thank you, sir.

7 Now, Mr. Nixon, I am showing you once again the
8 blue volume, the "Submission of Recorded Presidential Conver-
9 sations to the Committee on the Judiciary," which was issued
10 in your name on April 30, 1974. And I am showing you the pages
11 that correspond to those pages and you will notice that the
12 reference to Edward Bennett Williams does not appear there.

13 A Yes, I note that.

14 Q All right. Now, on April 29, when you made your
15 speech to the nation, did you say: "For many days now I have
16 spent many hours of my own time personally reviewing these
17 materials and personally deciding questions of relevancy"?

18 A Yes.

19 Q Had you personally reviewed the transcript of the
20 September 15 tape for the purposes of the submission of April
21 30?

22 MR. MORTENSON: Objection. As irrelevant and I will
23 direct the witness not to answer unless you can explain to me
24 the relevancy.

25 MR. DOBROVIR: Well, there are two matters of relevance,
26 Mr. Mortenson. One is you have been challenging the authenticity
27 of the House of Representatives transcript.

28 MR. MORTENSON: I did not challenge the authenticity. I

1 said portions of that, which are indicated as unintelligible,
2 and I am saying that I don't know whether that is unintelligible
3 or not, the portions that are written may very well be in-
4 telligible.

5 MR. DOBROVIR: Can we stipulate, Mr. Mortenson, I am not
6 asking the witness about that portion?

7 MR. MORTENSON: What you have asked is whether this
8 conversation was political, private or official. And I told
9 you unless we have the recording he is not in a position to
10 characterize a conversation or a portion of the conversation.
11 A lot of factors go into characterizing a particular conversation,
12 some of which pertain to conversations that took place before
13 that conversation or after that conversation. We don't have
14 those, we don't have the tape recordings.

15
16 BY MR. DOBROVIR:

17 Q Would any interest in confidentiality be damaged
18 by the disclosure of your reference to Edward Bennett Williams
19 in that conversation?

20 MR. MORTENSON: I object to that, Counsel. We have
21 contended in this lawsuit that the statute provides for the
22 total review of these recordings by a group of government
23 personnel and we have consented that that is the breach which
24 would have a damaging effect upon the Office of the President
25 and upon plaintiff in the suit.

26 To my mind it is irrelevant and totally immaterial
27 whether a particular revelation as to Edward Bennett Williams
28 would have a damaging impact. This litigation is about a statute

1 which requires for the total disclosure of such materials. If
2 the statute provided for the disclosure of all reference to
3 Edward Bennett Williams, that alone we would be challenging,
4 deciding whether to challenge the statement on that basis.

5 MR. DOBROVIR: Are you instructing your witness not to
6 answer?

7 MR. MORTENSON: Yes.

8 MR. DOBROVIR: Are you accepting that instruction, Mr.
9 Nixon?

10 THE WITNESS: Yes.

11
12 BY MR. DOBROVIR:

13 Q Very well.

14 Mr. Nixon, did you personally approve the deletion
15 of the reference to Edward Bennett Williams from the text of
16 the transcript as published in the blue volume I have before
17 you?

18 MR. MORTENSON: I object on the grounds of relevancy
19 and instruct the witness not to answer.

20 MR. DOBROVIR: Let me explain for the record, what
21 additional relevance it has then.

22 MR. MORTENSON: All right.

23 MR. DOBROVIR: You have claimed in your Complaint that
24 this statute is in effect a Bill of Attainder; that Mr. Nixon
25 is in violation of the Constitution and being treated differently
26 from all other Presidents. It is our defense to that claim that
27 Congress had ample justification for its action in seeking to
28 place and retain control of the materials at issue here within
the

1 Federal governmental establishment. One of those grounds was
2 that when the plaintiff was in control of these materials he
3 issued them in a deleted and changed form. I am now pursuing
4 the line of examination intended to obtain evidence in respect
5 to that issue raised in your Complaint.

6 MR. MORTENSON: I still disagree with the relevance and
7 instruct the witness not to answer and state that if that is
8 the justification of the statute you have a real problem, because
9 Congress did not limit itself relative to Watergate or those
10 which were turned over and whether they were turned over in
11 complete form or not. And if you recall, Counsel, at the time
12 these materials were turned over to the House, in the form of
13 the Blue Book, the Committee, the ranking committee members
14 were invited to come and listen to the recordings in their
15 entirety. I don't believe that they deemed it necessary from
16 their vantage point to do so.

17

18 BY MR. DOBROVIR:

19 Q Mr. Nixon, on May 22, 1974, you wrote to Mr.
20 Rodino, the Chairman of the House Judiciary Committee, and I
21 quote from your letter: "The committee has the full story of
22 Watergate insofar as it relates to presidential knowledge and
23 presidential actions. Production of these additional conver-
24 sations would merely prolong the discovery without yielding
25 significant additional evidence."

26 On June 9, once again you wrote to Chairman
27 Rodino and said, "The voluminous body of materials that the
28 committee already has and which I have voluntarily provided,

1 apparently in response to the committee requests and apparently ¹⁰
2 in an effort to round out the record, does give the full story
3 of Watergate insofar as it relates to presidential knowledge
4 and presidential actions."

5 On August 5, 1974, in a public statement you said:
6 "On April 29, in announcing my decision to make public the
7 original set of White House transcripts, I stated that 'As far
8 as what the President personally knew and did with regard to
9 Watergate and the cover-up is concerned, these materials to-
10 gether with those already made available will tell it all.'
11 Shortly after that, in May, I made a preliminary review of some
12 of the sixty-four taped conversations subpoenaed by the
13 Special Prosecutor. Among the conversations I listened to at
14 that time were two of June 23."

15 My question is: Had you listened to the tape of
16 June 23 prior to writing the letter of May 22, 1974, to Chairman
17 Rodino?

18 MR. MORTENSON: Objection on the ground of relevance and
19 I will instruct the witness not to answer.
20

21 BY MR. DOBROVIR:

22 Q Had you listened to the tape of June 23 prior to the
23 letter of June 9 to Chairman Rodino?

24 MR. MORTENSON: The same objection. I will instruct the
25 witness not to answer.

26 MR. DOBROVIR: Mr. Mortenson, I have just received a
27 suggestion from one of my co-counsel and I will adopt the
28 suggestion.

1 My question to you is: Are you claiming that it is
2 irrelevant for the purposes of this lawsuit whether or not Mr.
3 Nixon, in any of those published statements, misrepresented the
4 record deliberately?

5 MR. MORTENSON: Are you asking the question of whether he
6 misrepresented the record deliberately?

7 MR. DOBROVIR: I am asking you whether it is your
8 contention that is what is irrelevant?

9 MR. MORTENSON: Yes.

10 MR. DOBROVIR: Thank you. Bear with me for a moment and
11 I will find Mr. Nixon's affidavit again.

12
13 BY MR. DOBROVIR:

14 Q On Page 5, Paragraph 8 of your Affidavit, you state,
15 and I quote --

16 MR. MORTENSON: If I may, Counsel. Let me expand upon
17 my answer.

18 MR. DOBROVIR: Certainly.

19 MR. MORTENSON: But I do believe that it is totally
20 irrelevant to this suit and the issues raised by the statute.

21 The plaintiff's actions in regard to the preparation
22 of the tape recordings that were reported, the transcript which
23 was reported to the committee, and it is that entire line of
24 questioning that I have instructed the witness not to respond to.

25 I have informed you, as I am sure you are probably
26 aware, that the full text of those recordings, the actual
27 recordings themselves, were offered to members of the committee
28 to respond to and I think that in itself is a complete

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1 demonstration that there was no effort to misrepresent the
2 record deliberately or otherwise when the committee to whom
3 the material was submitted that the source available. Beyond
4 that and even in that regard I consider the whole line of
5 questioning irrelevant to this lawsuit.

6 MR. DOBROVIR: Since we are putting material on the
7 record you should note that my last question related to the
8 June 23 tape which was not offered to the Judiciary Committee
9 on April 30 in connection with the submission. Moreover, that
10 my questions relate to public statements made to the people of
11 the United States and, of course, Section 104-A1 of the statute
12 relates to the desire of the Congress and the President that
13 the full story of Watergate be made public to the people as
14 soon as reasonably possible.

15 I should add that I am not going to burden the
16 record with it.

17 MR. DOBROVIR: I was also planning to ask similar
18 questions with respect to the President's news conference of
19 October 5, 1972, as compared with the June 23, 1972, conver-
20 sation -- ^{with respect to} ~~excuse me,~~ the March 6th, 1974 news conference as
21 compared with a March 22, 1972, conversation, the particular
22 portion of which was not disclosed in the April 30 submission.

23 I had a question with respect to the news conference
24 of August 22, 1973, and I had a question with respect to the
25 news conference of September 5, 1973.

26 As I said, I won't ask the questions merely for
27 purpose of having you interpose your objection. I will assume
28 you will interpose for the same.

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1 MR. MORTENSON: I will object and particularly to the
2 extent that you request plaintiff to respond to what action he
3 had taken, whether he had reviewed recordings and in the process
4 of reviewing recordings and in the process of reviewing re-
5 cordings I imagine there must have been discussions and so forth.
6 The actions of the President are claimed in this suit to be
7 privileged, at least in the context of a Congressional act trying
8 to seize the public disclosure of presidential materials. And
9 to the extent that you were requesting this witness to put upon
10 the record in the case the substance of his actions or dis-
11 cussions or anything else we object on the ground that this is
12 what the whole lawsuit is about, protecting that privilege of
13 confidentiality as well as other privileges involved in the
14 claim.

15 MR. DOBROVIR: Are you contending then that the matter
16 of ^{the date} ~~debate~~ upon which the plaintiff reviewed a particular tape,
17 which he has disclosed he reviewed ~~it~~ in May, are you contending
18 that any more specific information other than that is privileged?

19 MR. MORTENSON: I am saying in the context of this
20 lawsuit we refuse to answer on both grounds, irrelevancy and
21 privilege.

22 MR. DOBROVIR: You are instructing the witness not to
23 answer?

24 MR. MORTENSON: Yes.

25 MR. DOBROVIR: And the witness is accepting that
26 instruction?

27 THE WITNESS: Yes.

28 MR. DOBROVIR: Thank you.

1 BY MR. DOBROVIR:

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2 Q Mr. Nixon, on Page 5 of your Affidavit, Paragraph 8,
3 you state "I assumed that such opinions were given in confidence
4 to assist me as President and that they would not be publicly
5 disclosed. Just as important, those who gave me their opinions
6 must have so assumed."

7 On Page 14, Paragraph 20, you say with respect to
8 Foreign Affairs and Domestic Policy, "If the President and his
9 advisors had thought that their discussions were to be published
10 and publicized, they would undoubtedly have been far more
11 cautious and far less frank and free-wheeling."

12 On Page 16 you say at the time the tape recordings
13 were made, and I am not quoting there but now I am beginning
14 to quote "And my other presidential materials were generated,
15 neither I nor the members of my staff expected that any of my
16 presidential materials, and certainly not the tape recordings
17 of my confidential conversations, would ever be disclosed to
18 the public, at least without my express authorization."

19 However, you also say in Paragraph 22, that you
20 knew that many Presidents had used their presidential materials
21 to prepare their memoirs.

22 You also say, in Paragraph 23, that in part the
23 consideration of preparation of your memoirs, and I think you
24 testified to this earlier as well, was one of the bases, one
25 of the reasons for the installation of the tape recording
26 capacity. You also say that you intended to place the tapes
27 in a presidential library.

28 Now, hearing all those various statements and

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1 bearing all those statements in mind, is it your contention in
2 this case that disclosure ^{would not have} of the chilling effect that you refer
3 to if that disclosure is controlled by you?

4 A That is correct. That has been also the practice
5 of previous presidents.

6 For example, as Counsel is perhaps aware, not only
7 do we have the restriction of fifty years, which President
8 Johnson has placed on his tape recordings, many tapes of some
9 of the material which Truman had and has never been disclosed
10 and may never be disclosed, the same can be said with regard
11 to President Eisenhower. And what I am doing here is adopting
12 the same practice.

13 I will, however, as I have indicated, follow as
14 generous a rule as possible with regard to the disclosure. But
15 on the other hand, only the President, with regard to presiden-
16 tial materials, generally I am referring now when they are
17 a combination of official, political, private and personal,
18 only the President can make that judgment with all of the
19 considerations in mind. That I think is the essence of basically
20 this suit as I have pointed out earlier. It has many con-
21 siderations, but when in trying to determine such matters as
22 whether something should be disclosed or not, the time that it
23 can be disclosed, only one who participated, for example, in a
24 conversation or one for whom the material was prepared, knows
25 the total background and can make that decision. It can be
26 adequately made and, as a matter of fact, with no bad intentions
27 whatever or bad faith, it would not be adequately made by
28 government men, bureaucrats.

