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SEPTEMBER 8, 1974

OFFICE OF THE WHITE HOUSE PRESS SECRETARY

PRESS CONFERENCE
OF
PHILIP BUCHEN
COUNSELLOR TO THE PRESIDENT

THE BRIEFING ROOM

AT 12:12 P.M.

MR. TER HORST: Gentlemen, if you are ready for the briefing, we have Philip Buchen, the legal counsel of the White House to address your questions on the President's statement and on the documents you have in your hand.

As you know, he is the President's legal adviser. He was very much a participant in the preparation of this proclamation and so here is Mr. Buchen to take your questions.

I think he may have an opening statement which he may like to read first.

MR. BUCHEN: Thank you, Jerry.

I appreciate your all being here on this Sunday morning, or midday.

I wanted just to say a few things first, because it may answer questions in advance, and at the conclusion of these remarks, I will try to field the questions you throw this way.

In addition to the major developments of this morning when President Ford granted a pardon to former President Nixon, I have two other legal developments to announce which occurred prior to the issuance of the proclamation of pardon.

The first involves the opinion of Attorney General William B. Saxbe and President Ford dealing with papers and other records, including tapes, retained during the Administration of former President Nixon in the White House offices.

In this opinion, the Attorney General concludes that such materials are the present property of Mr. Nixon; however, it also concluded that during the time the materials remain in the custody of the United States, they are subject to subpoenas and court orders directed to any official who controls that custody. And in this conclusion, I have concurred.

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(OVER)



This opinion was sought by the President from the Attorney General on August 22.

Q When you say the President, you mean President Ford?

MR. BUCHEN: That is right.

The reason for seeking the opinion was the conflict created between Mr. Nixon's request on the one hand for delivery to his control of the materials, and on the other hand, the pending court orders and subpoenas directed at the United States and certain of its officials.

The court orders have required that the custody of the materials be maintained at their present locations. And both the orders and subpoenas have called for the identification and production of certain materials allegedly relevant to court proceedings in which the orders and subpoenas originated.

In addition, we were advised of interests of other parties in having certain records disclosed to them under warning that if they were to be removed and delivered to the control of Mr. Nixon, court action would be taken to prevent that move and to protect the claimed rights to inspection or disclosure.

Therefore, it became fully apparent that unless this conflict was resolved, the present Administration would be enmeshed for a long time in answering the disputed claims over who could obtain information from the Nixon records, how requested information could, as a practical matter, be extracted from the vast volume of records in which it might appear, and how, and by whom its relevancy in any particular court proceeding could be determined, and at the same time to try satisfying the claims of Mr. Nixon that he owned the records.

Within a week of the request by the Attorney General for an opinion made by President Ford, I was advised informally of what its general nature would be. From that time on, I realized that the opinion itself would not provide a practical solution to the handling and management of the papers so as to reconcile rights and interest of private ownership with the limited but very important rights and interest of litigants to disclosure of selected relevant parts of the materials.

Thus I initiated conversations with the Attorney General's Office, Special Prosecutor Jaworski, with attorneys for certain litigants seeking disclosure, and with Herbert J. Miller, as soon as he became attorney for Mr. Nixon.

The purpose of these conversations was to explore ways for reconciling these different interests in records of the previous Administration so that this Administration would not be caught in the middle of trying on a case-by-case basis to resolve each dispute over the right of access or disclosure.

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The outcome of these conversations was the conclusion on my part that Mr. Nixon, as the principal party in interest, should be requested to come forth with the proposal for dealing satisfactorily with Presidential material of his Administration in ways that offered reasonable protection and safeguards to each party who has a legitimate court-supported right to production of particular materials relevant to his case.

Mr. Nixon and his attorney then agreed to pursue this approach and in company with White House Counsel, they were able to accomplish the second of the developments which I am announcing today.

And that is the letter agreement, of which you have copies, between former President Nixon and Arthur F. Sampson, Administrator of the General Services Administration.

These two developments are, of course, much less significant than the one you have learned about earlier. President Ford has chosen to carry out a responsibility expressed in the Preamble to the Constitution of ensuring domestic tranquility, and has chosen to do so by exercise of a power that he alone has under the Constitution to grant a pardon for offenses against the United States.

About a week ago, President Ford asked me to study traditional precedents bearing on the exercise of his right to grant a pardon, particularly with reference to whether or not a pardon could only follow indictment or conviction. The answer I found, based on considerable authority, was that a pardon could be granted at any time and need not await an indictment or conviction.

President Ford also asked me to investigate how long it would be before prosecution of former President Nixon could occur, if it were brought, and how long it would take to bring it to a conclusion.

On this point, I consulted with Special Prosecutor Jaworski and he advised me as follows, and has authorized me to quote his language, and I quote:

"The factual situation regarding a trial of Richard M. Nixon within Constitutional bounds is unprecedented. It is especially unique in view of the recent House Judiciary Committee inquiry on impeachment, resulting in a unanimous adverse finding to Richard M. Nixon on the article involving obstruction of justice.

"The massive publicity given the hearings and the findings that ensued, the reversal of judgment of a number of Members of the Republican Party following the release of the June 23rd taperecording, and their statements carried nationwide. And, finally, the

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resignation of Richard M. Nixon require a delay before selection of a jury is begun of a period from nine months to a year, and perhaps even longer.

"This judgment is predicated on a review of the decisions of the United States courts involving prejudicial pre-trial publicity."

Q Is that the end of the quotes?

MR. BUCHEN: No, I am going on to indicate something else that will be of interest to you. That is the end of that quote.

Another quote from his communication to me is as follows: "The situation involving Richard M. Nixon is readily distinguishable from the facts involved in the case of United States versus Mitchell, et al, set for trial on September 30th.

"The defendants in the Mitchell case were indicted by a grand jury operating in secret session. They will be called to trial, unlike Richard M. Nixon, if indicted, without any previous adverse finding by an investigatory body holding public hearings on its conclusions."

That is the end of the quotation.

Q Would you end that last sentence again?

MR. BUCHEN: Yes. It is an important one. "They," meaning the defendants, "will be called to trial, unlike Richard M. Nixon, if indicted, without any previous adverse finding by an investigatory body holding public hearings on its conclusions."

Except for my seeking and obtaining this advice from Mr. Jaworski, none of my discussions with him involved any understandings or commitments regarding his role in the possible prosecution of former President Nixon, or in the prosecution of others.

President Ford has not talked with Mr. Jaworski, but I did report to President Ford the opinion of the Special Prosecutor about the delay necessary before any possible trial of the former President could begin.

I would also like to add on another subject, no action or statement by former President Nixon, which has been disclosed today, however welcome and helpful, was made a pre-condition of the pardon.

That is a negative because of the word "no" at the beginning. I might add that whether or not it was disclosed today, it was not a pre-condition.

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Q There were no secret agreements made?

MR. BUCHEN: That is right.

President Ford in determining to issue a pardon acted solely according to the dictates of his own conscience. Moreover, he did so as an act of mercy not related in any way to obtaining concessions in return.

Q Would you go over the last phrase?

Q After "mercy".

MR. BUCHEN: Mercy not related in any way to obtaining concessions in return. However, my personal view --

Q Is that yours or Ford's?

MR. BUCHEN: Mine. -- is that former President Nixon's words, which I have had a chance to read, as you have, that followed the granting of a pardon, constitute a statement of contrition which I believe will hasten the time when he and his family may achieve peace of mind and spirit and will much sooner bring peace of mind and spirit to all of our citizens.

Q Would you review that sentence?

MR. BUCHEN: Yes.

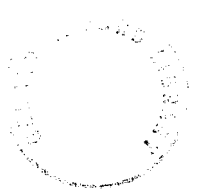
However, my personal view -- these are my own words -- is that former President Nixon's words expressed upon his learning of the pardon, constitute a statement of contrition which I believe will hasten the time when he and his family may achieve peace of mind and spirit and will much sooner bring peace of mind and spirit to all of our citizens.

Now I have only one other paragraph that I would like to bring out in conclusion. I want to express for the record my heartfelt personal thanks and appreciation to a dear friend of the President's and of mine. He is Benton Becker, a Washington attorney, who has served voluntarily as my special and trusted consultant and emissary in helping to bring about the events recorded today.

Q Emissary to Mr. Jaworski or Mr. Nixon?

MR. BUCHEN: To Mr. Miller and Mr. Nixon, not to Mr. Jaworski.

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I also acknowledge with deep gratitude the services of William Casselman, II, who is the highly valued counsel -- who was the highly valued counsel to Vice President Ford for his whole tenure in that office, and is now my close associate in the service of the President of the United States.

Q Who informed President Nixon that he was getting a pardon, and also is President Ford basing this pardon only on the fact that it would have taken a long time to try the Presidency in his own conscience?

MR. BUCHEN: Let me take the first question first.

When Mr. Becker went to San Clemente on Thursday evening, he was authorized to advise the former President that President Ford was intending to grant a pardon, subject, however, to his further consideration of the matter because he wanted to reserve the chance to deliberate and ponder somewhat longer, but he was authorized to say that in all probability a pardon would be issued in the near future.

The second question?

Q The second question is: There is no admission of guilt here at all and despite your assumptions that it is contrition, there is no actual admission of guilt. Do you agree?

MR. BUCHEN: Well, my interpretation is that it comes very close to saying that he did wrong, that he did not act forthrightly.

Q Mr. Buchen, what is the linkage between the agreement between Mr. Sampson and Mr. Becker's negotiations at San Clemente?

MR. BUCHEN: The initiative for getting an agreement that would help solve our problems came from me and I advised Mr. Miller as attorney for Mr. Nixon that that was my desire. I so advised him before I knew anything about a contemplated pardon.

