



# Nixon Delays Access to His Presidential Papers

See also CBS, Pierpoint, 15 Aug 74.

## Washington

On the day Richard M. Nixon announced his intention to resign the presidency, he also wrote a letter changing the terms of his gift of his pre-presidential papers to the National Archives.

The letter, addressed to Arthur F. Sampson, administrator of the General Services Administration, which runs the archives, provided that no one should have access to Mr. Nixon's papers until Jan. 1, 1985, without his personal permission.

Mr. Nixon originally donated the papers with a stipulation that access to them would be restricted only so long as he was president.

The change of date affects both of the gifts of pre-presidential papers that he has previously made.

The first group of papers were donated in 1968, after Mr. Nixon was elected President but before he took office, and the validity of the gift or the tax deduction taken for it has not been the subject of any formal legal challenge.

The second was a much larger gift, and the tax deductions of more than \$400,000 that Mr. Nixon claimed were disallowed by the Internal Revenue Service and

the possibility that fraud was involved in arranging the tax deduction has been referred for investigation to special prosecutor Leon Jaworski.

There appears to be only a slim likelihood that the tax status of the papers would be affected by Mr. Nixon's attempt to postpone the date when scholars and others could have access to them.

However, lawyers who are involved in a different suit testing the whole question of who owns the papers — it is a suit that also potentially tests the ownership of the papers of all public officials — felt that Mr. Nixon's action might improve their chances of victory.

The lawsuit was filed by Robert M. Brandon, director of Ralph Nader's Tax Reform Research Group, and it asserts that the public should have immediate access to the papers under the Freedom of Information Act.

The suit is pending before the U.S. Court of Appeals for the District of Columbia. The Department of Justice, acting on Mr. Nixon's behalf, won the case in U.S. District Court.

Brandon's suit declares, among other arguments, that the papers were

produced by persons, including Mr. Nixon, who were all on the public payroll and that, therefore, there is no basis for asserting private ownership. This is the aspect of the suit that potentially affects the papers of all public officials.

Brandon and his lawyer, Larry Ellsworth of Nader's Litigation Group, believe that Mr. Nixon's latest action strengthens another aspect of their suit, in which they argue that no valid gift of the second batch of papers was ever made.

That assertion rests upon the fact that Mr. Nixon never signed the deed of gift and upon an assertion that the man who did, Edward L. Morgan, former White House deputy counsel, lacked the authority to do so.

Mr. Nixon's attempt to postpone the date of access to the papers shows that he is still exercising rights of ownership, Brandon and Ellsworth argue.

Presidents starting with George Washington have claimed ownership of documents written or received by them during their term of office and the tradition of setting up individual presidential libraries as repositories of these papers, as Mr.

Nixon plans to do, goes back to Franklin D. Roosevelt.

The tradition that access to all or part of such documents may be yimited for a number of years is also long established. But it is a tradition rather than a legal right that has been conclusively ruled upon by the courts.

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