1 That is why, for example, I know that President
2 Johnson, and I am sure President Johnson has not allowed review
3 of his tapes except by himself and one intimate member of his
4 staff. That is why, as I understand, President Kennedy, or as
5 far as the tapes in the Kennedy Library, it's my understanding
6 they are not being reviewed by scholars outside of the immediate
7 Kennedy entourage.

8 That is why President Eisenhower, I know, insisted
9 on reviewing his materials. He did not have tapes but he
10 always had a notetaker in his room or virtually always. And
11 only one individual was present and he would ask that individual
12 to make a memoir for his presidential files. President
13 Eisenhower felt it his prerogative and responsibility and
14 upon his death he passed that on to his son to make the
15 decision as to what should be disclosed and when.

16 All that we are seeking in this suit is that same
17 right, because we believe that the right is not simply a
18 pecuniary one, because memoirs might be more valuable because
19 of the fact that the President had access or at least the first
20 access to materials, but in my view it goes much further than
21 that. It goes to the Office of the Presidency, not just the
22 man who sits here, but the past Presidents and I believe future
23 Presidents as well. Some may disagree, some Presidents may
24 disagree but I know from my experience that that safeguard of
25 confidentiality of privileged communications is indispensable
26 to making the best decisions and if that safeguard is further
27 eroded, it already has been eroded too much in my opinion, but
28 if it is further eroded it will have a very detrimental effect

1 on the ability of future presidents to make the decisions that
2 need to be made for the best interest of the country.

3 Q In that connection I would like to read to you a
4 passage from the Transcript of Eight Recorded Presidential
5 Conversations Hearing before the Committee on the Judiciary,
6 pursuant to House Resolution 803.

7 It appears on Page 183 of that volume, and ^{also in} ~~it is~~ a
8 separate volume entitled "Comparison of White House and Judiciary
9 Committee Transcripts of Eight Recorded Presidential Conver-
10 sations," the House Judiciary Committee states with respect to
11 the material from which I am about to quote, it states as
12 follows: "The following portion at the end of ^{the} March 22, 1973,
13 ~~the~~ conversation (beginning on Page 180 of the House Judiciary
14 Committee Transcripts) does not appear in the submission of ~~the~~
15 recorded presidential conversations of April 30, 1974, nor does
16 it appear in the transcript ^{provided} ~~prepared~~ by the White House for the
17 Special Prosecutor ^B

18 ^CIn January of 1974 and to the Judiciary Committee
19 in March 1974, and I am reading from Page 183 and it says --
20 let me go back a little bit so it is in context.

21 President: "Dean? Discipline is very high. Mitchell,
22 Parkinson, O'Brien."

23 "President: "Yes, Dean says ^{it's} ~~it is~~ great. Well,
24 you know, I feel for all the people, You know, I mean every-
25 body that is involved. Hell, ^{is} ~~we're~~ ^{is then} ~~the best~~ ^{to}

26 [unintelligible] and so forth. And then again unintelligible.

27 "That's, that's ^{is} ~~that is~~ why I can't let you go down, John? ^{It's all right.} ~~It has already~~

28 come ~~in~~ ⁱⁿ.

1 Dean: "Huh-un. Uh --" 110

2 President: "Did you find out anything?"

3 Dean: "I was -- I went ^{over} to Ziegler's office. They
4 have an office over there. ^{Paul} O'Brien ^{will} be down here in a
5 little while to see you. I am going over to Ziegler's office
6 to finish this up ^{now}.

7 Mitchell: "Are you coming back?"

8 Dean: "Yes, ^{I'll} I will come back over here then."

9 Mitchell: "Okay."

10 President: "Yeah, Yes. Well, when you come back he can --"

11 ^{uh,} ^{ugh} -- is that office open for John? ^{now?}

12 Dean: "Yes."

13 President: "Then he can go over there as soon as --"

14 [unintelligible] "This, ^{uh,} ^{ugh} but ^{ugh} this -- the one thing
15 I don't want to do ^{is to} -- now, let me make this clear. ~~I, I,~~

16 I thought it was ^{uh,} a very ^{ugh,} a very cruel thing, as it turned out
17 although at the time. ^{ugh,} ^{ugh,} ^{I had to tell.} [unintelligible] "What happened to

18 Adams, I don't want to happen with the Watergate matter. I
19 think he made a ^{made a} mistake, but he shouldn't have been sacked ^{and}

20 he shouldn't have been -- and for that reason I am perfectly
21 willing ^{to} and I don't give a" -- I am just deleting an expletive

22 "what happens. I want you to all stonewall it ^{let them plead} and complete
23 them, ^{with} complete the five amendments, ^{cover up or anything else if it'll save} save the plan. That's ^{it}

24 the whole point. On the other hand ^{ugh,} ^{ugh} ~~ugh -- ugh~~ I would
25 prefer, as I said to you, that you do it the other way."

26 A Would counsel please indicate what the other way
27 was.

28 Q I am reading from the transcript.

1 A Well, Counsel --

2 Q I don't know.

3 A I would interpose here, Counsel, the fact that that
4 is a rather famous conversation that appeared on the cover of
5 Newsweek and the cover of Newsweek left off what Counsel has
6 just read. I would prefer it the other way. The other way that
7 I preferred, as I had indicated, was that all should go before
8 the Grand Jury and testify freely without claiming any privilege.

9 Q I am reading the whole page, Mr. Nixon.

10 A I know, but you didn't read it the other way, the
11 other way referred to earlier in the paper. You don't even
12 know what the other way was.

13 Q No.

14 MR. MORTENSON: I think it is representative of the facts,
15 Counsel, that when you start to take portions of the conversation
16 it distorts the meaning.

17 THE WITNESS: You don't know what the other way is.

18 MR. DOBROVIR: No. Would you tell us.

19 MR. MORTENSON: He just told you, Counsel.

20 THE WITNESS: I just told you. It seems to me when
21 asking when you say the other way you would have looked back and
22 found what it was. I think it was in reference to going before
23 the Grand Jury. That had constantly been my position.

24 MR. MORTENSON: Can I ask you, Counsel, --

25 MR. DOBROVIR: I was going to ask a question about that,
26 if I may.

27 MR. MORTENSON: Go ahead.

28

1 BY MR. DOBROVIR:

2 Q Mr. Nixon, did you approve the ^{deletion} resolution of that
3 passage from the submission of April 30, 1974 -- January '74 and
4 March 1974?

5 MR. MORTENSON: Objection on the ground he has already
6 stated, and I would like for Counsel to state for the record
7 where in his pleading the accuracy of plaintiff's, or ^e has he
8 stated it before, the deliberate misrepresentation of any
9 record as raised in your pleadings. You said you raised this
10 as a defense to --

11 MR. DOBROVIR: That is not what I stated, Mr. Mortenson.
12 It is a defense and it will be argued as a defense.

13 MR. MORTENSON: Has it been raised in any of the pleadings?

14 MR. DOBROVIR: It is implied in our denial of the
15 allegations made in your Complaint.

16 MR. MORTENSON: Point to where it is implied in that.

17 MR. DOBROVIR: In other words, your allegation that this--
18 is a Bill of Attainder.

19 MR. DOBROVIR: Pursuant to that, we have a right to
20 produce evidence in support of our denial.

21 Let me ask my question, may I?
22

23 BY MR. DOBROVIR:

24 Q Mr. Nixon, what interest would be damaged -- well,
25 let me ask it this way.

26 What interest was damaged by the disclosure of that
27 conversation?

28 MR. MORTENSON: I object and will instruct the witness not

1 to answer this whole line of questioning. 117

2 MR. DOBROVIR: I will now turn it over to Mr. Krulwich.

3 MR. MORTENSON: Let us take a brief recess, please.

4 (A brief recess is taken at this time.)

5 MR. MORTENSON: Let me state for the record that as
6 counsellor and plaintiff we object to the procedure of the joint
7 Intervenor Defendants to split the questioning of this witness
8 in the deposition, on the grounds that the Court has permitted
9 a joint intervention by the parties in a normal proceeding for
10 taking the testimony of a witness as one attorney for one party.
11 But under the circumstances we are glad to consent to the parties
12 going ahead and splitting it in this instance.

13 THE WITNESS: I am an American League fan. I don't mind.

14 MR. DOBROVIR: Let me say for the record, we have
15 conducted the deposition on joint effort and we have cooperated
16 in the preparation. We will not be asking repetitious questions.
17 We have divided up responsibility for questioning and we think
18 it is appropriate.

19
20 EXAMINATION BY MR. KRULWICH:

21 Q Mr. Nixon, my name is Andrew Krulwich and we are
22 counsel for The Reporters Committee and Freedom of the Press
23 and the Historical Association and American Political Science
24 Association. Let me state this, that I am in company here with
25 Mark J. Spooner and Leonard B. Simon.

26 Did you conduct governmental business at Key Biscayne
27 and San Clemente when you were President?

28 A Yes.

1 Q Did you maintain or keep any files relating to this
2 governmental business in Key Biscayne or San Clemente, while you
3 were President?

4 A No.

5 Q Were any tape recordings made in Key Biscayne or
6 San Clemente, when you were President?

7 A No.

8 Q When you left the White House on August 9, did you
9 take with you any documents or tapes?

10 A What tapes are you referring to?

11 Q The tapes that you referred to in your Affidavit
12 and which is the subject of this litigation.

13 A Do you mean the so-called tapes from the Watergate
14 tapes?

15 Q Tapes made in the Executive Office Building?

16 A The ones made under the taping system?

17 Q Yes.

18 A No.

19 Q Did you take with you any documents?

20 A Any documents?

21 Q Yes.

22 A What type of documents?

23 Q Any documents that would be referred to and you
24 would consider as part of the presidential materials, when you
25 left the White House on August 9.

26 A None of that sort. Presidential material?

27 Q Yes.

28 A No.

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g to this
while you

Q In connection with your preparation --

A Let me point out.

Q Sure.

A I requested, of course, that as soon as I arrived here that the tapes and all of the presidential material be forwarded here. But as a result of a number of events that go on, probably an irrelevant temporary restraining order was obtained and that is why I did not have them. If I had thought such an order would have been issued, I think I might have taken them.

Q In preparation for your possible testimony in the Watergate Conspiracy trial, did you receive any of the presidential materials of your Administration in order to assist you in preparing that testimony?

MR. MORTENSON: Counsel, referring to copies of the presidential materials?

MR. KRULWICH: Either copies or materials, taking them one at a time.

THE WITNESS: Excuse me. What testimony do you mean? The deposition that I gave?

BY MR. KRULWICH:

Q No, I am referring to there was a time when there was a possibility that you might testify in the Watergate Conspiracy trial in Washington, D.C.

A Yes.

Q Did you receive any of the presidential materials of your Administration in order to assist you in preparing for

1 possible testimony at that trial?

2 (At this time plaintiff and plaintiff's counsel confer.)

3 THE WITNESS: We are consulting with Counsel to find out,
4 because at that time, as you remember, I was in the hospital.

5 MR. MILLER: You may testify you don't recall.

6 THE WITNESS: Actually I was in the hospital for
7 approximately two months and I don't recall any material ever
8 being sent to me. But my Counsel informs me they got some
9 material and did not send it to me, because I was in the hospital

10 MR. MILLER: I didn't inform you.

11 THE WITNESS: I said that is my recollection. I can't
12 tell you whether we did or not. As far as I am concerned, I
13 didn't see any, let's put it that way.

14

15 BY MR. KRULWICH:

16 Q And if any was sent you you do not know about it?

17 A I do not know about it; no.

18 Q Since August 9, have you received any presidential
19 materials from your Administration, either originals or copies?

20 A Presidential material?

21 Q Yes.

22 A All of that material is presidential, I said. As
23 you know, all the presidential material is held in Washington.

24 Q Mr. Nixon, I want to show you an article that
25 appeared very recently in the Washington Post, possibly to
26 refresh your recollection and just for your information and so
27 you know what it is I am referring to.

28 A Who is the author?

1 Q I don't know. It doesn't say. It indicates that
2 the Saturday Evening Post may be getting some of your papers
3 from your daughter, Mrs. Eisenhower. And my question is first:
4 Is this accurate?

5 A Let me see what my daughter is up to.

6 MR. MORTENSON: Another example of inaccurate Washington
7 Post reporting.

8 THE WITNESS: This article refers to letters that were
9 received, incidentally, primarily during the period I was in the
10 hospital.

11 My daughter Julie, as you know, has been a consultant
12 and I think called an assistant editor of the Saturday Evening
13 Post. When she was here, oh, three, four months ago she came
14 over and worked with volunteers in opening some of these letters
15 and she was particularly interested in the letters that came
16 from children. You know, school children made up cards and
17 all that sort of thing during my illness as well as others.
18 And she said that she would like to do an article on this. And
19 so under those circumstances she contacted our office and these,
20 incidentally, were letters that had already been opened. They
21 were letters that I could not respond to because no allowance,
22 no adequate allowance was provided for responding to over two
23 million letters I received since August 9th. And these letters
24 were sent to the Post, to Indianapolis.