Q Mr. Buchen --

MR. BUCHEN: May I finish, please?

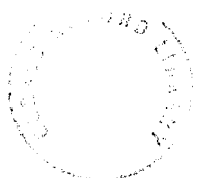
However, as we pursued talks on what to do with the papers, I made it very clear to Mr. Miller that I wanted the initiative to come from him and his client as to the specifics of what he and his client would be willing to do regarding the management and ultimate disposition of the papers and tapes.

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Q Mr. Buchen, what will this mean as far as former President Nixon's role as a witness in the upcoming trials are concerned?

MR. BUCHEN: It would have no effect on that. If the documents do get transferred in a timely fashion, it may permit him to review the pertinent material more adequately so far as his testimony is concerned.

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Q Mr. Buchen, doesn't this pardon eliminate any possibility that the former President might invoke the Fifth Amendment to testify?

MR. BUCHEN: I think you better ask his own lawyer that. As you know, this applies only to offenses against the United States. It does not apply to possible offenses against State law.

Q But regarding offenses against the United States, he would have no Fifth Amendment rights now that he has been pardoned; is that correct?

MR. BUCHEN: I don't know that you can separate them when you plead.

Q Mr. Buchen, why did the President decide to do this now at a time before the jury has been sequestered in the September 30th trial?

MR. BUCHEN: That will have to be information that will have to come from his statement. I have nothing to add.

Q Can you tell us if the President has assured himself that former President Nixon is not guilty or liable to accusation of any very serious charges that have not been made public so far, that there is no other time bomb ticking away?

MR. BUCHEN: I don't think he said that.

Q No, no, I am saying, has President Ford done anything to assure himself that there is no evidence of any more serious criminality committed by former President Nixon than what is generally out in the House Judiciary Committee report and this sort of thing?

MR. BUCHEN: So far as I know, he has made no independent inquiries. If he had wanted to satisfy himself as to the content of the evidence still in the White House, of course, that would have been an insurmountable task, as you have no idea of the huge volumes.

Q Did you assure yourself --

MR. BUCHEN: Just a minute. There are huge volumes. However, I did personally consult with Mr. Jaworski as to the nature of the investigation being conducted and I was able to tell the President that so far as I was able to learn through that inquiry, there were no time bombs, as you call them.

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Q Mr. Buchen, what was the President's reaction when Mr. Becker conveyed this message to him?

MR. BUCHEN: I don't know that it was done in person. I don't think he was necessarily in the room, so I don't believe he can --

Q Did you get any reaction from the President, even if it was by mail or through counsel, did the President say he was grateful for this?

MR. BUCHEN: The only reaction we have gotten is the statement that came over the wire.

Q Are you saying that Ziegler got the word from Becker and that President Nixon was not informed personally at any time by Ford or by any emissary?

MR. BUCHEN: I think you will have to ask Mr. Becker that. My understanding is that initially the talks went through Mr. Ziegler, but there were also face-to-face meetings between Mr. Becker and the President and what occurred by one method, and one by the other, I don't know.

Q There was no personal contact between Ford and Nixon?

MR. BUCHEN: None at all.

Q You refer to Becker as an emissary and you talk about one meeting out there Thursday to notify him. What were the reasons for his previous trips back and forth? What was discussed?

MR. BUCHEN: Becker only went once.

Q Only on Thursday?

MR. BUCHEN: Yes. And not only to discuss that, they had to work out the details of that letter agreement because Miller and Becker were in negotiation and Miller had to consult his client and they had to make modifications. And they had to call back to see whether that fit in correctly with what General Services Administration could feasibly do. So, that involved a lot of the time he was out there.

Q Mr. Buchen, did Mr. Jaworski inform you that an indictment, or indictments, against former President Nixon were expected?

MR. BUCHEN: No, he did not.

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Q May I follow that, then? Isn't the granting of a pardon at this stage an admission that an indictment was expected and that conviction was probable?

MR. BUCHEN: I think you have to recall that word came out that the Grand Jury at one time wanted to name the former President, or then President, as a co-conspirator and that is one evidence that something more would have happened.

And I think it is very likely, from all we have read, that there would be people who would want him prosecuted and would intend to do so, although I don't say that that was Mr. Jaworski's view.

Q Was Mr. Jaworski ever consulted about this pardon, ever asked about this?

MR. BUCHEN: No.

Q Did Jaworski agree to what was done today?

MR. BUCHEN: He has no voice in it.

Q Do you know what his mood or sentiment was?

MR. BUCHEN: You will have to ask him. I want to get to Peter, here.

Q I wanted to follow up that line. You know we are not able to get a response from Mr. Jaworski's office and it would really help us for you to tell us all you can about the status of the investigation against the President, former President Nixon?

MR. BUCHEN: I don't have that information, Peter. That is kept in his shop.

Q But in that regard, why was he not consulted about what kind of action he contemplated against the President before the pardon was issued?

MR. BUCHEN: We didn't think that was relevant.

Q You assumed he would be prosecuted; is that right?

MR. BUCHEN: We assumed that he may be prosecuted.

Q When was Jaworski told?

MR. BUCHEN: About the pardon?

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Q About the pardon.

MR. BUCHEN: I called him about three-quarters of an hour before I knew the President was going to announce it so that he would know it.

Q Today?

MR. BUCHEN: Yes.

Q What was his reaction?

Q When was that?

MR. BUCHEN: He thanked me for advising him in advance of his hearing it over the radio or TV.

Q And he did not object?

MR. BUCHEN: He didn't. He didn't say anything one way or the other.

Q As we read this statement, which does not admit guilt whatsoever, what is to prevent the former President from going out, say six months hence, and saying that nothing was really ever proven against him and he was hounded out of office?

MR. BUCHEN: I guess he has the right to say that because, until an indictment and conviction, I think that would be true in his case as well as anybody else's case who is under a cloud of suspicion.

Q But President Ford spoke of the historical aspects of this and what is going to keep history from getting more muddled than ever?

MR. BUCHEN: I think the historians will take care of that.

Q Mr. Buchen, does President Ford plan to grant a similar pardon to the former President's subordinates who are scheduled to go on trial later this month?

MR. BUCHEN: To my knowledge, he has not given that matter any thought.

Q Can you clarify, was the agreement reached with the GSA about the disposal of the tapes and documents? Was the pardon contingent on that?

MR. BUCHEN: Neither.

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Q They are not together?

MR. BUCHEN: Right.

Q Number two, why did he choose 10:30, Sunday morning, to make the announcement?

MR. BUCHEN: I think you will have to ask him that. He figured that this was a very solemn moment that exemplified, I think, an act that was one of high mercy and it seemed appropriate, I think, to him that it should occur on a day when we do have thoughts like that, or should.

Q Mr. Buchen, I don't understand why you contrast the treatment of Nixon with the treatment of Mitchell coming up. If I understand your statement right, you said that Mitchell has not had the publicity and the action by a hearing as Nixon had before the House Judiciary Committee.

MR. BUCHEN: That was Mr. Jaworski's statement. That was not mine.

Q I don't understand this and maybe you can explain what you think he means there. Mitchell certainly had the hearing with conclusions and explanations of conclusions of a hearing by the Watergate Committee.

MR. BUCHEN: There was a hearing, but I don't know how conclusive the findings were.

Q There was a hearing and Mitchell testified. There was a public hearing and there were conclusions and recommendations on that, and a press conference on that, and great publicity.

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MR. BUCHEN: I would judge that Mr. Jaworski does not find those conclusions prejudicial to Mr. Mitchell's upcoming case.

Q Mr. Buchen, the President, in his statement this morning, referred to this matter threatening the former President's health. Do you have any further details on that? Do you know anything about the former President's health that we don't?

MR. BUCHEN: No, I didn't go out there, so I didn't see the man.

Q Do you know what he meant by that?

MR. BUCHEN: I think it is generally known that this man has suffered a good deal. I think you people who saw him more recently than I have can form your own conclusions.

Q Has Mr. Ford and Mr. Nixon talked this morning?

MR. BUCHEN: No, not to my knowledge, but I do not believe they did.

Q Do you know, was the President in a depression and has the President threatened to commit suicide or anything like that?

MR. BUCHEN: I have no knowledge.

Q You say that you looked into this matter from a constitutional standpoint for the President, and I am sure you looked into the history of it. Has any President ever granted a pardon before in history to anyone prior to that person being charged with a crime formally?

MR. BUCHEN: Oh, yes, there are lots of precedents for that.

Q Like what?

MR. BUCHEN: Well, one of your colleagues, named Mr. Burdick, was pardoned before he was asked to testify regarding some alleged criminality involving the Customs Service during the Wilson Administration and he was given a pardon.

Q He was a newsman?

MR. BUCHEN: He was a newsman.

And, of course, the pardons granted by President Lincoln, for example -- the pardons granted after the Whiskey Rebellion and other insurrections, were applied to people who were not indicted.

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Q Mr. Buchen, I am a little confused at your words, more or less dismissing the question of whether or not the President would grant pardons to Mr. Haldeman, Mr. Ehrlichman, Mr. Mitchell and the others who will go on trial September 30th. Is it not fairly clear to you, or at least do you not, here in the White House, admit the possibility that their defense now, in light of the action of President Ford today, will be that the President has pardoned the man under whose orders they were operating and what is your reaction to this possible line of defense or line of appeal by the defendants in that trial?

Surely, this must have been given some consideration and I again would ask you what you think is going to happen, what you think the President would do when confronted with this question?

