

Surely Not Mr. Nixon

By James Reston

WASHINGTON, Sept. 9—Former President Richard Nixon is said by his friends to have recovered his health, but there is very little evidence that he has recovered his judgment or his sense of history.

He keeps insisting to his friends and his former colleagues in the Government that he was hustled out of office by the smarties and pushers of politics and press, and what is even more surprising, he keeps inviting analysis of his record and thus adds to his torment. He simply won't leave bad enough alone.

His suit to compel the Government to hand over to him and his family ownership and control of the Presidential papers of his Administration is only the latest evidence of his historical and moral blindness.

For this has merely compelled the Ford Administration, which has pardoned and defended him more than almost anybody else, to insist that in looking for a protector of documents, it would surely not be Mr. Nixon; to reject his claim of "ownership" on the ground that he had "a propensity to distort the historical record," and "would not be a trustworthy custodian even temporarily."

Despite all the proved evidence that he knowingly distorted the Watergate record, he now presents himself to the court as a reliable protector of that record and as defender of the rights of those he bugged and recorded without their knowledge or consent.

In the process, however, he has unwittingly done the country a favor, for by this suit he has forced the Government to think through the problem of Presidential papers and to make clear, as the Justice Department argues, that "the proprietary rights of a former President simply cannot be held to outweigh the public's interest in the continuity of government. . . ."

When the Congress passed the Presidential Recordings and Materials Preservation Act last year, it had three main purposes; (1) to insure the preservation of the White House tapes and other Presidential materials for historical purposes; (2) to insure that this material would be available to succeeding administrations for the conduct of the public's business; and (3) to insure that present and future generations would be able to trace the extraordinary events that led to Mr. Nixon's resignation.

Mr. Nixon charges that this act violated his constitutional rights, and deprived him of his "ownership" of these materials. What it clearly did, of course, was to deny him the possibility of altering or destroying the historical record and of continuing his cover-up into the next generation. He also argues that he is merely insisting on rights other Presidents had before him and protecting the integrity of the Presidency which he disgraced.

This gave the Justice Department the opportunity to point to the dramatic difference between the Presidential office before and after the nineteen-thirties. It noted that the Presidency in the early years of the Republic was really a personal office. There was no specific repository where the early Presidents could place their papers, and as a result, preservation of the historical record was haphazard and much important material was either lost or destroyed.

With the emergence of the United States as a leader in world affairs in the thirties, however, and with the invention of reprography and duplicating machines, the production of official documents and their importance to government greatly increased.

For example, in 1933, there were no staff agencies within the Executive Office of the President to advise and serve him; now there are fourteen. Even in 1939, the Justice Department noted, there were only three assistants officially assigned to the President, but by the end of Mr. Nixon's term, he had 36 special assistants and 3,400 executive employes in all.

Thus the Presidency was increasingly institutionalized and became a veritable paper factory.

President Eisenhower, in two terms, collected 11 million pages, and then came the explosion; President Kennedy, in less than one term, 13 million; President Johnson in one and a half terms, 17 million; and President Nixon, after one and a half terms, now claims some 42 million pages as his Presidential materials.

"The suggestion by Mr. Nixon," the Justice Department observed, "that he, his wife and his daughters can perform the segregating out of private material from the official is, to put it kindly, unrealistic."

"As the record establishes, there are not only 42 million documents but 888 reels of tape which are each five to six hours long. The time involved in the review of this material by four individuals would . . . be prohibitive."

Even if time and competence were not compelling factors, however, Mr. Nixon has now put the Government in the position, not only of suggesting that he is untrustworthy but primarily of insisting that the Government itself must have priority over the control of papers compiled by its servants in their official capacities.

This case is limited to Mr. Nixon's special case and will not settle the question of future Presidential papers, but at least it has disclosed the fallacy and dangers of Mr. Nixon's preposterous arguments, and reminded us of this strange mentality that decided to bring the question up.