25 However, while even they were in transit she
26 concluded that she could not and did not want to go forward with
27 the project. As a matter of fact, she has other plans for the
28 future, not that she won't be a consultant to the Saturday

1 Evening Post. Consequently the letters are now on their way
2 back and I am donating them all to the presidential letters
3 setup.

4 Q Time Magazine reporting on the same incident, and
5 I am sorry I don't have a copy of the Time article with me,
6 referred to these papers as "presidential papers."

7 A No.

8 Q Is that accurate?

9 A I would not -- well, it is accurate only in the
10 sense that if a Time editor believes that a former President,
11 letters sent to him is presidential, then it is a presidential
12 paper. I do not, however, consider it to be accurate in terms
13 of presidential papers, in terms of this lawsuit, and I believe
14 they are holding quite a few letters, a number that came in
15 before I left.

16 MR. MORTENSON: I think the record should be clear that
17 the testimony is that none of these letters referred to in
18 plaintiff's testimony predate August 9, 1974.

19 THE WITNESS: Correct.

20 MR. MORTENSON: And I certainly hope no one claims they
21 should be the owners of them.

22
23 BY MR. KRULWICH:

24 Q I was trying to establish what papers they were.

25 A I understand. And the stories, because of lack of
26 information, would lead you to that conclusion or your line of
27 questioning is fairly proper.

28 Q I want to go back for one minute. I neglected to

1 follow up before, when I asked about the materials you took with
2 you when you left the White House on August 9th.

3 You answered that, I believe, you did not take with
4 you any White House tapes. Did you take any other tapes with
5 you?

6 A All that I was able to take with me and all that I
7 did take with me were some of my personal notes and diaries that
8 had not gone to the White House files. Those, of course, I
9 took with me because they were available, they were in the
10 office and I just took them from my office. But only things
11 that were in my office or in my safe at the White House
12 residence were taken.

13 Q Are you referring there to Dictabelts?

14 A There were some.

15 Q Are these the same Dictabelts that you are referring
16 to in your Affidavit on Page 12?

17 A A portion of them. Most of the Dictabelts,
18 unfortunately I must say in terms of my commitment to meet a
19 deadline with regard to writing, are still in the White House
20 under the Restraining Order. The only ones I was able to
21 take with me and that I did take were ones that were in my
22 office and, as I said, in the President's Office and also in
23 my safe in the White House residence, where I kept notes,
24 Dictabelts whenever they had recently been made.

25 See, it was my custom, I should point out, that
26 with regard to Dictabelts, not to have them transcribed and
27 they have not been transcribed yet so I don't even know what
28 I have.

1 Q I see. 26

2 A And we have not been able to get an inventory from
3 the White House as to whether the belts are there.

4 THE WITNESS: Is that right, Mr. Mortenson?

5 MR. MORTENSON: Yes.

6

7 BY MR. KRULWICH:

8 Q You just mentioned your commitments for writing.
9 Do you have a commitment at this time?

10 A Yes.

11 Q And does that commitment involve a signed contract
12 with a publishing agency?

13 A Yes.

14 Q And does that signed contract provide for you to
15 receive a sum of money in return for your memoirs?

16 A Yes. It is conditioned also on what I am able to
17 produce, and I confidentially expect that I will be able to
18 produce memoirs in due time.

19 Q All right. On Page 16 of your Affidavit, and again
20 on Page 17 in Paragraph 21 and then again Paragraph 23, you
21 referred to "Tape recordings of conversations in the Oval
22 Office and my office in the Executive Office Building and else-
23 where," et cetera.

24 A Yes.

25 Q What did you mean by "elsewhere"?

26 A Well, there were tape recordings of my telephone
27 conversations made from my office in Camp David, what is
28 called Aspen Lodge. There were no tape recordings in San

1 Clemente and none in Florida or on the telephone or in the
2 office. There was a tape recording of telephone calls made
3 from Aspen Lodge, that is what I was referring to "elsewhere."

4 Q Do the tape recordings that you just described plus
5 the tape recordings in the Oval Office and the tape recordings
6 in your office in the Executive Office Building constitute the
7 totality of the tape recordings that you are claiming as
8 presidential materials in this litigation?

9 A Well, let me explain. You did not mention telephone.
10 The telephone in the Lincoln Sitting Room was recorded, none
11 other. That was the one I used as an office in the residence.
12 No other telephones in the residence were recorded.

13 The telephones both in the EOB and the Oval Office
14 were recorded. The Cabinet Room also I don't think you
15 mentioned, that was recorded. Beyond that, as far as tape
16 recordings were concerned, there were none, as I said. And I
17 say this only based upon what I have been told and what I have
18 understood.

19 I understood that during the Johnson Period there
20 were tape recording systems that covered telephones of members
21 of the staff and whether that is true or not I am unable to say.
22 I have understood that but I want the record to be clear here
23 that there were none of the telephones of members of the staff
24 that were recorded, as far as I was concerned. I have no know-
25 ledge of that. What they may have done you would have to ask
26 them.

27 Q Were any of your conversations with foreign heads
28 of state or foreign governmental officials, when you traveled

1 aboard, tape recorded?

2 A Oh, by them always.

3 Q By you?

4 A Never.

5 Q On Page 12 of your Affidavit, in Paragraph 19, you
6 give as an example what you term your wife's personal files,
7 "her record pertaining to the White House restoration project
8 which was funded entirely by private contributions and which
9 she voluntarily initiated and supervised."

10 Is the list of those, as to who contributed to the
11 White House restoration project, a document that you claim as
12 one of your presidential materials in this lawsuit?

13 A Yes. Well, I don't know whether we want to quibble
14 about it. It belongs to my wife in that instance, but my wife
15 intended to give all of her papers -- she has already expressed
16 that intent to me -- all of her papers to the White House and --
17 could I elaborate a moment with regard to that? This may
18 anticipate the question.

19 Q Yes.

20 A I have indicated, for example, that I consider total
21 privilege, and I am sure all counsel would agree with this, any
22 conversations that I have had, private conversations, with my
23 wife, my daughters, my sons-in-law, other members of my family.
24 However, I had a number of official, what I would consider
25 official conversations with my wife and with my daughters. For
26 example, my wife took three good will trips aboard, two to
27 Latin America and one to Africa and I had extended conversations
28 with her in the office and the Oval Office concerning these

1 trips.

2 She also was the leader, in terms of a program very
3 close to my heart and hers as a former teacher, that is The Right
4 to Read Program. And I had many conversations with her on that
5 program.

6 The White House restoration project has already
7 been mentioned. The other programs, which both she and my
8 daughters were involved, was the Legacy of Parks Project. I
9 was unable often to do the dedications and so forth and there-
10 fore any conversations in that area were involved.

11 Both of my daughters worked at varying times as
12 volunteers with retarded and underprivileged children from
13 Washington and I had conversations with them about those
14 projects.

15 What I am indicating is very simply that my wife
16 and my daughters were very active in those areas. Also I
17 should point out that in addition to what we would call simply
18 official or official family activities, that they were active
19 in the campaigns. They would make campaign appearances and I
20 would discuss that. So they were engaged in political activities.
21 So when I speak not of the privilege but when I say conversations
22 with my wife and daughters would never be disclosed, I would say
23 that any conversation that I would apply the same guidelines to
24 her and I have discussed this with her as with my daughters that
25 I applied to myself.

26 Q Thank you.

27 Mr. Nixon, is the Gift Register, which was prepared
28 by the White House Gift Unit listing gifts presented to you or

1 family by foreign heads of state or officials of foreign
2 governments among the presidential materials that you claim in
3 the case? Are you familiar with the Gift Register?

4 A I know the Gift Record Unit, because the individual
5 in charge of that said that Mrs. Nixon had been most scrupulous.
6 He was not commenting upon any others in terms of reporting all
7 gifts and turning all gifts in, of course, and having them
8 recorded so that they could eventually be delivered to a
9 library.

10 Now, if you are referring to the gifts themselves,
11 it would be my intent that they should be put in the library as
12 they are in other libraries, the Johnson Library, the Truman
13 Library, and the rest, particularly the State gifts as well as
14 some from private citizens here in this country. But if you
15 are talking about the lists, I don't quite know what you are
16 talking about.

17 MR. MORTENSON: Counsel, if I might interrupt. There
18 has been discribed as the Nixon v. Sampson matter, of which you
19 are counsel of record. The official register of gifts given
20 under the Foreign Gifts Act, or whatever it is called, have
21 been turned over to the Department of State, which is to be the
22 repository of that registration and therefore not included
23 along with the presidential materials, beyond that material
24 which has been introduced in that case. And because the
25 Register does reside in the State Department, according to that
26 testimony, it obviously is not included in the presidential
27 materials claimed by this lawsuit.

28 THE WITNESS: Let the record show, however, in view of

1 some of the things that have been written by some of the
2 reporters, for whom I have, of course, great respect, and
3 probably because of lack of information, that every gift
4 received during the period I was President of the United States
5 by me or by my wife has not only been recorded but also will be
6 donated and to the library. None have been sold and none have
7 been appropriated. All stories to the effect of that are to the
8 contrary and totally inaccurate.

9 MR. KRULWICH: Thank you, Mr. Nixon. I have no further
10 questions.

11
12 EXAMINATION BY MR. GOLDBLOOM:

13 Q Mr. Nixon, I am Irwin Goldbloom and I have with me
14 David Anderson. We represent the Defendants, United States and
15 General Services Administration.

16 I would like to go back briefly over some of the
17 ground that you covered this morning about the scope and nature
18 of the presidential materials.

19 A I didn't get that.

20 Q The scope and nature of the presidential --

21 A Oh, the scope. I see.

22 Q I believe you indicated that in your Affidavit that
23 in many instances there are letters written to the President by
24 citizens concerning matters of national or domestic affairs,
25 such as circumstances involving Lieutenant Calley; is that
26 correct?

27 A Oh, yes.

28 Q Isn't it fair that the White House receives

1 thousands upon thousands of letters on a regular basis daily from
2 citizens around the country on all matters or many matters of
3 national concern?

4 A Yes.

5 Q Is there in the White House a unit that is designed
6 to prepare responses to these letters from citizens or others
7 who have communicated with the President?

8 A Yes.

9 Q And for the most part unless there might be an
10 unusual circumstance, most of these letters would not come
11 directly to the President's attention; is that correct?

12 A One moment. That may have been the case and may
13 be the case with some Presidents but not with me. I had
14 prepared for me on a weekly basis a summary of the mail, the
15 issue breakdown, the number of letters received on one side or
16 the other. In addition to that I wanted to see a sampling of
17 mail that had been received, for example the Calley Matter
18 and wherever the letters involved a major issue it became
19 necessary then to prepare an adequate response. And I took
20 personal responsibility for preparing that response. Of
21 course, staff members would submit their versions, but I believe
22 I found that in many years of public life people who received
23 letters from the President, you would get them framed. I don't
24 mean my editorial ability was much greater than those in the
25 writing section, but I did a great deal of it myself. And so
26 I saw a considerable amount of mail.

27 I should also point out in that connection that a
28 great many, a great number of letters were written to Mrs. Nixon,

1 to which she responded personally.

2 Q To some extent some of this mail that was directed to
3 the President may have been sent or delegated to the various
4 departments, agencies for response in the event that it referred
5 to a particular matter. And in that instance the White House may
6 have received a copy of the response that was sent by the answer-
7 ing agency or department. Is that a correct understanding?

8 A Correct.

9 Q Now, I believe you said this morning that approxi-
10 mately, as an estimate, two hundred thousand of the 42 million
11 estimated number of documents may have come to your attention
12 at one time or another while you were President.

13 A Just a rough estimate.

14 Q Is it fair to say that if a matter was brought to
15 your attention it had some relative importance as compared say
16 with the documents that didn't come to your attention?

17 A Of course.

18 Q Now, in connection with the papers in which your
19 immediate staff members prepared for you or for each other in
20 connection with matters that you had to act upon, is it correct
21 to say that these matters touched upon some of the most sensitive
22 issues regarding this country?

23 A We are talking now about papers or letters or both?

24 Q Papers. We are talking about memoranda or papers
25 which were brought to your attention.

26 A Yes.

27 MR. MCPHENSON: Let me ask counsel to clarify what he means
28 by 'sensitive matters.'

1 THE WITNESS: Are you referring to basically national
2 security matters only?

3 MR. GOLDBLOOM: No, but that would be included.

4 THE WITNESS: What else would be sensitive?

5 MR. GOLDBLOOM: Defense in particular and economic policy.

6 THE WITNESS: Do you include that as sensitive?

7 MR. GOLDBLOOM: I was using that in terms of national
8 security.

9 THE WITNESS: As you are quite aware, matters in that area,
10 you are talking about classification, and you don't use top
11 secret classification or something in the economic field. It is
12 only used in a national security field. I am not trying to
13 quibble, but I just want to be sure I understand the question.