MR. BUCHEN: Well, I question your broad characterization that the acts for which they are being charged were necessarily --

Q I am just suggesting this may be their defense.

MR. BUCHEN: This may be their defense. Now, that will become Mr. Jaworski's problem and, of course, the judge's problem. You have already seen that Mr. Jaworski apparently assumes that the situation in their case is far different from the situation in the former President's case.

Q Phil, can I ask you this: Did this process that led up to the pardon today start a week ago when the President came to you?

MR. BUCHEN: Yes.

Q Was there something that happened just prior to his coming to you that got his interest working in doing this thing just now?

MR. BUCHEN: If there was, I don't know what it was, Ron.

Q Have they talked on the phone at any time this week, or immediately prior to this week?

MR. BUCHEN: They have not talked on the phone since Jack Miller became his attorney.

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Q Did this process start after last Sunday's publication of the Gallup poll that said that the majority of the public wanted to see Mr. Nixon prosecuted?

MR. BUCHEN: Let me figure my dates. That was Labor Day week-end, was it? I worked all Labor Day week-end so it came before that.

Q To what extent did the transition team look ahead to the problem of a pardon, and have you done any work at all --

MR. BUCHEN: They didn't consider that. They had far too much else to consider.

Q As a matter of equal justice under law, we have now had the two top officials of the United States, both allegedly involved in crimes, namely, Vice President Agnew and Mr. Nixon, who have been freed of criminal charges. Both of them are entitled to go around the country and represent themselves as being innocent. What is a citizen to make of that situation when ordinary criminals, including the aides involved in this, have to be tried?

MR. BUCHEN: Of course I cannot speak at all for the treatment of former Vice President Agnew because this Administration was not in any way involved. But I think you have to understand -- and maybe it is a good time on Sunday to think about it -- that there is a difference between mercy and justice.

I don't think that you can assume that mercy is equally dispensed or how it could be equally dispensed.

Q Mr. Buchen, is there any pardon being considered for the aides who performed their acts allegedly in the name of and in behalf of Richard Nixon?

MR. BUCHEN: I have already spoken to that question.

Q I don't think you have, Mr. Buchen. I am actually talking about those now in prison, not Mr. Nixon. John Dean and others?

MR. BUCHEN: So far as I know, no thought has been given to that.

Q Mr. Buchen, is it now possible under the agreement on the custody of Presidential tapes and papers for any tape made during the Nixon Administration to be subpoenaed even though it is not now the subject of a subpoena?

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MR. BUCHEN: It is possible. In order to get a subpoena, or court order, of course, certain showings would have to be made. It is also possible, of course, for the owner of the tapes to interject objections.

Q A follow up to that. If the owner of those tapes doesn't want to give them up -- he has now been pardoned of everything -- what is the leverage?

MR. BUCHEN: It doesn't affect the court orders or subpoenas, and he is subject to the consequences of not obeying a valid court order or subpoena.

Q In other words, that would come under the expiration date of August 9 in the pardon; is that right?

MR. BUCHEN: That is right.

Q Do you feel the agreement with Mr. Sampson has insured that the Ford Administration cannot be implicated in any Watergate cover-up? Was that one of your considerations?

MR. BUCHEN: That was not involved because I don't think that is a relevant issue.

Q Is there any change in the rules of access to documents by former White House aides?

MR. BUCHEN: The problem is that there would, of course, be an interim before the Nixon-Sampson letter agreements can be fully implemented. How we will handle the interim arrangements, I am sure can be worked out with Jack Miller as attorney for Mr. Nixon.

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Q As you recall, in the Agnew case, a paper prepared by the Justice Department listing the law violations by the former Vice President was presented in court on the theory that the American people were entitled to have the full story in addition to the specific charge to which the former Vice President pleaded?

In President Ford's preparation for today, what thought did he give to the presentation of an analysis by Special Prosecutor Jaworski of the full extent of President Nixon's role in the Watergate case, and is there any understanding at this point of eliminating Special Prosecutor Jaworski's ability to pursue that type of investigation?

MR. BUCHEN: There is no limitation on what Mr. Jaworski can do except, of course, the putative defendant has the defense now of pardon.

On the first part of your question, there is a distinct difference between asking a man to plead guilty to a limited offense and the treatment of Mr. Agnew, of course, was done under very different circumstances by the system of justice. In this case, it was reliance entirely on the pardon powers which involve acts of mercy.

Q You said earlier that you had assumed that Mr. Nixon may have been prosecuted, is that as far as you are willing to go on that issue? Did you all think it was likely that he would be prosecuted?

MR. BUCHEN: If you mean tried or indicted?

Q Indicted?

MR. BUCHEN: I think it would be very likely that he would be indicted. How and when he could be tried was still an open question.

Q This likelihood, is that on the strength of your conversation with Mr. Jasorski that you think it was very likely?

MR. BUCHEN: No, it was largely on the basis of what the Grand Jury apparently intended to do on the basis of less evidence than is now available.

Q Mr. Buchen, if the ex-President retains the sole right of access to the documents and as I understand this GSA agreement, can even limit access by the Archivist of the United States and his staff, why should the United States remain as custodian of the documents at all?

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MR. BUCHEN: There is a double-key arrangement. In other words, access can't be obtained by either the former President or the General Services Administration except by their concurrent acts.

Q But he could conceivably, to prevent himself from embarrassment, limit access -- no one could see these documents during the three years the United States agrees to act as custodian.

MR. BUCHEN: Unless there is a court order or subpoena.

Q What about the court orders or subpoenas that are outstanding?

MR. BUCHEN: We will have to take this agreement to the courts involved in those proceedings and seek relief from the present processes and subpoenas on the basis of the current agreement.

Q Mr. Buchen, did you and the President give much consideration to the fact that a criminal trial could have cleared Mr. Nixon of the charges of possible guilt, could have cleared him, cleared his name?

MR. BUCHEN: We certainly recognized that as a possibility. Whether it was given any consideration, I don't know.

Q I mean by you or the President?

Q Well, you were there. What was your own view?

MR. BUCHEN: My own view is that that was a possibility. If that was what the former President wanted to do, he certainly would have told us. He didn't have to accept the pardon.

Q Did you recommend the pardon?

MR. BUCHEN: I had nothing to do with recommending it or disrecommending it.

Q Did you ever discuss the political implications of this pardon with the President?

MR. BUCHEN: I did not.

Q Mr. Buchen, to follow up on some of these other questions, it seems that President Ford has an interest in building into the public record a record of Mr. Nixon's alleged criminality for the same reasons that Mr. Agnew's alleged criminality was made a part of the record, to prevent him from saying that he was driven out by political opponents, et cetera. Is President Ford satisfied that former President Nixon's record of wrongdoing is sufficiently in the public record now?

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MR. BUCHEN: All I can tell you is that he knows nothing that you don't know.

Q Mr. Buchen, does the pardon in any way affect Mr. Nixon's payment of back income taxes?

MR. BUCHEN: Not at all. This does not apply to civil liabilities.

Q Let's get back to this double-key arrangement. This is just so much lawyer's language.

MR. BUCHEN: I know that is complicated.

Q Does that double-key arrangement prevent the President from going in there and destroying some of those tapes if he wanted to?

MR. BUCHEN: Yes, it does.

Q So, there is adequate safeguards?

MR. BUCHEN: Yes.

Q Does it mean that if any of those tapes are subpoenaed and he just refuses to honor those subpoenas, then what would happen?

MR. BUCHEN: He would be subject to contempt of the court that issued the subpoenas. It doesn't apply to any future acts.

Q When will the tapes be physically moved to this repository in California or are they going to remain here?

MR. BUCHEN: No, they will be moved to the California repository as soon as we can get rid of, or modification of the existing orders that require they be retained here.

Q Is that that Laguna Niguel pyramid they will be put in?

MR. BUCHEN: Yes.

Q But nobody can get in there by themselves. There will always be somebody to watch; is that correct?

MR. BUCHEN: Yes.

Q When you say "current", are you referring to the two court orders that are pending?

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MR. BUCHEN: There are at least three court orders that I know of. One is in the Wounded Knee case in Minnesota. Another is in the nature of an order because the court declined to issue the order on the assurance that documents or tapes could not be moved, and that is the case involving the networks. So, you can get Ron to answer your questions on that.

The third one is the civil suit in North Carolina involving a suit by people kept out of a meeting to celebrate Billy Graham Day.

Q Mr. Buchen, Mr. Jaworski has, of course, in his possession a considerable number of tapes which are not the originals. They are copies. This agreement with Mr. Sampson does not affect that, does it? They don't have to be returned to the mass to be moved out to Laguna?

MR. BUCHEN: The copies will be disposed of as the court orders, I assume.

Q But this does not require them to be returned to the big group?

MR. BUCHEN: No.

Q Can I clarify the chronology of all this? When is the first time the President indicated to you he might want to pardon Mr. Nixon?

MR. BUCHEN: Just at the start of the Labor Day weekend.

Q On which day?

MR. BUCHEN: I know I started to work Friday night, so it must have been Friday.

Q Did you have any contact with Mr. Miller on the issue of a pardon?

MR. BUCHEN: Not at that time. The first contact, I think, was on Thursday of this week.

Q And you can't suggest what precipitated the President's interest?

MR. BUCHEN: I do not know.

Q Can you tell us whether the President ever tried to -- I hesitate to use "extract" -- but get any admission of guilt from the President, or was it strictly --

MR. BUCHEN: He did not.

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Q Mr. Buchen, you said that President Ford has not talked to former President Nixon since Mr. Nixon retained Miller. Could you tell us the last time President Ford had contact with President Nixon, direct contact?

MR. BUCHEN: I don't know. I think it may have been the time of the Rockefeller appointment.

