

# Nixon Sues for the Control Of His Tapes and Papers

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By ANTHONY RIPLEY OCT 18 1974

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WASHINGTON, Oct. 17— Mr. Nixon's lawsuit was filed today against Arthur F. Sampson, head of the General Services Administration; Philip W. Buchen, counsel to President Ford, and H. Stuart Knight, director of the Secret Service.

The move came as private negotiations over access to the tapes and papers broke down. The negotiations involved lawyers for Mr. Nixon, the special Watergate prosecutor, Leon Jaworski, and the White House.

In addition, Mr. Nixon's lawyers said that Mr. Jaworski was preparing to go to court to seek formal subpoenas for the documents. The special prosecutor had been trying for more than a month to win an agreement for handling such matters, short of going to court.

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that does not follow the terms of the agreement.

A hearing on the temporary injunction is set for 9 A.M. Monday before Judge Charles R. Rickey. 21 OCT

The suit contends that the agreement was legal, the Government has failed to enforce it, the documents are the property of Mr. Nixon, the Fort White House intends to release some of them without Mr. Nixon's approval and the former President's rights to the papers are in jeopardy.

The suit was filed as President Ford was assuring a House subcommittee personally that "those tapes will not be delivered to anybody until a satisfactory agreement is worked out with the special prosecutor."

"Now those tapes belong to Mr. Nixon, according to the Attorney General," Mr Ford said in response to a question by Representative Elizabeth Holtzman, Democrat of Brooklyn. "But they're being held for the benefit of the special prosecutor, and I think that is the proper place for them to be kept."

When the former President's pardon was announced by Mr. Ford on Sept. 8, the White House made public the terms of the Nixon-Sampson agreement, which had been signed two days earlier.

## Terms of Agreement

The agreement provided for transferring all documents and tapes to California and locking them up. The only access would be by the use of two keys—one held by the former President and the other by the Archivist of the United States. Both keys would be needed to open up the vault.

It also provided for Mr. Nixon

to donate whatever tapes he chose to the Government in five years and for their eventual destruction.

The arrangement brought an immediate response from the special prosecutor as he attempted to protect possible evidence needed for trials and investigations. It also resulted in a flurry of bills in the Congress to have the Government take protective custody of the materials.

The White House announced it had temporarily suspended the agreement.

Henry S. Ruth Jr., the deputy special prosecutor, then began a series of meetings with Mr. Miller and William E. Casselman 2d, another of the President's counsels.

Sources with knowledge of the negotiations said that one of the proposals was for setting up an arbitrator to rule on whether tapes should be released.

## No Comment on Breakdown

However none of the parties would comment today on the issues that caused the breakdown of the negotiations.

In the lawsuit, Mr. Miller contended that an injunction was needed "to preserve the Constitutional right and duty of the former President of the United States to ensure, to the extent consistent with the law, the confidentiality of the Presidential materials of the Nixon Administration."

However no actual constitutional language was cited, and Mr. Miller noted there was an exception in cases of criminal prosecution.

The United States Supreme Court, Mr. Miller argued, has held that the "basis of this privilege is the necessity for protection of the public interest in candid, objective, and even blunt or harsh opinions in Presidential decision making" as

well as an individual's right to privacy.

He said Mr. Nixon did not have enough time to move his own records but that he had "directed that his Presidential materials and personal records be immediately transferred to California when he departed from the White House."

But this was blocked by Mr. Buchen, the lawsuit alleges.

"Representatives of the former President have participated in negotiations with members of the Watergate special prosecution force concerning implementation of the depository agreement in whole or in part," the lawsuit states. "These negotiations have not resulted in even a limited implementation of the depository agreement and members of the Watergate special prosecution force have stated that they intend to serve subpoena duces tecum on defendant Buchen demanding production of Mr. Nixon's Presidential material materials."

## Other Demands Cited

There are at least six other demands outstanding, the suit noted.

Now the suit continues, the White House appears ready to comply with requests for documents and tapes that would be "in derogation of the rights and privileges" of Mr. Nixon.

Even a search of the documents for relevant material would imperil Mr. Nixon's rights, the lawsuit alleges.

There was no immediate comment from the White House or Mr. Jaworski on the lawsuit.

The entire subject of ownership of Presidential papers is one of legal controversy.

Though Attorney General William B. Saxbe issued an opinion upholding Mr. Nixon's right to the documents, other legal scholars differ on the question.

Prof. Ralph S. Brown of Yale

University Law School and Prof. Melville B. Nimmer of the University of California at Los Angeles law school are experts on literary property.

Both are on record, as members of the Board of Governors of the Society of American Law Teachers, as holding that the Nixon papers are public property despite any contracts the Ford Administration has made.

Professor Brown, reached by telephone today, called the agreement with Mr. Nixon "absolutely bizarre."

Turning White House papers over to Presidents is a matter of "quite consistent custom" but has no basis in common law, he said. "Congress is quite free to change it."

## TV Coverage Is Urged For Congress Sessions

WASHINGTON, Oct. 17 (UPI)—A Joint Congressional committee recommended today that Congress begin experimenting in January with live television coverage of House and Senate proceedings.

The 10-member Joint Committee on Congressional Operations, with one member dissenting, proposed after a year-long study that a 60-day trial period, starting with the new 94th Congress, be conducted. It said that during that time commercial broadcasters would be able to televise the proceedings live or on a delayed basis.

Public service television would be "invited" to install and operate, under Congressional guidelines and Federal costs, cameras and audio equipment. The major networks would then pick up whatever proceedings they deemed relevant for broadcast.