14 MR. GOLDBLOOM: I didn't intend to use the term sensitive
15 in any classification.

16 THE WITNESS: I see.

17 MR. GOLDBLOOM: But rather --

18 THE WITNESS: Important.

19 MR. GOLDBLOOM: -- important to the country.

20 THE WITNESS: All right.

21

22 BY MR. GOLDBLOOM:

23 Q This would include national security and foreign
24 affairs matters?

25 A Yes.

26 Q And matters involving the administration of laws,
27 the execution of laws by the President, and matters of economic
28 policy, domestic --

1 A Yes.

2 Q I believe you testified that the taping system that
3 we have referred to was originally installed for national securi
4 particularly for national security purposes.

5 MR. MORTENSON: I don't believe that accurately reflects
6 the testimony given.

7 THE WITNESS: What I believe I testified to, and this will
8 save the reporter going back to have to read his notes, was this
9 That the question which was raised as to whether or not the taping
10 system recorded primarily for purposes of writing my memoirs.

11 I pointed out that President Johnson had mentioned
12 that particular factor in recommending that one be put in. I
13 said as far as I was concerned I considered it important from
14 the standpoint of making the historical record, having in mind
15 also certainly as a subsidiary but not then the most compelling
16 reason the possibility that sometime in the future I might do
17 some writing and that having available the tapes would be help-
18 ful in seeing that it was accurate. I pointed out that as far as
19 I was concerned, too, that I was particularly interested in the
20 national security area but I did not limit it to that because
21 there are other areas which I have also indicated, the matter of
22 Welfare reform, the desegregation issue, the issues which seemed
23 so miniscule but are so important. Some like abortion, et cetera.
24 All of these, of course, are on tape.

25
26 BY MR. GOLDBLOOM:

27 Q Mr. Nixon, I am going to read from a portion of a
28 press conference that you gave on August 22, 1973. A portion of

1 your answer, which appears on Page 1018 of Presidential
2 Documents, weekly compilation of Presidential Documents, for
3 Monday, August 27, 1973. And I quote: "It was put into place"
4 this is referring to the tape -- "It was put into place again
5 in June of 1970 (1971) because my advisors felt it was important
6 in terms, particularly of national security affairs, to have a
7 record for future years that would be an accurate one but a
8 record which would only be disclosed at the discretion of the
9 President or according to directives that he would set forth."
10 Do you recall making that statement?

11 A Yes. I was wrong, incidentally, about the date.
12 I thought it had been put in earlier than that. I was wrong.
13 It did not go into place until February, as I recall, of 1971.

14 Q Is it important in national security affairs to
15 have a precise record of our dealings with foreign countries,
16 foreign leaders?

17 A It is very important.

18 Q Is that because our position in foreign affairs
19 depends upon sensitive and important negotiations with foreign
20 leaders of foreign countries?

21 A Yes, sir.

22 Q Is it fair to say that contained --

23 A Just a second.

24 (At this time the plaintiff and plaintiff's counsel confer
25 out of the hearing of the reporter.)

26 THE WITNESS: I am sorry. Let the record so indicate I
27 consulted with Counsel on a legal matter.

28

1 BY MR. GOLDBLOOM:

(31)

2 Q Is it fair to say that included, among the
3 presidential documents and in particular the tapes, are matters
4 relating to national security and foreign affairs which might
5 not be found elsewhere in government documents or records?

6 A I would say that that would be, if you know the
7 operations of the White House National Security Staff in our
8 Administration and the current Administration, I assume, that
9 that would not constitute a significant problem, because my
10 relations with Secretary Kissinger and the head of the National
11 Security Council were so close in an official way that there was
12 nothing that he did and nothing that I did or said in our
13 conversations with foreign leaders that we did not report.

14 So as far as anything that occurred during the meetings that
15 I have had abroad or at home, whether they were taped or not
16 taped, they weren't taped abroad, of course, and at home
17 despite my usual -- my desire to have one-on-one meetings from
18 time to time, it was more often the custom for both sides to
19 have a notetaker. So in the files of the National Security
20 Council, I believe Dr. Kissinger is still there as well as
21 being Secretary of State, are all relevant materials that
22 President Ford would need and for that matter the future
23 President might need. And I am sure that continuity would be
24 continued.

25 Q You are saying that Dr. Kissinger has access to
26 your presidential materials insofar as they relate to national
27 security and foreign affairs matters?

28 (At this time the plaintiff and plaintiff's counsel

1 confer outside the hearing of the reporter.)

2 MR. MORTENSON: Mr. Reporter, would you repeat the
3 question.

4 (The pending question is read by the reporter, as
5 requested by counsel.)

6 THE WITNESS: No. Anyway, my answer may have been
7 confusing. Dr. Kissinger has his own file and I have my
8 presidential files. Dr. Kissinger's files are complete and
9 all materials that have to do with our negotiations with
10 Russia, with Chou En-lai, with Mao Tse-tung, with Sadat,
11 needless to say the European and Latin American leaders, ad
12 infinitum, all those materials are in the files of the National
13 Security Council.

14 As far as my particular files are concerned, where
15 the matters were specifically dealt with by me or where there
16 was a meeting that I had, of course I have my own copy. A prett
17 good example of that is the controversies over the famous
18 Thieu letters. As soon as that controversy arose, the first I
19 heard about it was when I read in the paper a statement by
20 Mr. Nessen, Press Secretary, that a review of the Thieu letters
21 indicated that, "they were on all fours" or at least consistent
22 with the statements that I had made publicly about any
23 communications with Mr. Thieu.

24 The point I am making is that I gave authority to
25 Dr. Kissinger to go into my files and he didn't go in my files.
26 He didn't have to, he had them.

27 Q Well, to the extent that Dr. Kissinger may not have
28 had access in his files in the National Security Council, do you

1 know whether he has had access to presidential materials for t
2 conduct of his current functions?

3 MR. MORTENSON: I object to the question. I think that
4 Counsel for the government is aware of the procedures that have
5 been set up for access by the NSC members for the presidential
6 materials and records and in what instances they have not acces.
7 and that is adequate basis and is the best evidence of such
8 access.

9 MR. GOLDBLOOM: I don't know that that is the best
10 evidence nor do I know that it is necessarily precluded from
11 being the subject of this deposition.

12 One of the contentions of the plaintiff is the right
13 of dominion and control over presidential materials and I think
14 it is important to explore the amount of access or the nature
15 of access on certain types of documents.

16 MR. MORTENSON: Well, excuse me, Counsel. To the extent
17 that you are focusing on what access has occurred since
18 President Nixon resigned from office and particularly since
19 the imposition of the Court Order which prevents his access,
20 except under specified conditions but which permits with
21 notification to counsel if the review of materials for ongoing
22 government purposes, that that information is best obtained from
23 members of the NSC who have had the direct access not by
24 plaintiff some three thousand miles away who has not had access.

25 MR. GOLDBLOOM: You are willing to stipulate that there
26 has been access to presidential materials.

27 MR. MORTENSON: I can't stipulate if members of the
28 NSC have had access then I assume they have.

1 THE WITNESS: Do they?

2 MR. MORTENSON: I don't have NSC records.

3 THE WITNESS: Let me say this. Knowing Dr. Kissinger,
4 everything that is in the presidential files he has a copy of
5 and I can't say the contrary however.

6

7 BY MR. GOLDBLOOM:

8 Q Mr. Nixon, if there is a reason to maintain an
9 accurate record of presidential activity in the area of foreign
10 affairs and national security, isn't it true that that reason
11 for an accurate record is to enable a President exercising
12 Constitutional powers to know precisely the matters relating to
13 national security in foreign affairs for his exercise of his
14 powers?

15 A Well, wouldn't it be better if I answered that
16 question by example and then I can be very precise.

17 When I became President I succeeded President
18 Johnson who was, of course, a member of the other party.
19 However, despite the fact that we had been opponents in the
20 campaign, we developed on a parallel basis at all levels
21 consultation and briefings. Rusk briefed Rogers; Rostow
22 briefed Kissinger; Johnson briefed me in great detail. Also
23 following, after coming into office, due to the fact that the
24 Vietnam War negotiations, you know, they had the bombing halt
25 just before the elections, and negotiations were still in
26 process, Dr. Kissinger on several occasions Mr. Helms on
27 several occasions at my direction, and General Haig talked to
28 the President, went down to see President Johnson and Mr. Rostow

1 to see what the status of the negotiations had been and where
2 they should go. And they had absolutely no problem at all.
3 And Secretary Rogers, in his relationships with Secretary of
4 State Rusk, had the same problem.

5 I may say, too, looking back over the history of
6 this country, that even when one party succeeds another that
7 we have become mature enough that this kind of communication
8 between Presidents particularly is now standard and should be.
9 As far as I am concerned there, of course, as you would assume
10 no problem as far as cooperating with President Ford and there
11 will be no problem as far as cooperating with a future President
12 in the event Mr. Ford is not the President, as long as I am
13 alive.

14 Q In other words, our foreign policy involves
15 continuity?

16 A Yes.

17 Q And the President in this regard is more than a
18 person, he is an institution in a sense. Is that fair to say?

19 A No, I think you can't say that the President is just
20 an institution or for that matter because each President is
21 different. Each President develops his own policies. Some
22 want to start with an absolutely clean slate and they sweep out
23 all of their predecessors. They don't want anything to do with
24 any of the previous policies.

25 There are instances when it is necessary for a
26 President to have communication with a former President. For
27 example, President Kennedy had several communications with
28 President Eisenhower, when he thought it was necessary, and

1 there was cooperation.

2 Q That is our experience in modern times.

3 A It is and it will continue to be now, particularly
4 will be in my case, because of my knowledge of the necessity
5 for continuity.

6 But I wish to point out, if I could, to Counsel,
7 that that continuity need not be obtained and should not be
8 obtained at the cost of destroying the principle of confidentiality.
9 You have to weigh -- we have problems to weigh and I have
10 already talked about my strong feelings with regards to
11 necessity to maintain the principle of confidentiality and
12 separation of powers.

13 I should point out that we can have both. We can
14 have or retain the principle of confidentiality and that means
15 the President should retain control over his papers and so forth.
16 But at the same time that is not inconsistent with maintaining
17 continuity. That has not been the case in the past and we have
18 not had a serious problem in recent years and to my knowledge
19 we have not now and I don't see any coming up in the future.
20 Certainly in view of the fact that this legislation deals only
21 with my presidency, there is no chance whatever that that will
22 happen.

23 Q Could the principle of continuity be destroyed or
24 undermined by concepts of private property of a former President?

25 A That would assume that a former President was
26 irresponsible and put his own views about the materials that
27 were presidential materials, his own views with regard to his
28 right thereto above the interest of the country. And despite

1 differences we may have as to who should occupy that office, I
2 can think of no man in either party that would do that at the
3 present time. And incidentally, that would include about forty
4 people that are running for President or Vice President.

5 Q I believe you made some reference this morning, Mr.
6 Nixon, to classified documents and the interests of a former
7 President in abiding the rules and regulations and the out-
8 standing executive orders concerning the use of dissemination of
9 classified materials.

10 A Correct.

11 Q Do you agree that a former President, with respect
12 to his presidential materials, must so abide by executive
13 regulation authorities concerning the use of and dissemination
14 of classified materials?

15 A I not only agree with it but I have -- again we can
16 get to a precise example.

17 Shortly after President Johnson left office, when
18 he had started writing his memoirs, he called me not once but
19 almost every couple of months asking for more archivists who
20 had the experience and the qualifications to declassify
21 materials, so that he could use it in his memoirs. In other
22 words, he knew that he could not use and should not use
23 classified materials in his memoirs. That was his practice,
24 that was President Eisenhower's practice and I am sure it would
25 have been President Kennedy's had he lived. It certainly was
26 President Truman's practice and naturally would be mine.

27 As I said, President Johnson assumed that he could
28 not use a classified document unless he got permission. Here,

1 when we talk about documents or presidential materials, I should
2 say, and in the national security area, there imbued with the
3 public trust, they are different from that you have described
4 earlier as being sensitive in the domestic area. And where those
5 materials are concerned, where they are imbued with the public
6 trust, then no former President, even though he has control
7 thereof as to their disposition, no former President should
8 disclose them or for that matter retain them unless or except
9 with the consent of or an understanding with the incumbent
10 President.

11 (At this time the plaintiff and plaintiff's counsel
12 confer out of the hearing of the reporter.)
13

14 BY MR. GOLDBLOOM:

15 Q Moving on to a slightly different subject.

16 In Paragraph 5 of your Affidavit, on Page 3, you
17 indicate various different roles that the President serves as
18 "Chief Executive but is a major force in foreign affairs, a
19 formulator of domestic policy, a leader of his political party,
20 a politician in his own behalf, a private citizen with personal
21 friends and associates, and a husband and father to his family."

22 I believe this morning you indicated with respect
23 to documents that may relate to -- well, that are included among
24 presidential documents --

25 A Presidential material.

26 Q -- presidential material there is an intermixture
27 of these roles and that in some instances where the President
28 is acting as Chief Executive he is also acting in a political

1 sense, particularly where he is faced with a Congress of a
2 different political party.