Q Mr. Buchen, I am not clear on one thing, and following up Helen's question, your emissary went out on that Thursday, Mr. Becker went out on Thursday, that was the only time he went out. I am trying to get clear in my mind precisely what it was he told the former President, or told Mr. Ziegler, and both of them at different times, that President Ford, in all probability would grant a pardon. What did he ask either of Mr. Nixon or Mr. Ziegler? What did he ask that Mr. Nixon do? Did he ask that this statement we have been given today be issued? Did he suggest wording and what it should say or did he ask for nothing? Did he ask for more than what we got in this statement?

You say at one point the former President could have turned down the pardon.

MR. BUCHEN: Yes.

Q Did he offer that option and did he say if the pardon was to be granted, what the former President then should do?

MR. BUCHEN: The former President was represented by counsel, you know.

Q Well, did he make the offer to Mr. Miller?

MR. BUCHEN: Mr. Miller is shrewd enough attorney to know that he could have advised his client to accept or reject the pardon.

To answer your other question, as you can see, that letter agreement is a very complicated one and it involved a lot of practical problems. Before Miller and Becker went out, a rough draft of Miller's proposal was in our hands. But it was obvious that we could not work out the details of what would suit Miller's client and what would suit GSA and what would suit what we thought was the best interests of the Government and of the potential other parties in interest without going out and making the final draft out there. And that was done.

As far as the statement from the former President is concerned, that was a matter that was left entirely up to the discretion of his own counsel and his own advisers.

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Q. Let me see if I can put it another way, Mr. Buchen. Was the pardon in any of the conversations involving yourself, Mr. Becker, or anyone else, with anyone representing the former President, was this pardon contingent on anything?

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MR. BUCHEN: I have said no and I repeat no.

Q Are you saying if he had not given this letter at all, if he had said, "Well, I will make no letter agreement," are you saying categorically that a pardon would have been issued anyway?

MR. BUCHEN: I am not sure because President Ford could have changed his mind or not made up his mind finally.

Q When was the package completed that was announced today?

MR. BUCHEN: We got the agreement back on early Saturday morning and spent that day reviewing it with Mr. Sampson so that was wound up.

Q You mean yesterday morning?

MR. BUCHEN: Yes, yesterday morning. The statement, of course, we didn't see until we got it over the wires right after the speech.

Q Did the President know there was going to be a statement before he finally decided on the pardon?

MR. BUCHEN: Yes.

Q Did he have any idea what the contents would be, what the tone would be?

MR. BUCHEN: In a general way, yes.

Q You are saying that the pardon had nothing to do with this letter agreement?

MR. BUCHEN: That was not a condition.

Q This was a completely independent action?

MR. BUCHEN: Right. The negotiations for that agreement were started independently before even consideration of a pardon.

Q The decision to pardon was not made until after this agreement was obtained?

MR. BUCHEN: That is right.

Q What you are saying, you cannot say there would have been a pardon if the agreement had not been made?

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MR. BUCHEN: All I can say is that the President had the right not to grant a pardon because he had not finally made up his mind to do so.

Q When did he make up his mind to do so?

MR. BUCHEN: I suppose until that pen got on paper or until he started making the statement.

Q He made his decision after the agreement was made?

MR. BUCHEN: That is correct, but what went on in his mind, I don't know.

Q When did he write the speech?

MR. BUCHEN: Last night.

Q In sending this word through the emissary to Mr. Nixon that he was thinking of or expected to pardon him but was reserving time judgment, was that in any way intended as encouragement to Mr. Nixon to get on with the final agreements and possibly offer the kind of a statement that he did offer today?

MR. BUCHEN: That was not the intent. If it created that impression, it was a wrong impression.

Q Mr. Buchen, you just said that the President had an indication in a general way of content of the former President's statement. If I may ask a two-part question: How did he obtain this indication, and did he believe, or was he informed, that the statement would be one of contrition?

MR. BUCHEN: The report was through the mouth of Benton Becker, and the characterization of it as an act of contrition is mine.

Q Excuse me, then. What general feeling did the President have that the statement would be, what indication did he have of what the statement would be? How was it characterized by Mr. Becker?

MR. BUCHEN: He in general told the President what it amounts to and in particular called attention to the fact that there would be an acknowledgement of failure to act decisively and forthrightly on the matter of the Watergate break-in after it became a judicial proceeding.

Q Was that negotiated at all?

MR. BUCHEN: It was not negotiated.

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Q Was Mr. Becker informed of that on Thursday at the time he went out there?

MR. BUCHEN: I think he was informed on Friday because he got out there very late on Thursday night.

Q Do you know if that information had any effect on Mr. Ford's decision?

MR. BUCHEN: I don't know. I am sure it pleased him and made him feel that it was easier for him to act as he contemplated doing.

MR. BUCHEN: We will take three more questions.

Q Would you please clear up some things about this letter of agreement. I am sorry, but it will take me some time to understand it. Let me see here if this is what it means. Unless there is a subpoena or a court order which Mr. Nixon would reply to, any ordinary citizen of the United States, or any officials, outside of Sampson, could not just go in there and look at these tapes or listen to them, or see them at any time. They will be shut off completely to the public?

MR. BUCHEN: That is right.

Q Mr. Buchen, why is the date of July 1969 mentioned in the pardon?

MR. BUCHEN: It is January, the date of inauguration, January 20. President Ford misspoke when he used the word "July".

Q How complete was your explanation of the case against the former President by Mr. Jaworski? Did he go into what areas that he might be pursuing, what he heard on the tapes that have not been made public? Anything like that?

MR. BUCHEN: The question asked him what matters could arguably involve further steps, and it read like a list from one of your newspapers.

Q Did Mr. Becker talk strictly with you or did he ever speak to Mr. Ford? Did he deal strictly with you?

MR. BUCHEN: Oh, no; he was also in the room on occasions when I was speaking to the President.

Q Why did he pick Becker to do this?

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MR. BUCHEN: Part of the problem, as you may know, is we have a rather understaffed legal staff here and Mr. Becker is a man of rare talent that helped during the confirmation hearings of the Vice President, and he is such a good and trusted friend of both of ours that we felt he was the one we should call on.

THE PRESS: Thank you.

MR. BUCHEN: All I am going to say is, for the tapes there will be two five-year windows. The first of the five-year windows involves controlled access by the former President for his listening to copies of tapes, copies to be made by an operator who himself does not listen to the originals.

Also, during the first five-year window, anyone with a legitimate court subpoena or order that is upheld can have access or can require the former President to furnish the information contained on relevant portions of the tapes.

At the end of that first five-year period, the former President retains his window, but also can order selective destruction of tapes. At the end of the ten-year period, they all get destroyed, all that remain.

Q In the second five-year window, is that just by persons who have legitimate subpoenas and court orders closed off?

MR. BUCHEN: That is right, because there is a five-year statute of limitations on most, in fact on all, Federal offenses and most civil matters, so it is assumed the initial five-year window is long enough.

Q What is the limit on destruction after five years plus one day, or can he destroy them all?

MR. BUCHEN: He can.

Q He can?

MR. BUCHEN: He can order them destroyed.

Q If they were making any copies, would the originals then be destroyed in the second five-year window?

MR. BUCHEN: The originals will be destroyed. The copies will be destroyed immediately after they are used.

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Q And he could do it after five years and one day for everything?

MR. BUCHEN: Right.

Q Now can you go then from there to the documents?

MR. BUCHEN: The documents are a different category. There is no present gift of documents as distinguished from the tapes. However, there is a three-year period when there will be controlled access by the owner of those documents requiring the double-key arrangement with the General Services Administrator. And the former President is under obligation to respond to any subpoena involving documents, just as he is to those involving tapes.

During the three-year period involving documents, the former President will be under obligation to respond to subpoenas involving those documents. At any time, the former President can designate certain documents by description to become the absolute property of the United States.

However, after the three-year period, he may either elect to complete his gifts or to withdraw materials as he desires. These are documentary materials.

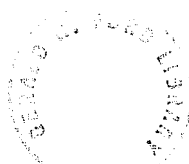
Q Why the three-year limit?

MR. BUCHEN: We felt that as a practical matter on the documentation that would be long enough. It gives everybody a warning. Obviously if there is a subpoena out that was obtained in the three years and the matter of its resolution has not been concluded, the subpoena would prevail.

Q Can you destroy the documents after three years?

MR. BUCHEN: Yes, if he wants to withdraw them.

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Q By the way, Mr. Buchen, I may be wrong in what I am about to say, but I am going to predicate a question on it, nevertheless.

I am under the impression that the tapes, as opposed to documents, the tapes were -- that things such as taperecordings were not covered when Congress covered that loophole and for that reason, the former President could donate those tapes to the Government and claim a tax exemption.

Your second window, the ten-year time for destruction appears to rule that out; is that right?

MR. BUCHEN: He has already given them to the U.S. Government to be a gift effective at the end of the 5-year period.

Q After he destroys them all?

MR. BUCHEN: He can't destroy them during the first five-year period.

Q He has given them as a gift to the United States -- we are talking about tapes now -- he has given them as a gift to the United States for five years; is that right?

MR. BUCHEN: No, it is the other way around. He has retained title for five years and the gift takes effect at the end of the fifth year.

Q But he can destroy his gift?

MR. BUCHEN: He doesn't have access to them.

Q But he can the next day. Didn't you say five years and one day he could destroy them all?

MR. BUCHEN: He can order their destruction.

Q What can he do with the copies? Can he dispose of them for his own purpose?

MR. BUCHEN: No, the copies will go back into the hands of the General Services Administrator and they will be destroyed after he has listened to them.