3 A Even when he has a party of his own. Mr. Roosevelt
4 learned after 1938, as you recall.

5 Q In a sense, isn't it fair to say that in many
6 respects the various roles of the President are contained
7 throughout most of his activities, the roles that you have
8 indicated in Paragraph 5, and that no one role is sharply
9 defined in terms of his activities?

10 A Are you suggesting, if I get the question, that the
11 roles are intermingled in conversations?

12 Q Well, I am asking you whether or not they are not
13 in fact intermingled in fact.

14 For example, the President taking action in an
15 official capacity under his constitutional or perhaps statutory
16 powers might properly take into account political considerations
17 concerning Congress in taking action. Is that correct?

18 A Yes, he must.

19 Q The President is a leader of the people and in a
20 sense his personal health is a matter of public concern. So to
21 the extent that matters that one might consider to be quite
22 personal to the average citizen might also be matters that would
23 be effected with public interest. Would that be fair to say?

24 MR. MORTENSON: Let me ask, Counsel. Are you saying
25 members of the public would be interested in learning the
26 President's health? Are you saying they have an interest in
27 knowing what the President says to his doctor?

28 MR. GOLDBLOOM: No. I am saying they are, or I am asking

1 whether it is fair to assume that the members of the public are
2 interested in knowing what the President's health is.

3 THE WITNESS: Oh, yes. Yes. And I mean this is growing
4 out, as we know, of rather tragic experience of President Wilson
5 who for fourteen months was unable to really serve in the office.
6 And a tragic experience of Franklin D. Roosevelt, perhaps that
7 is questionable, but some believe that he had health problems in
8 the end.

9 But it has been customary in recent years,
10 particularly after President Eisenhower's serious illnesses,
11 for reports to be made publicly with regard to the annual
12 physical examinations. I have had those reports made. On the
13 other hand, I distinguish those from reports, from conversations
14 that I have with my doctor and I have both with regard to how I
15 feel and what I ought to do about my health to make it better or
16 want to preserve it or what have you.

17

18 BY MR. GOLDBLOOM:

19 Q Now, in connection with the development of the
20 taping system, the installation of it by the Secret Service.
21 Do you know whether there were any instances when references
22 were made, and I say this prior to any public controversy
23 concerning the existence of the tapes, whether they were ever
24 used for any governmental purpose?

25 A No. To my knowledge no tape was ever transcribed.
26 And as far as I knew, none was ever listened to until this
27 controversy began.

28 Q Do you know whether the Secret Service agents who

1 operated the system had the capability of listening to the tapes

2 A Yes. It is my understanding that the Secret Service
3 agents who operated the system did have the capability of
4 listening to the tapes. I have no knowledge that they ever
5 did.

6 Q The installation of the taping system, was that
7 financed by the government?

8 A I understand it was. Both the Johnson and Nixon
9 Administrations it was a government project and I understand
10 the Kennedy Administration as well was financed by the govern-
11 ment.

12 MR. GOLDBLOOM: I have no further questions.

13 MR. MORTENSON: Off the record.

14 (A brief recess is taken at this time.)

15 MR. GELLER: Mr. Nixon, my name is Kenneth Geller and I
16 am the attorney with the Watergate Special Prosecution Force.

17 As you may know, the Special Prosecutor intervened -
18 in the civil action last January in order to protect our
19 interests in certain of the presidential materials of your
20 Administration, which were relevant to our ongoing investigations
21 and prosecutions and from the outset our interests in this
22 lawsuit has been so limited.

23 As you may also know or as you are certainly aware,
24 several months ago procedures were instituted between our
25 office and counsel representing you by which the Special
26 Prosecutor has been given access to certain of the materials
27 which we requested in order to carry out our responsibilities.

28 The Special Prosecutor believes that we have

1 received good faith compliance with substantially all of our
2 requests up to this time and we expect to have full compliance
3 in the near future, at which point we intend to withdraw from
4 the lawsuit.

5 My understanding, by the way, is that there still is
6 relatively outstanding requests at this time for materials.

7 Finally it is our understanding that the accommodatio
8 which we worked out with your counsel is an ongoing one and that
9 if we have any future requests for material the procedures which
10 we have instituted in the past will again be followed to carry
11 out those requests.

12 Having explained the posture of the Special
13 Prosecutor in this lawsuit, I believe that the few questions
14 I intended to ask were covered by counsel for the Justice
15 Department and therefore I have no questions.

16 MR. MORTENSON: Off the record.

17 (Discussion, off the record.)

18 MR. MORTENSON: It has been agreed among counsel for
19 the plaintiff and the government defendants and the joint
20 Intervenor Defendants that plaintiff's Affidavit, which has
21 formed the basis for some of the questioning during this
22 deposition and which has been submitted in this litigation
23 shall constitute the direct testimony of the plaintiff and
24 shall be admitted as such subject to appropriate objections
25 by parties seeking to interpose them and that the questioning
26 by the joint Intervenor Defendants and the government defendants
27 taken today shall constitute the cross-examination, again
28 subject to any appropriate objections on the admissibility of

1 the evidence or the testimony elicited.

2 MR. DOBROVIR: With one further proviso. Of course,
3 subject to the fact that we do not waive any rights we may have
4 with respect to those questions that the witness was instructed
5 not to answer and did not answer.

6 MR. MORTENSON: All right. I don't ask you to waive
7 any.

8 MR. DOBROVIR: Thank you.

9 MR. MORTENSON: Now, Mr. President, let me backtrack over
10 a couple of the areas of questioning.

11
12 EXAMINATION BY MR. MORTENSON:

13 Q Did you prepare speeches which you intended to
14 deliver during the time you occupied the Office of the President?

15 A Yes.

16 Q Did any of those speeches, which you prepared,
17 relate to political matters as opposed to matters official in
18 character?

19 A Oh, yes.

20 Q Did you personally prepare these?

21 A I spent more personal time on them, as I have
22 indicated earlier, than most recent Presidents. But I had
23 excellent assistance from members of my staff. When it came
24 down, however, to the major thrust, the theme, the final
25 editing, I have very strong feelings about that and take
26 responsibility for any grammatical errors.

27 Q Were portions of any of these speeches prepared
28 by you personally without the assistance of any members of the

1 staff?

2 A I would say that more than half was prepared by me
3 personally.

4 Let me, if I could, explain how I went about pre-
5 paring a speech. We are all a little different, you know.
6 All of you are lawyers, I guess. I take the yellow pad and I
7 sit down before seeing anything from any of my associates on
8 any major speech, like an inaugural or State of the Union or
9 report to the nation on what is going on in Vietnam or China
10 or something like that and make very extensive notes maybe on
11 eight or ten pages. After I have made those notes I then call
12 in the individual, normally it would be Mr. Price, sometimes Mr.
13 McKinnon, who was going to work on the speech, and run over
14 the notes with him and ask him, with the help of others on the
15 speech writing -- in the speech writing group, to prepare a
16 draft. The draft would come back and, of course, would always
17 be much too long. I then would cut it back. And because the
18 speech writers obviously would have some ideas to stimulate my
19 own thinking, I would prepare other sections to go into the
20 speech. At the same time, in following this process one goes
21 through and it is an agony of trying to create a speech, to
22 get the ideas down on paper and to get the written word so
23 that it can flow into the spoken word. Many extraneous ideas
24 come to mind and what I would do in this instance would be
25 either to write out again on yellow pad or to dictate on the
26 Dictabelt extraneous ideas not to be included in the speech
27 but to be used later. I would say over a period of five and
28 a half years and perhaps some of the better speeches were never

1 made. I have, oh, perhaps several hundred pages, fifty thousand
2 to one hundred thousand words of speech ideas, writing ideas that
3 I intended to use at a later time. Whether it is precedent there-
4 after, for example, and I won't belabor this any longer, but I
5 thought it might be interesting to our group of visitors here,
6 when I wrote the article for Foreign Affairs in 1967 on the
7 opening to China, it didn't create much stir except among
8 sophisticates who read Foreign Affairs.

9 After the opening occurred, I did a great deal of
10 thinking about what the future of the world would be fifteen to
11 twenty years from now when the Chinese, already the most
12 populous nation in the world, would then have a very significant
13 nuclear capability and in addition be a very significant economic
14 power in the world, how this would affect not only the United
15 States but our relations, the relations of the United States with
16 Japan and Southeast Asia and the Soviet Union in particular and,
17 of course, with Western Europe and the so-called Third World.

18 I recall this, for example, as one of the very
19 expensive monographs that I have written. It is in my presidential
20 papers. It is in what you call the China Folder.

21 The announcement of going to China, as you recall,
22 was two minutes. What I wrote before boiling it down to two
23 minutes was one hundred pages.

24 Q In that regard, do you intend in the future to write
25 on matters of foreign affairs and domestic policy?

26 A Yes.

27 Q Do you intend or did you intend, at the time the
28 materials that you have just described were generated, to

1 utilize these materials either as they presently exist or in
2 some revised form to formulate the basis for your writings on
3 matters of foreign affairs and domestic policy?

4 A Yes. As a matter of fact, I would label them
5 "Speech Material," or "Book Material."

6 Q Has any of this material been published?

7 A No.

8 Q Or delivered in a public form, to your knowledge?

9 A No. And as a matter of fact, this material I would
10 put in the file and would not give to my speech writers, not
11 that I was trying to keep anything from them. I didn't want to
12 divert them from what I eventually determined would be the
13 theme.

14 Q Now, in your proposed writings on matters of foreign
15 affairs and domestic policy, how would that be affected if all
16 of the materials within your files, which you had previously
17 generated, were made public?

18 A It would be worthless.

19 Q Would it influence your ability to write on these
20 issues?

21 A Oh, I could still write on them but it would
22 perhaps -- oh, I am not an expert on what would be newsworthy
23 and what would not be materially newsworthy. What is particular-
24 ly important in my view is that these are thoughts that I had.
25 I am not sure in all cases that I will come down exactly the
26 same way, because the world is changing so much today. But
27 these are thoughts that I have had in the field of foreign
28 policy and some in domestic policy as well, which I hope to

1 enunciate. Frankly I hoped to in my second term. And once I
2 complete my first volume of my memoirs I would hope to write in
3 this area. These are areas and these I should point out are
4 primarily in foreign affairs, very little in the political area.

5 Q Do they include political matters?

6 A Oh, yes. Yes, I had some ideas with regard to, for
7 example, the two party structure in this country; with regard to
8 the retirement or, shall we say, the age limits for members of
9 the House, Senate, Court and et cetera, et cetera. Some that
10 were even more novel, that I have not yet determined will be
11 included in an article or speech but that might well be.

12 Q Were these materials that you have just described
13 left in the White House at the time you resigned on August 9th?

14 A They were.

15 Q During your term in office, --

16 A Let me point out. They were left because I had
17 mentioned earlier that I, of course, had some materials in my
18 office, but these would be in my speech files because the
19 thought which brought this forth was generated there.

20 Q You, during your term in office, were you aware of
21 any prior Presidents' practice with regard to the use of their
22 presidential materials in the preparation of their memoirs?

23 A Oh, yes, I was quite aware of that. I read most of
24 them.

25 Q Did you ever discuss with President Johnson the
26 concept of private ownership of the presidential materials?

27 A I think it would be more proper to say he discussed
28 with me vehemently.

1 Q Would you describe that conversation.

2 A Well, as a matter of fact I had two conversations
3 with him. He suggested, when I called on him at the White
4 House between the election and the inauguration, that I should
5 give my vice presidential papers to the government. I hadn't
6 thought of it before and I don't know why I wasn't aware of the
7 Act. And I followed his advice and did make a gift of the
8 vice presidential papers for the government as I think it has
9 been reported to a certain extent.

10 A year later, and I believe it was late, very late
11 in the year, as a matter of fact just before Christmas of 1969,
12 President Johnson came in to see me and we had breakfast. And
13 as you know, he was a man of many moods, but he could sometimes
14 have a towering rage and in this instance rage was directed
15 against what he called the Williams Amendment, which I recollect
16 was an amendment which was removed or revoked, that portion of
17 the law which allowed gifts of public papers to be deducted
18 for tax purposes. And President Johnson said to me, he said,
19 "Now, in view of that fact," he said, "Just remember your papers
20 are yours." And he said, "Don't you ever give them to the
21 government, because they are not going to let you deduct them.
22 That is going to have a bad effect on all people in the future.
23 Libraries are going to dry up. Those papers are yours. You
24 should leave them to your children."

25 I didn't follow his advice. Nevertheless he did
26 indicate his view.

27 Q Despite his advice, do you intend to place your
28 presidential papers in a presidential library?

1 A I only intend to place my presidential papers and
2 my vice presidential and my congressional and my senatorial
3 papers as well as a considerable amount of papers that were
4 accumulated during the years I was out of office.

5 Q You have stated in your Affidavit and in testimony
6 given today at the deposition that you engaged in private or
7 personal conversation with members of your family. Did any of
8 these conversations occur in the White House Oval Office or on
9 telephones which were connected to the taping system?

10 A Well, I must say that most of them occurred on
11 telephones from either the White House, either from the Oval
12 Office or the EOB or the Aspen Lodge, as the case might be.
13 Several occurred in the Oval Office and some in the EOB and,
14 of course, some in the residence where there was no taping
15 system whatever.

16 Q If the --

17 A The number of telephone calls was astronomical, I
18 just say.

19 Q If the contents of the recordings made in the White
20 House during your term in office were disclosed, would it have
21 any impact upon your ability to associate with individuals who
22 you had previously associated with?

23 A Oh, yes.

24 Q Would you explain what impact that would have.

25 A Well, the discussions that occurred in a President's
26 Office, particularly when the individual who was talking to the
27 President feels that he can talk in confidence, as our Affidavit
28 indicates, not only free-wheeling but sometimes blunt and

1 sometimes clearly apart from what we would use, we would describe
2 in the narrow way of being personally embarrassing, they would
3 be quite honest in giving their views.

4 For example, this would be particularly the case
5 where an appointment was being made for the Judiciary or to the
6 Cabinet or to other top government positions. Here are all the
7 files, the raw files of the FBI and letters would come in from
8 various individuals. Members of Congress would either come in
9 or write indicating their pros and cons and so forth and so on.
10 And the individuals who wrote or talked to me, as Mr. Morris
11 Ernst already indicated, would write and talk to me in a very
12 direct way and say things. And if they became public, it would
13 not only be personally embarrassing to them but more likely would
14 make it impossible for me to have a continuing association with
15 them in the future on the basis as I have had in the past.
16 I don't mean by that that the Presidency in the White House
17 listens to and expresses rather derogatory opinions about
18 every individual whose name is up, but in order to make the
19 right kind of appointment, for example, you have got to consider
20 where a lawyer is concerned not only his legal qualifications
21 but his relationships with his family, his personal habits, his
22 reputation in every respect, and all of that of course would be
23 considered before a decision was made.

24 The same would be true with regard to some of the
25 very controversial political issues, and I mean personal issues
26 that came in. I am sorry, domestic issues as distinguished from
27 foreign policy issues. Needless to say, foreign policy, the
28 enormous division in the country with regard to the war, all of

1 that, it was bluntly discussed and is well known. But the
 2 country also has had very, very strong disagreements with regard
 3 to such volatile subjects as busing, desegregation, Welfare
 4 reform, et cetera. And I have had discussions, for example,
 5 with members of Congress, both the House and the Senate, of both
 6 parties, some of whom have been my friends going back over
 7 twenty-five years, where they thought they were talking in
 8 confidence and where if what they said got out it might not only
 9 affect what they would feel is their right to express themselves
 10 freely in the future, because every man must live with his
 11 public statements. He has great enough difficulty doing that.
 12 But having to live here with private statements that he thought
 13 was off the record would be more difficult. But insofar as I
 14 am concerned, of course, it would have a most devastating effect
 15 in terms of many of the individuals who talked to me or wrote
 16 to me in confidence and then found their confidence has been
 17 destroyed.

18 Q During your term as President, did you ever find it
 19 necessary, either for the effective conduct of foreign affairs
 20 or the promotion of domestic policies, to depend or request of
 21 President Johnson or of members of his family access to any of
 22 his presidential materials?

23 A I have no recollection of that. When I say that I
 24 should point out that as I did in answering your earlier
 25 questions here, my relationship with President Johnson, while
 26 we were political opponents, my relationship was one that I
 27 valued very greatly and was one where at his insistence, not
 28 only his insistence but only with his agreement had various

1 contact not only with him by phone but also at times in person
2 and also by my sending Dr. Kissinger down and Mr. Helms,
3 General Haig, and he was their friend.

4 Q And after the time that President Johnson died, in
5 your experience in the office is it your opinion that had
6 President Johnson destroyed his presidential materials, that
7 that fact would have precluded you from conducting an effective
8 foreign policy?

9 A We could have conducted an effective foreign policy,
10 yes.

11 Q Did you have access to presidential materials as
12 part of the conduct of your foreign policy?

13 A We had access. First we had access to enough
14 material, as a result of our consultation during the transition
15 to go forward, to conduct an effective foreign policy. Also you
16 must realize when President Johnson died, Mr. Rostow is still
17 living and Secretary of State Rusk is living and Mr. McNamara
18 is living and all of them, incidentally, have been extremely
19 cooperative, being of assistance whenever we thought there was
20 a need to go back into the past history in order to be sure we
21 made good history for the future.

22 Q Early during this deposition counsel for the Joint
23 Intervenor Defendants read to you a list of government
24 organizations and asked you whether the files of those
25 organizations or the materials generated by them were claimed
26 by you as presidential materials in connection with this
27 litigation. Do you know whether the organizations which were
28 recounted by the Joint Intervenor Defendants' counsel were

1 federal agencies or commissions or what status they were? 157

2 A I regret to say I really don't know and I doubt if
3 President Ford knows or President Johnson knew, there are so
4 many. Most of them, incidentally, are useless.

5 Q That too.

6 A I stand with that. Not that people are useless but
7 the product. So I would be unable to say, Mr. Mortenson, in
8 answer to that question, be helpful in answering the question
9 by Mr. Dobrovir, that as far as these agencies are concerned,
10 whether they were set up by statute or whether they had been
11 set up as a result of an Executive Order or whether they were
12 agencies that might have even been set up on an ad hoc basis
13 without even an Executive Order, you just ask a group of people
14 to report, I would be unable to say.

15 Q When a staff member left his position in the Office
16 of the President, are you aware of any instructions to them or
17 any policies which were adopted by your office which would
18 preclude them from taking from their files matters which they
19 deemed to be purely personal?

20 A No, on the contrary. However, instructions were
21 given to all staff members. Incidentally, this is another
22 recommendation that President Johnson made to me very strongly
23 during the period between the election and the inauguration.

24 The instructions were given to all staff members
25 as well as Cabinet members that any papers that had to do
26 with relationships with the President, conversations, for
27 example with the Vice President or President or presidential
28 business, should be left in the White House. And, as a matter

1 of fact, President Johnson recommended that his practice after
2 every Cabinet meeting was to have somebody go around the table
3 and pick up every scrap of paper.

4 Q Would you describe for us in a bit more detail how
5 conversations with, for example, congressmen, the conversation
6 would relate not solely to matters which you describe as
7 relate to official actions, such as veto of legislation but
8 also to branch into conversation with politics and personal
9 matters.

10 A To begin with, the fact that the conversations that
11 I had generally with men and some women who were in Congress and
12 the Senate, Margaret Chase Smith, that I had known them for
13 many, many years, so we met on a person-to-person basis.

14 Second, I found that in dealing not only with
15 members of Congress but also with members outside of government,
16 a business leader, labor leader, educator or religious leader,
17 and the rest, that in order to really plumb his thinking or
18 hers, that it was even more necessary than it is when you are
19 an ordinary citizen, to gain his or her confidence to make him
20 or her feel comfortable. And so it is what we call warming
21 up the individual so that eventually when he comes to talk about
22 the business that he is there to talk about, that he talks very
23 frankly with the feeling of confidence. That is why when a
24 congressman or senator or other individual came in or would come
25 in, the conversations were replete with references to family
26 matters or their relations with their colleagues or their own
27 health, their own problems and matters that are basically
28 private in the light of it.

1 There also, of course, would be innumerable times
2 when political matters would be discussed with both Democrats and
3 Republicans. They would talk about their opponents they might
4 have in the primary or expect to have in the final campaigns and
5 usually in not too complimentary terms.

6 Q Are you aware of any official government document,
7 such as a vote or message to Congress or an enrolled bill which
8 you signed being maintained among your presidential materials?

9 A Oh, absolutely not. That goes in the out box and
10 goes to wherever they keep such things.

11 MR. SPOONER: Mr. Mortenson, when you use the term "such
12 as," what are you including in this term?

13 MR. MORTENSON: I am including vote or message to Congress
14 including the appointment of officers of the Army and Navy and
15 Air Force.

16 THE WITNESS: The Judiciary.

17 MR. MORTENSON: I am including the signing of enrolled
18 bills and issuance of presidential pardons and any other document
19 reflecting the final action taken pursuant to a constitution
20 obligation of the President or those required under statutes.

21 THE WITNESS: He is limiting it, in other words, to what
22 is required by constitution or statute and distinguishing there-
23 from those matters that might be, say, a speech you are going to
24 make to the American Legion or something of that sort.

25

26 BY MR. MORTENSON:

27 Q You have characterized a portion of the presidential
28 materials, which I think at the time you were talking about

1 National Security related materials, as being imbued with the
2 public trust, or at least that was your opinion. Does that
3 opinion encompass other forms of presidential materials?

4 A Well, when we say imbued with the public trust, that
5 is a phrase that I may have used too loosely or I should, on the
6 contrary, too precisely, because what I meant in the case of
7 National Security material, that I would consider that a former
8 President is inhibited from the disclosure thereof in making a
9 decision in regard to disclosure thereof before getting permission
10 or permission from whoever is the incumbent President which, of
11 course, was the practice President Johnson involved with me.

12 Now, with regard to materials that have to do with
13 revenue sharing or the energy programs or matters of that sort
14 in the domestic area, I would not consider that that was
15 material that could not be disclosed without consultation.

16 Now, as a practical matter, it would be, however,
17 my practice if the issue involved was a hot one, for instance
18 a domestic issue, and was before a present administration and
19 if I had material that I thought might affect it one way or
20 another I would, of course, try to be responsible enough to use
21 that material or not to use it, depending upon what affect it
22 might have on action under present consideration. But I can
23 think of no examples there.

24 MR. MORTENSON: I have no further questions.

25
26 FURTHER EXAMINATION BY MR. DOBROVIR:

27 Q Mr. Nixon, Mr. Mortenson asked you about, if I am
28 not mistaken, whether there were ever any instructions to your

1 staff about how to handle their personal records. Am I
2 recollecting correctly?

3 A Yes.

4 MR. MORTENSON: Material that they considered to be
5 personal.

6
7 BY MR. DOBROVIR:

8 Q All right. In that connection then I would like to
9 ask you if you are familiar with a document that was introduced
10 in the other lawsuit in which you were plaintiff, Nixon v.
11 Sampson, as Nixon Exhibit 8. It is titled "Donation of Personal
12 Papers to the Richard Nixon Library," and at the bottom of it
13 it says "National Archives and Records Service, General
14 Services Administration, November 1972."

15 A Yes.

16 MR. DOBROVIR: Would you please mark this.

17 THE NOTARY: The three-page document handed to me by
18 counsel, titled "Donation of Personal Papers to the Richard
19 Nixon Library," dated November 1972, will be marked Intervenor
20 Defendants' Exhibit G, to the deposition, for identification.

21
22 BY MR. DOBROVIR:

23 Q My question is: Are you at all familiar with the
24 contents of that document?

25 A I didn't know we were suing them. Go ahead. What
26 is your specific question?

27 Q First of all, are you familiar with it?

28 A Oh, yes. Yes.

1 (At this time plaintiff and plaintiff's counsel confer
2 out of the hearing of the reporter.)

3 THE WITNESS: My counsel informs me that he has prepared
4 it so I must be familiar.

5 MR. MILLER: I have not informed you.

6 THE WITNESS: I had thought. I am sorry. I just assumed
7 my counsel tells me everything but apparently he doesn't.

8 MR. MORTENSON: I think it is important for the record to
9 reflect we may have to go back and pick up the question. I think
10 my question was is he aware of any instructions to members of the
11 office of the staff which preclude them from taking with them
12 their personal materials.

13 THE WITNESS: Personal materials.

14 MR. DOBROVIR: Fine.

15 MR. MORTENSON: You are not aware of this?

16 THE WITNESS: I am not. This one I am afraid I am not
17 aware of.

18
19 BY MR. DOBROVIR:

20 Q Well, could you examine it and tell me whether this
21 was the policy of your administration, with respect to dis-
22 position of files by members of your staff.

23 A Which paragraph?

24 Q The whole thing, please.

25 (At this time the plaintiff and plaintiff's counsel
26 confer out of the hearing of the reporter.)

27 THE WITNESS: This reflects my understanding. All right.
28 As a matter of fact, it is personal correspondence of an

1 official that does not directly concern the work of the office
2 and does not intend to be part of the official records. For
3 example, part of a personal file maintained for his own personal
4 use, they must be distinguished from official records.

5 MR. MORTENSON: I think the record should reflect, though,
6 that while the witness has indicated this is his understanding
7 of the position of his office, that we do not, for purposes of
8 this litigation, adopt in total the verbiage used in the
9 documents, such as some official records.