Q Mr. Buchen, after the ten-year period, is it mandated that the tapes, all tapes and all copies be destroyed?

MR. BUCHEN: That is a condition.

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Q So, his gift in the second five years is a limited gift, in time it is a limited gift, say limited to five years; is that right?

MR. BUCHEN: No.

Q You say he has given them to the United States?

MR. BUCHEN: Effective five years from now.

Q Why are they going to be destroyed after five years?

MR. BUCHEN: Well, maybe they never should have been made in the first place. This was his desire and I think it is consistent with the fact that these matters do involve conversations with people who had no realization that their voices were being recorded.

As an old spokesman for the right of privacy, I think there is considerable merit for putting these in a separate category from documents.

Q Mr. Buchen, was any consideration given to the right of history?

MR. BUCHEN: I am sure the historians will protest, but I think historians cannot complain if evidence for history is not perpetuated which shouldn't have been created in the first place.

Q Is there anything he can keep, or intends to keep?

MR. BUCHEN: I am sure there are items in the documents that he would intend to keep. Of course, it would involve family letters, things of a highly personal nature.

Q Mr. Buchen, if it is Mr. Nixon's desire to destroy the tapes after ten years, would it not be logical to assume he will destroy them after five years?

MR. BUCHEN: That is his option, order them destroyed.

Q What about the gift option? The tax deduction option?

MR. BUCHEN: I am not his tax lawyer and it seems to me if you give a gift with instructions that the items have to be destroyed, that the gift immediately loses its value, so I would think it would be very questionable.

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Q What about the President, though? Could he --

MR. BUCHEN: They will not be perpetuated beyond the limited use.

Q Does the word "copies" include written transcripts as well as the originals?

MR. BUCHEN: Yes.

Q As a practical matter, at the end of five years, then all the tapes will be destroyed except those under subpoena?

MR. BUCHEN: No, because he reserves the right to keep the window open for himself for another five years?

Q Just the President, no public?

MR. BUCHEN: That is right.

Q Is it a question they can be destroyed in five years, but must be destroyed in ten years?

MR. BUCHEN: They can't be destroyed short of five years.

Q Mr. Buchen, Prosecutor Jaworski gave no indication that he objected to the pardon. Is it your impression that he sort of feels relieved?

MR. BUCHEN: Wouldn't you if you were in his place?

THE PRESS: Thank you.

END

(AT 1:28 P.M. EDT)

FOR IMMEDIATE RELEASE

SEPTEMBER 8, 1974

OFFICE OF THE WHITE HOUSE PRESS SECRETARY

PRESS CONFERENCE
OF
PHILIP BUCHEN
COUNSELLOR TO THE PRESIDENT

THE BRIEFING ROOM

AT 12:12 P.M.

MR. TER HORST: Gentlemen, if you are ready for the briefing, we have Philip Buchen, the legal counsel of the White House to address your questions on the President's statement and on the documents you have in your hand.

As you know, he is the President's legal adviser. He was very much a participant in the preparation of this proclamation and so here is Mr. Buchen to take your questions.

I think he may have an opening statement which he may like to read first.

MR. BUCHEN: Thank you, Jerry.

I appreciate your all being here on this Sunday morning, or midday.

I wanted just to say a few things first, because it may answer questions in advance, and at the conclusion of these remarks, I will try to field the questions you throw this way.

In addition to the major developments of this morning when President Ford granted a pardon to former President Nixon, I have two other legal developments to announce which occurred prior to the issuance of the proclamation of pardon.

The first involves the opinion of Attorney General William B. Saxbe and President Ford dealing with papers and other records, including tapes, retained during the Administration of former President Nixon in the White House offices.

In this opinion, the Attorney General concludes that such materials are the present property of Mr. Nixon; however, it also concluded that during the time the materials remain in the custody of the United States, they are subject to subpoenas and court orders directed to any official who controls that custody. And in this conclusion, I have concurred.

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(OVER)

This opinion was sought by the President from the Attorney General on August 22.

Q When you say the President, you mean President Ford?

MR. BUCHEN: That is right.

The reason for seeking the opinion was the conflict created between Mr. Nixon's request on the one hand for delivery to his control of the materials, and on the other hand, the pending court orders and subpoenas directed at the United States and certain of its officials.

The court orders have required that the custody of the materials be maintained at their present locations. And both the orders and subpoenas have called for the identification and production of certain materials allegedly relevant to court proceedings in which the orders and subpoenas originated.

In addition, we were advised of interests of other parties in having certain records disclosed to them under warning that if they were to be removed and delivered to the control of Mr. Nixon, court action would be taken to prevent that move and to protect the claimed rights to inspection or disclosure.

Therefore, it became fully apparent that unless this conflict was resolved, the present Administration would be enmeshed for a long time in answering the disputed claims over who could obtain information from the Nixon records, how requested information could, as a practical matter, be extracted from the vast volume of records in which it might appear, and how, and by whom its relevancy in any particular court proceeding could be determined, and at the same time to try satisfying the claims of Mr. Nixon that he owned the records.

Within a week of the request by the Attorney General for an opinion made by President Ford, I was advised informally of what its general nature would be. From that time on, I realized that the opinion itself would not provide a practical solution to the handling and management of the papers so as to reconcile rights and interest of private ownership with the limited but very important rights and interest of litigants to disclosure of selected relevant parts of the materials.

Thus I initiated conversations with the Attorney General's Office, Special Prosecutor Jaworski, with attorneys for certain litigants seeking disclosure, and with Herbert J. Miller, as soon as he became attorney for Mr. Nixon.

The purpose of these conversations was to explore ways for reconciling these different interests in records of the previous Administration so that this Administration would not be caught in the middle of trying on a case-by-case basis to resolve each dispute over the right of access or disclosure.

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The outcome of these conversations was the conclusion on my part that Mr. Nixon, as the principal party in interest, should be requested to come forth with the proposal for dealing satisfactorily with Presidential material of his Administration in ways that offered reasonable protection and safeguards to each party who has a legitimate court-supported right to production of particular materials relevant to his case.

Mr. Nixon and his attorney then agreed to pursue this approach and in company with White House Counsel, they were able to accomplish the second of the developments which I am announcing today.

And that is the letter agreement, of which you have copies, between former President Nixon and Arthur F. Sampson, Administrator of the General Services Administration.

These two developments are, of course, much less significant than the one you have learned about earlier. President Ford has chosen to carry out a responsibility expressed in the Preamble to the Constitution of ensuring domestic tranquility, and has chosen to do so by exercise of a power that he alone has under the Constitution to grant a pardon for offenses against the United States.

About a week ago, President Ford asked me to study traditional precedents bearing on the exercise of his right to grant a pardon, particularly with reference to whether or not a pardon could only follow indictment or conviction. The answer I found, based on considerable authority, was that a pardon could be granted at any time and need not await an indictment or conviction.

President Ford also asked me to investigate how long it would be before prosecution of former President Nixon could occur, if it were brought, and how long it would take to bring it to a conclusion.

On this point, I consulted with Special Prosecutor Jaworski and he advised me as follows, and has authorized me to quote his language, and I quote:

"The factual situation regarding a trial of Richard M. Nixon within Constitutional bounds is unprecedented. It is especially unique in view of the recent House Judiciary Committee inquiry on impeachment, resulting in a unanimous adverse finding to Richard M. Nixon on the article involving obstruction of justice.

"The massive publicity given the hearings and the findings that ensued, the reversal of judgment of a number of Members of the Republican Party following the release of the June 23rd taperecording, and their statements carried nationwide. And, finally, the

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resignation of Richard M. Nixon require a delay before selection of a jury is begun of a period from nine months to a year, and perhaps even longer.

"This judgment is predicated on a review of the decisions of the United States courts involving prejudicial pre-trial publicity."

Q Is that the end of the quotes?

MR. BUCHEN: No, I am going on to indicate something else that will be of interest to you. That is the end of that quote.

Another quote from his communication to me is as follows: "The situation involving Richard M. Nixon is readily distinguishable from the facts involved in the case of United States versus Mitchell, et al, set for trial on September 30th.

"The defendants in the Mitchell case were indicted by a grand jury operating in secret session. They will be called to trial, unlike Richard M. Nixon, if indicted, without any previous adverse finding by an investigatory body holding public hearings on its conclusions."

That is the end of the quotation.

Q Would you end that last sentence again?

MR. BUCHEN: Yes. It is an important one. "They," meaning the defendants, "will be called to trial, unlike Richard M. Nixon, if indicted, without any previous adverse finding by an investigatory body holding public hearings on its conclusions."

Except for my seeking and obtaining this advice from Mr. Jaworski, none of my discussions with him involved any understandings or commitments regarding his role in the possible prosecution of former President Nixon, or in the prosecution of others.

President Ford has not talked with Mr. Jaworski, but I did report to President Ford the opinion of the Special Prosecutor about the delay necessary before any possible trial of the former President could begin.

I would also like to add on another subject, no action or statement by former President Nixon, which has been disclosed today, however welcome and helpful, was made a pre-condition of the pardon.

That is a negative because of the word "no" at the beginning. I might add that whether or not it was disclosed today, it was not a pre-condition.

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Q There were no secret agreements made?

MR. BUCHEN: That is right.

President Ford in determining to issue a pardon acted solely according to the dictates of his own conscience. Moreover, he did so as an act of mercy not related in any way to obtaining concessions in return.

Q Would you go over the last phrase?

Q After "mercy".

MR. BUCHEN: Mercy not related in any way to obtaining concessions in return. However, my personal view --

Q Is that yours or Ford's?