10 MR. DOBROVIR: Now, this is not a question but I want to
11 make a record of the following statements of Mr. Miller's letter
12 to me of July 22, 1975, in which he says: "Plaintiff's
13 Affidavit and your response to plaintiff's motion for protective
14 order, which in light of the Court's Order of July 16, 1975,
15 should ~~accept~~^{set} the parameters for the deposition."

16 Reflecting the understanding that Mr. Mortenson and
17 I had reached on the telephone the Friday before, I would like
18 to in that connection incorporate Paragraph 5 of the document
19 referred to in that letter, Defendants' opposition to motion
20 for protective order, which states "Finally, plaintiff asserts
21 that he alone, assisted by others of his selection, has the
22 right and thus should have the exclusive opportunity to cull
23 through the materials, to select those that will be made public
24 and those which will never see the light of day (¶ 21, "Certainly
25 not the tape recordings;" ¶ 22, 23). He asserts the exclusive
26 right to determine what should be deleted from the tape
27 recordings (¶ 23 at p. 17; see ¶ 24) and "To reserve for my
28 own review" materials which "I consider" to be private (¶ 26;

1 emphasis added). Plaintiff's assertion of this right of
2 exclusive control raises the issue whether he, as distinguished
3 from other Presidents, should be granted this privilege by a
4 Court of equity; whether on the record he has made he may be
5 entrusted with the power to conceal evidence of his own
6 activities that might reflect most adversely upon him. Only
7 oral examination carries the possibility of eliciting testimony
8 that would inform the trier of fact on this score." And that
9 ends my quotation from that document.

10 This is in further response, Mr. Mortenson, to your
11 question to me whereⁱⁿ the pleadings in the case is stated the
12 defense which I asserted to you as to the grounds ^{for} ~~on the~~
13 relevancy as to questions which I posed to the witness with
14 respect to the discrepancies between his public statements and
15 the transcribed tests of certain tapes and with respect to
16 material deleted from the transcripts of tapes which were made
17 public. In the light of that, I renew my request that the
18 witness be permitted by you to answer those questions.

19 MR. MORTENSON: Well, my response, Counsel, is that
20 Paragraph 5 of your motion for your opposition and motion for
21 protective order miscarries grossly in several respects the
22 allegations for or contentions made by the plaintiff in the
23 suit and they speak for themselves and to the extent that you
24 rely upon this to naming the issues of this case you are
25 obviously free to do so.

26 MR. DOBROVIR: I merely wish to point out, Mr. Miller
27 in his letter to me reflected our conversation the Friday
28 before and indicated what was stated in that pleading as well

1 as in the Affidavit sets the parameters for the deposition and
2 you now disagree.

3 MR. MORTENSON: It clearly reflected what we considered
4 to be the parameters of the deposition. It in no way implied
5 explicit or implicitly that any question that counsel put in
6 which he deemed to fall within the parameters of those which are
7 therefore proper and upon that basis do we object as well as
8 others.

9 MR. DOBROVIR: I have nothing further.

10

11 FURTHER EXAMINATION BY MR. KRULWICH:

12 Q Mr. Nixon, you testified, in answer to a question
13 from Mr. Mortenson, that all documents reflecting your actions,
14 reflecting your constitutional duties as President, were matters
15 of public record. One of your duties under Article 2, Section 3,
16 of the Constitution is to "Take care that the laws be faithfully
17 executed."

18 Another duty under Article 2, Section 2, is that
19 "The President shall be Commander in Chief of the Army and Navy
20 of the United States."

21 Will you then agree that all documents or materials
22 reflecting your performance as President, of your duties to take
23 care that the laws be faithfully executed are to be a matter of
24 public record?

25 A Well, that is a matter that has to be determined
26 as has been the case with all previous presidents. It has to
27 be determined when I examine the materials and the documents.
28 As I said, I intend to be as forthcoming as I feel is proper and

1 I think that is repetition of a statement I have previously made
2 on that score.

3 Q Just to clarify then. There are in a sense two
4 types of presidential types of constitutional duties. There are
5 those normally represented by official action, such as veto
6 messages, appointments, pardons, material that Mr. Mortenson
7 talked about and others that are under the more general categories
8 of your constitutional duties. The other is to take care that
9 the laws be faithfully executed. Do you agree?

10 MR. MORTENSON: Counsel, I think it is a legal con-
11 clusion. You are asking the witness as to whether materials
12 that are related to the faithful execution of the laws of the
13 United States represent official documents. We have contended
14 in this suit that those which are official are lodged in other
15 branches of the government.

16 MR. KRULWICH: I am only asking a question directed to
17 the questions you asked Mr. Nixon on constitutional duties and
18 I am seeking an answer to the question you asked. He can answer
19 the question I asked.

20 MR. MORTENSON: My question was to his knowledge --

21 MR. KRULWICH: I believe you asked him where the
22 official records were and how they were kept of the official
23 records and documents reflecting certain of his constitutional
24 duties. My point, what I was trying to ask the witness, was
25 whether there are other types of constitutional duties that are
26 of a sort different from those that you asked him about.

27 MR. MORTENSON: I am sorry, Counsel, I don't understand
28 the question. If the witness does, --

1 MR. KRULWICH: If the witness understands he can answer;
2 if not, so be it.

3 THE WITNESS: What are you trying to drive at? Let me
4 get at it that way.

5 MR. KRULWICH: Let me see if I can rephrase it.

6
7 BY MR. KRULWICH:

8 Q Would you agree that in addition to constitutional
9 duties under Article 2, such as veto messages, State of the
10 Union addresses, pardons, reprieves, which are expressed as a
11 final public document, there are also constitutional duties
12 under Article 2 that are not expressed in the form of a final
13 public document and in that sense are of a more general nature,
14 such as the duty to take care that the laws be faithfully
15 executed, which would be expressed only in terms of papers,
16 memoranda, letters, that are not part of the public official
17 record, in the same sense that a pardon or a reprieve or an
18 act of Congress that you have seen is.

19 A You know, that sounds like how many ^{angles?} angles on the
20 head of a needle. I still don't get the drift of what you are
21 driving at.

22 I will agree there are many presidential duties --

23 Q Well, -- I am sorry, I didn't mean to interrupt you.

24 MR. MORTENSON: Counsel, I think if the question is are
25 there other duties, if the President has a duty to take care
26 that the laws be faithfully executed, I think that is clear --

27 THE WITNESS: Yes.

28 MR. MORTENSON: -- clear in the Constitution. The

1 question is: Are those reflected in documents? If you have a
2 document -- I mean, I don't know what you mean by that.

3 THE WITNESS: As Commander in Chief, do you mean are they
4 reflected? They will be defined. You probably will find those
5 in the Defense Department, I imagine.

6
7 BY MR. KRULWICH:

8 Q Are there documents relating to your constitutional
9 duty to take care that the laws be faithfully executed that
10 would not now at the present be reflected in the documents that
11 are presently public?

12 A I don't know. I don't -- I haven't had access to
13 those documents.

14 MR. KRULWICH: Fine. I have no further questions.

15
16 EXAMINATION BY MR. ANDERSON:

17 Q Along the same lines, isn't it a fact that your
18 official duties as President went beyond those specific duties
19 with which you were charged under the Constitution and statutes?

20 A My official duties?

21 Q You mentioned several duties which you were charged
22 under the Constitution, such as vetos and State of the Union
23 messages. Don't the President's official duties go beyond those
24 specific responsibilities mentioned in the Constitution and
25 statutes?

26 MR. MORTENSON: I think that is a legal conclusion,
27 Counsel. I don't know we have established the basis for his
28 legal opinion on it.

1 BY MR. ANDERSON:

2 Q Let me put it this way. Would not gathering public
3 support for a program such as conservation or Welfare reform be
4 related to presidential action?

5 MR. MORTENSON: I have got to interrupt. I don't mean to
6 be argumentative in your attempt to put the question, but the
7 question is a legal conclusion as to whether or not a President
8 has to engage in gathering support for a program.

9 MR. ANDERSON: I am trying to ascertain Mr. Nixon's review
10 of his responsibilities as President so we can explore as to
11 the relation of the presidential duties

12 MR. MORTENSON: He has used the basis of official action
13 as those duties imposed by the Constitution and by the statutes.

14 MR. ANDERSON: All I am asking is, is that the only term
15 that you consider related to your official duties as President.
16 Are the rest all private, personal or political?

17 MR. MORTENSON: And he has testified that he has documents
18 relating to the official actions.

19 MR. ANDERSON: I am not asking about documents right now,
20 I am asking about Mr. Nixon's conception of his role as
21 President and whether it goes beyond the specific duties of
22 which he is charged under the Constitution and statutes.

23 MR. SPOONER: Mr. Mortenson, I don't understand what
24 your objection is. Are you saying Mr. Nixon cannot state what
25 the duties of the President of the United States are?

26 MR. MORTENSON: What I am saying is I believe that it is
27 a matter of law what a President can be charged with under the
28 Constitution and by statute and that if a President deems his

1 role as gathering public support for a program of inflation
2 control as something which he views presidential responsibility,
3 that is not necessarily an official obligation of the President
4 even though he may view it as an obligation that he has. But
5 his responsibilities or duties that are imposed on him as the
6 holder of that office derive from the Constitution and statutes.

7
8 BY MR. ANDERSON:

9 Q Do you believe that gathering support for a program
10 of Welfare reform was related to your official duties as
11 President or would you put that in the category of political
12 and personal activities?

13 A Well, is your purpose to determine whether or not
14 I would consider that such materials, as such, be held in
15 private and not be made public? What are we talking about?

16 Q Is the paper work that would be generated on such
17 subjects related to official presidential actions?

18 (At this time the plaintiff and plaintiff's counsel
19 confer out of the hearing of the reporter.)

20 THE WITNESS: Of course.

21

22 BY MR. ANDERSON:

23 Q Is this often intermingled with political consider-
24 ations?

25 A Always. Virtually always, if you want to get
26 success.

27 Q And this is related to official presidential action,
28 whether there is a statute or not on the subject; is that

1 correct?

2 A It can be; yes.

3 Q When your staff works on these subjects which are
4 both political and official, they are acting within the
5 appropriate scope of their White House duties?

6 A Yes, they are acting for the purpose of carrying out
7 the presidential programs, eliciting support therefore.

8 Q So these are not totally political in any sense?

9 A The line between what is political and official, if
10 that is what your question is, is a blurred line. I would agree
11 to that. But let us come right down to the nut cutting on the
12 subject of what you want to know is what I believe a President,
13 any President, I mean after he leaves office or his family
14 after he is deceased, what his policy should be with regard to
15 making public his papers and other materials, what we call
16 presidential materials. I have already indicated that I believe
17 that the policy should be as forthcoming as possible. I have
18 already indicated that I would take a very hard line in terms
19 of national security and under no circumstances would I move
20 from that area without giving the gravest consideration what
21 might be a current national security problem. And that means,
22 of course, getting the national security clearance.

23 I also indicated that I would take a very hard line,
24 firm line with regard to any conversations that I considered to
25 be private and personal, ones that might be, apart from
26 embarrassment in the Webster sense, but one that might inhibit
27 another person's right to speak freely, to associate his
28 political area or what have you, because he had relied upon --

1 when he talked to the President had relied on the fact that he
2 thought it was going to be confidential. And as far as private
3 matters are concerned, for example, I made a number of telephone
4 calls and had a number of conversations with my daughter prior
5 to her wedding. Incidentally, if I kept that all segregated,
6 anyone working with reels of tape you know it is just (the
7 witness snaps his fingers three times) and I wouldn't have
8 anybody believe me, no government associate, not my lawyers,
9 not because there is anything to me that would be embarrassing,
10 but because it is private to listen to the conversation other
11 than myself or her.

12 MR. ANDERSON: I have nothing further.

13 (The time is 4:25 p.m.)

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16
17 RICHARD M. NIXON
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1 STATE OF CALIFORNIA,)
 2 COUNTY OF SAN DIEGO.) ss.