MR. BUCHEN: Mine. -- is that former President Nixon's words, which I have had a chance to read, as you have, that followed the granting of a pardon, constitute a statement of contrition which I believe will hasten the time when he and his family may achieve peace of mind and spirit and will much sooner bring peace of mind and spirit to all of our citizens.

Q Would you review that sentence?

MR. BUCHEN: Yes.

However, my personal view -- these are my own words -- is that former President Nixon's words expressed upon his learning of the pardon, constitute a statement of contrition which I believe will hasten the time when he and his family may achieve peace of mind and spirit and will much sooner bring peace of mind and spirit to all of our citizens.

Now I have only one other paragraph that I would like to bring out in conclusion. I want to express for the record my heartfelt personal thanks and appreciation to a dear friend of the President's and of mine. He is Benton Becker, a Washington attorney, who has served voluntarily as my special and trusted consultant and emissary in helping to bring about the events recorded today.

Q Emissary to Mr. Jaworski or Mr. Nixon?

MR. BUCHEN: To Mr. Miller and Mr. Nixon, not to Mr. Jaworski.

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I also acknowledge[†] with deep gratitude the services of William Casselman, II, who is the highly valued counsel -- who was the highly valued counsel to Vice President Ford for his whole tenure in that office, and is now my close associate in the service of the President of the United States.

Q Who informed President Nixon that he was getting a pardon, and also is President Ford basing this pardon only on the fact that it would have taken a long time to try the Presidency in his own conscience?

MR. BUCHEN: Let me take the first question first.

When Mr. Becker went to San Clemente on Thursday evening, he was authorized to advise the former President that President Ford was intending to grant a pardon, subject, however, to his further consideration of the matter because he wanted to reserve the chance to deliberate and ponder somewhat longer, but he was authorized to say that in all probability a pardon would be issued in the near future.

The second question?

Q The second question is: There is no admission of guilt here at all and despite your assumptions that it is contrition, there is no actual admission of guilt. Do you agree?

MR. BUCHEN: Well, my interpretation is that it comes very close to saying that he did wrong, that he did not act forthrightly.

Q Mr. Buchen, what is the linkage between the agreement between Mr. Sampson and Mr. Becker's negotiations at San Clemente?

MR. BUCHEN: The initiative for getting an agreement that would help solve our problems came from me and I advised Mr. Miller as attorney for Mr. Nixon that that was my desire. I so advised him before I knew anything about a contemplated pardon.

Q Mr. Buchen --

MR. BUCHEN: May I finish, please?

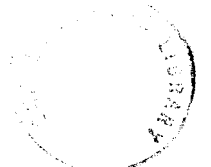
However, as we pursued talks on what to do with the papers, I made it very clear to Mr. Miller that I wanted the initiative to come from him and his client as to the specifics of what he and his client would be willing to do regarding the management and ultimate disposition of the papers and tapes.

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Q Mr. Buchen, what will this mean as far as former President Nixon's role as a witness in the upcoming trials are concerned?

MR. BUCHEN: It would have no effect on that. If the documents do get transferred in a timely fashion, it may permit him to review the pertinent material more adequately so far as his testimony is concerned.

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Q Mr. Buchen, doesn't this pardon eliminate any possibility that the former President might invoke the Fifth Amendment to testify?

MR. BUCHEN: I think you better ask his own lawyer that. As you know, this applies only to offenses against the United States. It does not apply to possible offenses against State law.

Q But regarding offenses against the United States, he would have no Fifth Amendment rights now that he has been pardoned; is that correct?

MR. BUCHEN: I don't know that you can separate them when you plead.

Q Mr. Buchen, why did the President decide to do this now at a time before the jury has been sequestered in the September 30th trial?

MR. BUCHEN: That will have to be information that will have to come from his statement. I have nothing to add.

Q Can you tell us if the President has assured himself that former President Nixon is not guilty or liable to accusation of any very serious charges that have not been made public so far, that there is no other time bomb ticking away?

MR. BUCHEN: I don't think he said that.

Q No, no, I am saying, has President Ford done anything to assure himself that there is no evidence of any more serious criminality committed by former President Nixon than what is generally out in the House Judiciary Committee report and this sort of thing?

MR. BUCHEN: So far as I know, he has made no independent inquiries. If he had wanted to satisfy himself as to the content of the evidence still in the White House, of course, that would have been an insurmountable task, as you have no idea of the huge volumes.

Q Did you assure yourself --

MR. BUCHEN: Just a minute. There are huge volumes. However, I did personally consult with Mr. Jaworski as to the nature of the investigation being conducted and I was able to tell the President that so far as I was able to learn through that inquiry, there were no time bombs, as you call them.

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Q Mr. Buchen, what was the President's reaction when Mr. Becker conveyed this message to him?

MR. BUCHEN: I don't know that it was done in person. I don't think he was necessarily in the room, so I don't believe he can --

Q Did you get any reaction from the President, even if it was by mail or through counsel, did the President say he was grateful for this?

MR. BUCHEN: The only reaction we have gotten is the statement that came over the wire.

Q Are you saying that Ziegler got the word from Becker and that President Nixon was not informed personally at any time by Ford or by any emissary?

MR. BUCHEN: I think you will have to ask Mr. Becker that. My understanding is that initially the talks went through Mr. Ziegler, but there were also face-to-face meetings between Mr. Becker and the President and what occurred by one method, and one by the other, I don't know.

Q There was no personal contact between Ford and Nixon?

MR. BUCHEN: None at all.

Q You refer to Becker as an emissary and you talk about one meeting out there Thursday to notify him. What were the reasons for his previous trips back and forth? What was discussed?

MR. BUCHEN: Becker only went once.

Q Only on Thursday?

MR. BUCHEN: Yes. And not only to discuss that, they had to work out the details of that letter agreement because Miller and Becker were in negotiation and Miller had to consult his client and they had to make modifications. And they had to call back to see whether that fit in correctly with what General Services Administration could feasibly do. So, that involved a lot of the time he was out there.

Q Mr. Buchen, did Mr. Jaworski inform you that an indictment, or indictments, against former President Nixon were expected?

MR. BUCHEN: No, he did not.

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Q May I follow that, then? Isn't the granting of a pardon at this stage an admission that an indictment was expected and that conviction was probable?

MR. BUCHEN: I think you have to recall that word came out that the Grand Jury at one time wanted to name the former President, or then President, as a co-conspirator and that is one evidence that something more would have happened.

And I think it is very likely, from all we have read, that there would be people who would want him prosecuted and would intend to do so, although I don't say that that was Mr. Jaworski's view.

Q Was Mr. Jaworski ever consulted about this pardon, ever asked about this?

MR. BUCHEN: No.

Q Did Jaworski agree to what was done today?

MR. BUCHEN: He has no voice in it.

Q Do you know what his mood or sentiment was?

MR. BUCHEN: You will have to ask him. I want to get to Peter, here.

Q I wanted to follow up that line. You know we are not able to get a response from Mr. Jaworski's office and it would really help us for you to tell us all you can about the status of the investigation against the President, former President Nixon?

MR. BUCHEN: I don't have that information, Peter. That is kept in his shop.

Q But in that regard, why was he not consulted about what kind of action he contemplated against the President before the pardon was issued?

MR. BUCHEN: We didn't think that was relevant.

Q You assumed he would be prosecuted; is that right?

MR. BUCHEN: We assumed that he may be prosecuted.

Q When was Jaworski told?

MR. BUCHEN: About the pardon?

MORE

Q About the pardon.

MR. BUCHEN: I called him about three-quarters of an hour before I knew the President was going to announce it so that he would know it.

Q Today?

MR. BUCHEN: Yes.

Q What was his reaction?

Q When was that?

MR. BUCHEN: He thanked me for advising him in advance of his hearing it over the radio or TV.

Q And he did not object?

MR. BUCHEN: He didn't. He didn't say anything one way or the other.

Q As we read this statement, which does not admit guilt whatsoever, what is to prevent the former President from going out, say six months hence, and saying that nothing was really ever proven against him and he was hounded out of office?

MR. BUCHEN: I guess he has the right to say that because, until an indictment and conviction, I think that would be true in his case as well as anybody else's case who is under a cloud of suspicion.

Q But President Ford spoke of the historical aspects of this and what is going to keep history from getting more muddled than ever?

MR. BUCHEN: I think the historians will take care of that.

Q Mr. Buchen, does President Ford plan to grant a similar pardon to the former President's subordinates who are scheduled to go on trial later this month?

MR. BUCHEN: To my knowledge, he has not given that matter any thought.

Q Can you clarify, was the agreement reached with the GSA about the disposal of the tapes and documents? Was the pardon contingent on that?

MR. BUCHEN: Neither.

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Q They are not together?

MR. BUCHEN: Right.

Q Number two, why did he choose 10:30, Sunday morning, to make the announcement?

MR. BUCHEN: I think you will have to ask him that. He figured that this was a very solemn moment that exemplified, I think, an act that was one of high mercy and it seemed appropriate, I think, to him that it should occur on a day when we do have thoughts like that, or should.

Q Mr. Buchen, I don't understand why you contrast the treatment of Nixon with the treatment of Mitchell coming up. If I understand your statement right, you said that Mitchell has not had the publicity and the action by a hearing as Nixon had before the House Judiciary Committee.

MR. BUCHEN: That was Mr. Jaworski's statement. That was not mine.

Q I don't understand this and maybe you can explain what you think he means there. Mitchell certainly had the hearing with conclusions and explanations of conclusions of a hearing by the Watergate Committee.

MR. BUCHEN: There was a hearing, but I don't know how conclusive the findings were.

Q There was a hearing and Mitchell testified. There was a public hearing and there were conclusions and recommendations on that, and a press conference on that, and great publicity.

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MR. BUCHEN: I would judge that Mr. Jaworski does not find those conclusions prejudicial to Mr. Mitchell's upcoming case.

Q Mr. Buchen, the President, in his statement this morning, referred to this matter threatening the former President's health. Do you have any further details on that? Do you know anything about the former President's health that we don't?

MR. BUCHEN: No, I didn't go out there, so I didn't see the man.

Q Do you know what he meant by that?

MR. BUCHEN: I think it is generally known that this man has suffered a good deal. I think you people who saw him more recently than I have can form your own conclusions.

Q Has Mr. Ford and Mr. Nixon talked this morning?

MR. BUCHEN: No, not to my knowledge, but I do not believe they did.

Q Do you know, was the President in a depression and has the President threatened to commit suicide or anything like that?

MR. BUCHEN: I have no knowledge.

Q You say that you looked into this matter from a constitutional standpoint for the President, and I am sure you looked into the history of it. Has any President ever granted a pardon before in history to anyone prior to that person being charged with a crime formally?

MR. BUCHEN: Oh, yes, there are lots of precedents for that.

Q Like what?

MR. BUCHEN: Well, one of your colleagues, named Mr. Burdick, was pardoned before he was asked to testify regarding some alleged criminality involving the Customs Service during the Wilson Administration and he was given a pardon.

Q He was a newsman?

MR. BUCHEN: He was a newsman.

And, of course, the pardons granted by President Lincoln, for example -- the pardons granted after the Whiskey Rebellion and other insurrections, were applied to people who were not indicted.

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Q Mr. Buchen, I am a little confused at your words, more or less dismissing the question of whether or not the President would grant pardons to Mr. Haldeman, Mr. Ehrlichman, Mr. Mitchell and the others who will go on trial September 30th. Is it not fairly clear to you, or at least do you not, here in the White House, admit the possibility that their defense now, in light of the action of President Ford today, will be that the President has pardoned the man under whose orders they were operating and what is your reaction to this possible line of defense or line of appeal by the defendants in that trial?

Surely, this must have been given some consideration and I again would ask you what you think is going to happen, what you think the President would do when confronted with this question?

MR. BUCHEN: Well, I question your broad characterization that the acts for which they are being charged were necessarily --

Q I am just suggesting this may be their defense.

MR. BUCHEN: This may be their defense. Now, that will become Mr. Jaworski's problem and, of course, the judge's problem. You have already seen that Mr. Jaworski apparently assumes that the situation in their case is far different from the situation in the former President's case.

Q Phil, can I ask you this: Did this process that led up to the pardon today start a week ago when the President came to you?

MR. BUCHEN: Yes.

Q Was there something that happened just prior to his coming to you that got his interest working in doing this thing just now?

MR. BUCHEN: If there was, I don't know what it was, Ron.

Q Have they talked on the phone at any time this week, or immediately prior to this week?

MR. BUCHEN: They have not talked on the phone since Jack Miller became his attorney.

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Q Did this process start after last Sunday's publication of the Gallup poll that said that the majority of the public wanted to see Mr. Nixon prosecuted?

MR. BUCHEN: Let me figure my dates. That was Labor Day week-end, was it? I worked all Labor Day week-end so it came before that.

Q To what extent did the transition team look ahead to the problem of a pardon, and have you done any work at all --

MR. BUCHEN: They didn't consider that. They had far too much else to consider.

Q As a matter of equal justice under law, we have now had the two top officials of the United States, both allegedly involved in crimes, namely, Vice President Agnew and Mr. Nixon, who have been freed of criminal charges. Both of them are entitled to go around the country and represent themselves as being innocent. What is a citizen to make of that situation when ordinary criminals, including the aides involved in this, have to be tried?

MR. BUCHEN: Of course I cannot speak at all for the treatment of former Vice President Agnew because this Administration was not in any way involved. But I think you have to understand -- and maybe it is a good time on Sunday to think about it -- that there is a difference between mercy and justice.

I don't think that you can assume that mercy is equally dispensed or how it could be equally dispensed.

Q Mr. Buchen, is there any pardon being considered for the aides who performed their acts allegedly in the name of and in behalf of Richard Nixon?

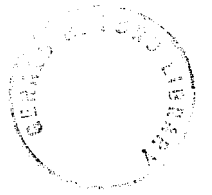
MR. BUCHEN: I have already spoken to that question.

Q I don't think you have, Mr. Buchen. I am actually talking about those now in prison, not Mr. Nixon. John Dean and others?

MR. BUCHEN: So far as I know, no thought has been given to that.

Q Mr. Buchen, is it now possible under the agreement on the custody of Presidential tapes and papers for any tape made during the Nixon Administration to be subpoenaed even though it is not now the subject of a subpoena?

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MR. BUCHEN: It is possible. In order to get a subpoena, or court order, of course, certain showings would have to be made. It is also possible, of course, for the owner of the tapes to interject objections.

Q A follow up to that. If the owner of those tapes doesn't want to give them up -- he has now been pardoned of everything -- what is the leverage?

MR. BUCHEN: It doesn't affect the court orders or subpoenas, and he is subject to the consequences of not obeying a valid court order or subpoena.

Q In other words, that would come under the expiration date of August 9 in the pardon; is that right?

MR. BUCHEN: That is right.

Q Do you feel the agreement with Mr. Sampson has insured that the Ford Administration cannot be implicated in any Watergate cover-up? Was that one of your considerations?

MR. BUCHEN: That was not involved because I don't think that is a relevant issue.

Q Is there any change in the rules of access to documents by former White House aides?

MR. BUCHEN: The problem is that there would, of course, be an interim before the Nixon-Sampson letter agreements can be fully implemented. How we will handle the interim arrangements, I am sure can be worked out with Jack Miller as attorney for Mr. Nixon.

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Q As you recall, in the Agnew case, a paper prepared by the Justice Department listing the law violations by the former Vice President was presented in court on the theory that the American people were entitled to have the full story in addition to the specific charge to which the former Vice President pleaded?

In President Ford's preparation for today, what thought did he give to the presentation of an analysis by Special Prosecutor Jaworski of the full extent of President Nixon's role in the Watergate case, and is there any understanding at this point of eliminating Special Prosecutor Jaworski's ability to pursue that type of investigation?

MR. BUCHEN: There is no limitation on what Mr. Jaworski can do except, of course, the putative defendant has the defense now of pardon.

On the first part of your question, there is a distinct difference between asking a man to plead guilty to a limited offense and the treatment of Mr. Agnew, of course, was done under very different circumstances by the system of justice. In this case, it was reliance entirely on the pardon powers which involve acts of mercy.

Q You said earlier that you had assumed that Mr. Nixon may have been prosecuted, is that as far as you are willing to go on that issue? Did you all think it was likely that he would be prosecuted?

MR. BUCHEN: If you mean tried or indicted?

Q Indicted?

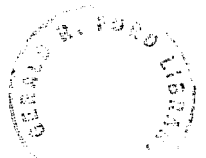
MR. BUCHEN: I think it would be very likely that he would be indicted. How and when he could be tried was still an open question.

Q This likelihood, is that on the strength of your conversation with Mr. Jasorski that you think it was very likely?

MR. BUCHEN: No, it was largely on the basis of what the Grand Jury apparently intended to do on the basis of less evidence than is now available.

Q Mr. Buchen, if the ex-President retains the sole right of access to the documents and as I understand this GSA agreement, can even limit access by the Archivist of the United States and his staff, why should the United States remain as custodian of the documents at all?

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MR. BUCHEN: There is a double-key arrangement. In other words, access can't be obtained by either the former President or the General Services Administration except by their concurrent acts.

Q But he could conceivably, to prevent himself from embarrassment, limit access -- no one could see these documents during the three years the United States agrees to act as custodian.

MR. BUCHEN: Unless there is a court order or subpoena.

Q What about the court orders or subpoenas that are outstanding?

MR. BUCHEN: We will have to take this agreement to the courts involved in those proceedings and seek relief from the present processes and subpoenas on the basis of the current agreement.

Q Mr. Buchen, did you and the President give much consideration to the fact that a criminal trial could have cleared Mr. Nixon of the charges of possible guilt, could have cleared him, cleared his name?

MR. BUCHEN: We certainly recognized that as a possibility. Whether it was given any consideration, I don't know.

Q I mean by you or the President?

Q Well, you were there. What was your own view?

MR. BUCHEN: My own view is that that was a possibility. If that was what the former President wanted to do, he certainly would have told us. He didn't have to accept the pardon.

Q Did you recommend the pardon?

MR. BUCHEN: I had nothing to do with recommending it or disrecommending it.

Q Did you ever discuss the political implications of this pardon with the President?

MR. BUCHEN: I did not.

Q Mr. Buchen, to follow up on some of these other questions, it seems that President Ford has an interest in building into the public record a record of Mr. Nixon's alleged criminality for the same reasons that Mr. Agnew's alleged criminality was made a part of the record, to prevent him from saying that he was driven out by political opponents, et cetera. Is President Ford satisfied that former President Nixon's record of wrongdoing is sufficiently in the public record now?

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MR. BUCHEN: All I can tell you is that he knows nothing that you don't know.

Q Mr. Buchen, does the pardon in any way affect Mr. Nixon's payment of back income taxes?

MR. BUCHEN: Not at all. This does not apply to civil liabilities.

Q Let's get back to this double-key arrangement. This is just so much lawyer's language.

MR. BUCHEN: I know that is complicated.