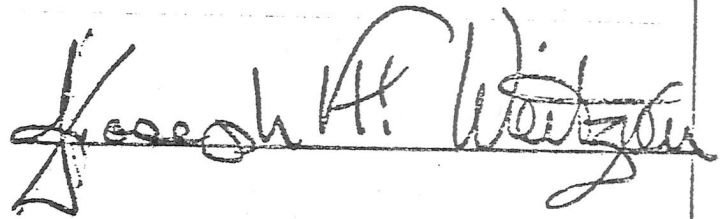
3 I, Joseph F. Weitzen, a notary public in and for the
 4 County of San Diego, State of California, duly commissioned,
 5 qualified and acting, hereby certify that the deposition of
 6 Richard M. Nixon, plaintiff herein, was taken by Defendants
 7 in Intervention pursuant to the applicable sections of the
 8 Code of Civil Procedure, before me, beginning at the hour of
 9 9:00 a.m. on Friday, July 25, 1975, at the Coast Guard Station,
 10 in the City of San Clemente, County of Orange, State of
 11 California; that before the taking of said deposition the
 12 said witness was by me first duly sworn to testify to the
 13 truth, the whole truth, and nothing but the truth in the
 14 testimony he was about to give in said action; that said
 15 witness was thereupon examined upon oral interrogatories
 16 propounded by counsel as aforesaid, and said witness made
 17 answer thereto, under oath, as hereinabove contained; that
 18 all of said questions and all of said answers thereto, as well
 19 as the proceedings had at the taking of said deposition were
 20 by me duly taken down in shorthand and later transcribed into
 21 typewriting, as hereinabove contained; that I do further
 22 certify that the above and foregoing pages, numbered from
 23 1 to 168, inclusive, contain a full, true and correct statement
 24 of all of said interrogatories so propounded by counsel as
 25 aforesaid, and of all of the said answers made by said witness
 26 thereto, in the order in which said questions and answers were
 27 asked and answered, and of all of the proceedings had in said
 28 matter; that, pursuant to stipulation of counsel, as the same

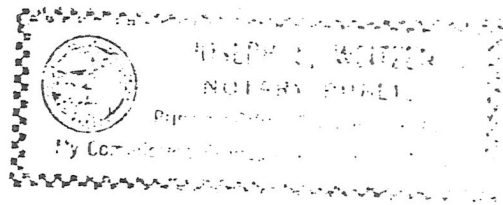
1 appears herein, I delivered the original of this deposition to
2 Richard M. Nixon, for the purpose of having the said witness
3 read and sign his deposition, with the request that the said
4 deposition then be returned to me for filing.

5 I FURTHER CERTIFY that the documents attached hereto and
6 marked as Defendants' in Intervention Exhibits A through G,
7 both inclusive, are the same documents referred to by both
8 counsel and the witness, and as identified during the taking
9 of said deposition.

10 I FURTHER CERTIFY that I am a disinterested person and
11 that I am in no way interested in the outcome of said action.

12 IN WITNESS WHEREOF, I have hereunto set my hand and
13 affixed my notarial seal at the City of San Diego, in the
14 County of San Diego, State of California, this the 30th day
15 of July, 1975.

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1 STATE OF _____)
2 COUNTY OF _____) ss.

3 I, _____, a notary public in and
4 for the County of _____, State of _____,
5 duly commissioned, qualified and acting, in accordance with the
6 stipulation entered into between counsel, as the same appears
7 herein, that the foregoing deposition of Richard M. Nixon may
8 be signed before any notary public, submitted the said depo-
9 sition to said witness, who thereupon read his deposition and
10 made such corrections as appear noted therein in ink, duly
11 initialed by me; that thereupon said witness in my presence
12 subscribed his name to his said deposition at the end thereof,
13 and before me took oath that his testimony, as contained in
14 his deposition, as corrected, was the truth, the whole truth,
15 and nothing but the truth.

16 IN WITNESS WHEREOF, I have hereunto set my hand and
17 affixed my notarial seal at the City of _____, in
18 the County of _____, State of _____,
19 this the _____ day of _____, 1975.

20
21
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23 _____
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8/20/75

ERRATA SHEET

<u>Page</u>	<u>Line</u>	<u>Correction</u>
4	4	Change "Bureau of Management" to "Office of Management"
8	26	Change "Erlichman" to "Ehrlichman"
9	9	Change "Erlichman" to "Ehrlichman"
9	10	Change "Erlichman" to "Ehrlichman"
9	13	Change "Erlichman" to "Ehrlichman"
9	16	Change "Erlichman" to "Ehrlichman"
17	9	Change "others in the" to "others than the"
17	13	Change "Erlichman" to "Ehrlichman"
17	24	Change "Erlichman" to "Ehrlichman"
18	19	Delete "the" before "State"
20	9	Change "since" to "in"
22	24	Change "within individuals, an attorney" to "individuals or an attorney" deleting the word "within"
23	1	Delete "a" after "somewhat"
25	9	Change "terms" to "items"
27	18	Change "not" to "just"
29	3	Change "Presidents" to "precedents"
29	4	Delete comma after Madison and add "v. Marbury,"
29	24	Change "has" to "says"
34	5	Change "pleadings are set forth on other" to "pleadings set forth other" deleting the words "are" and "on"

37	20	Change "Complaint" to "Act" add "are" before "broader"
35	17	Insert "by" after "not only"
35	22	Delete "very"
37	1	Delete "of"
37	19	Change "Senator" to "Secretary"
38	12	Delete "not"
38	15	Change "made public, but I am suggesting that, and I" to "made public. But I am also suggesting that, I" adding "also" after "am" deleting "and" before "I"
38	18	Change "unique" to "eunuch"
40	4	Delete "or down"
40	5	Delete "in the public's"
40	7	Insert "which" after "but"
40	23	Change "before" to "Before"
40	24	Change "fall" to "Fall"
41	15	Delete "they know"
42	10	Change "possession" to "a position"
42	12	Insert "with" before "whom"
43	4	Insert "when" before "what"
43	7	Change "that" to "they"
43	10	Insert "became known" after "system"
43	15	Delete "and" before "in future" add comma before "and probably" add comma after "presidencies"
44	16	Change "with Pierre Renfret." to "with the liberal economists, Pierre Rinfret."
46	1	Delete "is" before "later"

47	3	Delete "the", change "cause" to "course", change "would" to "I should"
47	4	Change "in a" to "as to"
48	25	Insert "me" after "want"
49	1	Insert "the" before "position"
49	4	Insert "If" before "it is", add comma after "definable" change "and" to "that"
51	12	Insert "secrecy of" after "provide for"
54	8	Change "considerations" to "conversations"
56	12	Add "against" after "were"
61	9	Add "your definition." after "don't know"
61	27	Change "the definition" to "your definition"
62	10	Change "DeGasparry" to "de Gasperi"
63	24	Add "Presidential" after "since the"
63	25	Change "Library's" to "Libraries"
65	13	Change "Erlichman" to "Ehrlichman"
65	23	Change "Erlichman" to "Ehrlichman"
66	4	Change "Erlichman" to "Ehrlichman"
67	6	Change "through" to "to"
67	7	Insert comma after "Judiciary"
68	6	Change "Runsfield" to "Rumsfeld" and "Asia" to "Europe"
68	8	Insert "unofficial" before "correspondence"
69	15	Change "Erlichman" to "Ehrlichman" twice

72	11	Change "he" to "I"
74	14	Change "Erlichman" to "Ehrlichman"
76	16	Change "Federal" to "Presidential"
76	18	Change "considering" to "considered"
76	20	Change "Federal" to "Presidential"

ERRATA SHEET

<u>Page</u>	<u>Line</u>	<u>Correction</u>
80	16	Change "Strong" to "Strachan"
81	20	Delete "and"
81	27	Change "challenge" to "challenged"
83	28	Change "project" to "interject"
85	4	Insert "it" after "avoid"
85	5	Delete "to" after "events"
85	7	Change "was" to "is"
85	8	Insert "for" before "dinners,"
85	14	Insert "as" after "claim"
85	19	Insert "the" before "substance"
85	26	Insert "did" after "staff"
86	7	Change "Erlichman" to "Ehrlichman"
88	4	Insert "to" before "which"
88	9	Change "Erlichman" to "Ehrlichman" Insert "and" after "document"
88	10	Insert "it" after "placed" Insert comma after "files"
88	14	Change "the" to "a"
88	26	Insert comma after "document" Change "where" to "whether"
89	5	Insert "a" before "position"
91	11	Delete "and" after "supporters"
91	16	Insert "not" before "supporters"
91	24	Change "he" to "it"

		Change "whoever" to "whomever"
94	7	Insert "that" after "stipulated"
95	18	Change "whoever" to "whomever"
96	14	Change period after "Committee" to, comma, insert "but"
96	15	Delete paragraph, change "If" to "if"
96	21	Insert "to know" before "whether"
96	25	Delete "as to"
97	11	Change "he" to "Dean"
97	15	Change "to" to "or"
97	19	Change "read and" to "heard"
99	1	Delete "which"
99	23	Change "consented" to "contended" Change "the" to "a"
100	1	Delete "for" after "requires"
100	4	Change "statement" to "statute"
101	9	Insert "to material" after "itself"
104	3	Change "that" to "had"
105	8	Change "the" to "for" and "of" to "the"
105	10	Change "the case" to "this case"
107	4	Insert "also" after "That has" Delete "also" before "the practice"
107	8	Change "tapes" to "types"
107	25	Change "can" to "cannot"
108	10	Insert "if" after "And"
108	11	Delete "and"
108	13	Insert period after "responsibility" Change "and" to "And"

108	22	Change "here" to "there" and "the" to "for"
108	24	Change "that" to "the" before "safeguard"
111	10	Delete "it" after "read"
111	14	Change "facts" to "fact"
111	22	Delete period after "was" Insert period after "I think" Change "it" to "It"
112	9	Change "as" to "is"
113.	6	Change "counsellor and" to "counsel for"
113	7	Delete "to", change "split" to "splitting"
113	9	Insert period after "parties" Change "in a normal proceeding" to "The normal procedure"
113	10	Change "as" to "is" and "party" to "witness"
115	7	Change "probably an irrelevant" to "in particular the", insert "that" before "was"
115	15	Insert "are you" before "referring"
117	2	Insert "presidential" before "papers"
117	23	Insert "some of" before "these letters"
117	25	Delete "even" after "while"
118	2	Change "letters" to "library to be set up"
118	9	Insert "say" after "would"
118	10	Change "President," to President's"
118	11	Change "is presidential" to "are presidential"
118	26	Insert comma after "conclusion" Change "or" to "so"

118	27	Change "fairly proper" to "fair and proper"
119	8	Insert "yet" after "had not"
120	3	Change "whether" to "which of"
120	17	Change "confidentially" to "confidently"
121	19	Change "understood" to "understand"
123	7	Insert "in" before "which"
123	21	Insert "just" after "speak not"
124	6	Change "He" to "She"
124	18	Change "discribed as" to "described in"
124	19	Insert comma after "record" Change "The" to "the" Insert comma after "gifts"
124	21	Delete "to be" after "which is"
125	3	Insert "State" before "gift"
125	6	Delete "and" after "donated"
129	10	Insert "was" after "recorded"
131	22	Change "the" to "a"
132	20	Insert "the" before "Press Secretary"
132	24	Insert "no" before "authority"
132	25	Insert period after "files" Change "and" to "And"
133	5	Change "members for" to "members to"
133	6	Insert "had" before "access"
133	21	Delete "if" before "the review"
133	28	Insert period after "access" Delete "then" before "I assume"
134	2	Insert "the" before "NSC"

134	5	Delete "and" before "I can't"
134	20	Insert "for" after "levels"
134	26	Insert "met" before "Mr. Helms"
135	4	Change "the same" to "no"
135	9	Insert "is" after "there"
136	10	Insert "the" after "regards to"
136	14	Change "retain" to "maintain"
137	4	Insert "now" before "running"
138	2	Change "there" to "they are" Change "the" to "a" after "with"
138	3	Change "that" to "what"
138	5	Change "the public" to "a public"
138	8	Change "retain" to "maintain"
139	4	Insert "that" after "learned"
140	4	Insert "the" before "rather"
140	6	Change "a" to "the" before "tragic"
140	13	Delete "from" before "reports" Delete comma after "reports"
140	16	Change "want" to "how"
140	26	Change "knew" to "know"
143	7	Change "any" to "anything"
144	11	Change "have" to "had", insert "would" before "then"
144	13	Change "McKinnon" to "Buchanan"
145	1	Change "perhaps" to "at least"
145	19	Change "expensive" to "extensive"
146	8	Change "form" to "forum"
148	8	Change "for" to "to"

148	14	Insert "that" before "rage"
148	16	Delete "was" before "removed" Delete comma after "revoked"
149	1	Insert "not" after "I" Change "and" to "but"
149	21	Change "who" to "whom"
149	28	Insert "were" after "indicates"
150	16	Change "Presidency" to "President"
151	13	Change "was" to "were"
153-	21	Change "this" to "that"
154	7	Change "relate" to "relating"
155	7	Change "vote or" to "veto"
155	13	Change "vote or" to "veto" Change "message" to "messages"
155	19	Change "constitution" to "constitutional"
156	5	Insert "say" after "I should"
156	11	Change "involved" to "followed"
157	25	Change "them" to "him"
159	9	Change "documents" to "document" Delete "same", Insert quotes before "official" and after "records"
160	20	Delete "for your opposition and motion for" Insert "or your Opposition to the Motion for"
160	21	Delete "protective order miscarries" Insert "Protective Order Mischaracterizes"
160	23	Insert period after "suit" Delete "and", Change "they" to "They"
160	24	Change "naming" to "name"
161	5	Change "explicit" to "explicitly" Delete "in" after "put"

161	6	Delete "which" after "those"
161	7	Insert period after "proper" Change "and" to "And"
163	19	Change "angles" to "angels"
165	12	Change "basis" to "phrase"
165	27	Insert "doing" before "under"
167	20	Insert "as to" before "what"
167	27	Insert "in" before "his"