Q Does that double-key arrangement prevent the President from going in there and destroying some of those tapes if he wanted to?

MR. BUCHEN: Yes, it does.

Q So, there is adequate safeguards?

MR. BUCHEN: Yes.

Q Does it mean that if any of those tapes are subpoenaed and he just refuses to honor those subpoenas, then what would happen?

MR. BUCHEN: He would be subject to contempt of the court that issued the subpoenas. It doesn't apply to any future acts.

Q When will the tapes be physically moved to this repository in California or are they going to remain here?

MR. BUCHEN: No, they will be moved to the California repository as soon as we can get rid of, or modification of the existing orders that require they be retained here.

Q Is that that Laguna Niguel pyramid they will be put in?

MR. BUCHEN: Yes.

Q But nobody can get in there by themselves. There will always be somebody to watch; is that correct?

MR. BUCHEN: Yes.

Q When you say "current", are you referring to the two court orders that are pending?

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MR. BUCHEN: There are at least three court orders that I know of. One is in the Wounded Knee case in Minnesota. Another is in the nature of an order because the court declined to issue the order on the assurance that documents or tapes could not be moved, and that is the case involving the networks. So, you can get Ron to answer your questions on that.

The third one is the civil suit in North Carolina involving a suit by people kept out of a meeting to celebrate Billy Graham Day.

Q Mr. Buchen, Mr. Jaworski has, of course, in his possession a considerable number of tapes which are not the originals. They are copies. This agreement with Mr. Sampson does not affect that, does it? They don't have to be returned to the mass to be moved out to Laguna?

MR. BUCHEN: The copies will be disposed of as the court orders, I assume.

Q But this does not require them to be returned to the big group?

MR. BUCHEN: No.

Q Can I clarify the chronology of all this? When is the first time the President indicated to you he might want to pardon Mr. Nixon?

MR. BUCHEN: Just at the start of the Labor Day weekend.

Q On which day?

MR. BUCHEN: I know I started to work Friday night, so it must have been Friday.

Q Did you have any contact with Mr. Miller on the issue of a pardon?

MR. BUCHEN: Not at that time. The first contact, I think, was on Thursday of this week.

Q And you can't suggest what precipitated the President's interest?

MR. BUCHEN: I do not know.

Q Can you tell us whether the President ever tried to -- I hesitate to use "extract" -- but get any admission of guilt from the President, or was it strictly --

MR. BUCHEN: He did not.

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Q Mr. Buchen, you said that President Ford has not talked to former President Nixon since Mr. Nixon retained Miller. Could you tell us the last time President Ford had contact with President Nixon, direct contact?

MR. BUCHEN: I don't know. I think it may have been the time of the Rockefeller appointment.

Q Mr. Buchen, I am not clear on one thing, and following up Helen's question, your emissary went out on that Thursday, Mr. Becker went out on Thursday, that was the only time he went out. I am trying to get clear in my mind precisely what it was he told the former President, or told Mr. Ziegler, and both of them at different times, that President Ford, in all probability would grant a pardon. What did he ask either of Mr. Nixon or Mr. Ziegler? What did he ask that Mr. Nixon do? Did he ask that this statement we have been given today be issued? Did he suggest wording and what it should say or did he ask for nothing? Did he ask for more than what we got in this statement?

You say at one point the former President could have turned down the pardon.

MR. BUCHEN: Yes.

Q Did he offer that option and did he say if the pardon was to be granted, what the former President then should do?

MR. BUCHEN: The former President was represented by counsel, you know.

Q Well, did he make the offer to Mr. Miller?

MR. BUCHEN: Mr. Miller is shrewd enough attorney to know that he could have advised his client to accept or reject the pardon.

To answer your other question, as you can see, that letter agreement is a very complicated one and it involved a lot of practical problems. Before Miller and Becker went out, a rough draft of Miller's proposal was in our hands. But it was obvious that we could not work out the details of what would suit Miller's client and what would suit GSA and what would suit what we thought was the best interests of the Government and of the potential other parties in interest without going out and making the final draft out there. And that was done.

As far as the statement from the former President is concerned, that was a matter that was left entirely up to the discretion of his own counsel and his own advisers.

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Q Let me see if I can put it another way, Mr. Buchen. Was the pardon in any of the conversations involving yourself, Mr. Becker, or anyone else, with anyone representing the former President, was this pardon contingent on anything?

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MR. BUCHEN: I have said no and I repeat no.

Q Are you saying if he had not given this letter at all, if he had said, "Well, I will make no letter agreement," are you saying categorically that a pardon would have been issued anyway?

MR. BUCHEN: I am not sure because President Ford could have changed his mind or not made up his mind finally.

Q When was the package completed that was announced today?

MR. BUCHEN: We got the agreement back on early Saturday morning and spent that day reviewing it with Mr. Sampson so that was wound up.

Q You mean yesterday morning?

MR. BUCHEN: Yes, yesterday morning. The statement, of course, we didn't see until we got it over the wires right after the speech.

Q Did the President know there was going to be a statement before he finally decided on the pardon?

MR. BUCHEN: Yes.

Q Did he have any idea what the contents would be, what the tone would be?

MR. BUCHEN: In a general way, yes.

Q You are saying that the pardon had nothing to do with this letter agreement?

MR. BUCHEN: That was not a condition.

Q This was a completely independent action?

MR. BUCHEN: Right. The negotiations for that agreement were started independently before even consideration of a pardon.

Q The decision to pardon was not made until after this agreement was obtained?

MR. BUCHEN: That is right.

Q What you are saying, you cannot say there would have been a pardon if the agreement had not been made?

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MR. BUCHEN: All I can say is that the President had the right not to grant a pardon because he had not finally made up his mind to do so.

Q When did he make up his mind to do so?

MR. BUCHEN: I suppose until that pen got on paper or until he started making the statement.

Q He made his decision after the agreement was made?

MR. BUCHEN: That is correct, but what went on in his mind, I don't know.

Q When did he write the speech?

MR. BUCHEN: Last night.

Q In sending this word through the emissary to Mr. Nixon that he was thinking of or expected to pardon him but was reserving time judgment, was that in any way intended as encouragement to Mr. Nixon to get on with the final agreements and possibly offer the kind of a statement that he did offer today?

MR. BUCHEN: That was not the intent. If it created that impression, it was a wrong impression.

Q Mr. Buchen, you just said that the President had an indication in a general way of content of the former President's statement. If I may ask a two-part question: How did he obtain this indication, and did he believe, or was he informed, that the statement would be one of contrition?

MR. BUCHEN: The report was through the mouth of Benton Becker, and the characterization of it as an act of contrition is mine.

Q Excuse me, then. What general feeling did the President have that the statement would be, what indication did he have of what the statement would be? How was it characterized by Mr. Becker?

MR. BUCHEN: He in general told the President what it amounts to and in particular called attention to the fact that there would be an acknowledgement of failure to act decisively and forthrightly on the matter of the Watergate break-in after it became a judicial proceeding.

Q Was that negotiated at all?

MR. BUCHEN: It was not negotiated.

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Q Was Mr. Becker informed of that on Thursday at the time he went out there?

MR. BUCHEN: I think he was informed on Friday because he got out there very late on Thursday night.

Q Do you know if that information had any effect on Mr. Ford's decision?

MR. BUCHEN: I don't know. I am sure it pleased him and made him feel that it was easier for him to act as he contemplated doing.

MR. BUCHEN: We will take three more questions.

Q Would you please clear up some things about this letter of agreement. I am sorry, but it will take me some time to understand it. Let me see here if this is what it means. Unless there is a subpoena or a court order which Mr. Nixon would reply to, any ordinary citizen of the United States, or any officials, outside of Sampson, could not just go in there and look at these tapes or listen to them, or see them at any time. They will be shut off completely to the public?

MR. BUCHEN: That is right.

Q Mr. Buchen, why is the date of July 1969 mentioned in the pardon?

MR. BUCHEN: It is January, the date of inauguration, January 20. President Ford misspoke when he used the word "July".

Q How complete was your explanation of the case against the former President by Mr. Jaworski? Did he go into what areas that he might be pursuing, what he heard on the tapes that have not been made public? Anything like that?

MR. BUCHEN: The question asked him what matters could arguably involve further steps, and it read like a list from one of your newspapers.

Q Did Mr. Becker talk strictly with you or did he ever speak to Mr. Ford? Did he deal strictly with you?

MR. BUCHEN: Oh, no; he was also in the room on occasions when I was speaking to the President.

Q Why did he pick Becker to do this?

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MR. BUCHEN: Part of the problem, as you may know, is we have a rather understaffed legal staff here and Mr. Becker is a man of rare talent that helped during the confirmation hearings of the Vice President, and he is such a good and trusted friend of both of ours that we felt he was the one we should call on.

THE PRESS: Thank you.

MR. BUCHEN: All I am going to say is, for the tapes there will be two five-year windows. The first of the five-year windows involves controlled access by the former President for his listening to copies of tapes, copies to be made by an operator who himself does not listen to the originals.

Also, during the first five-year window, anyone with a legitimate court subpoena or order that is upheld can have access or can require the former President to furnish the information contained on relevant portions of the tapes.

At the end of that first five-year period, the former President retains his window, but also can order selective destruction of tapes. At the end of the ten-year period, they all get destroyed, all that remain.

Q In the second five-year window, is that just by persons who have legitimate subpoenas and court orders closed off?

MR. BUCHEN: That is right, because there is a five-year statute of limitations on most, in fact on all, Federal offenses and most civil matters, so it is assumed the initial five-year window is long enough.

Q What is the limit on destruction after five years plus one day, or can he destroy them all?

MR. BUCHEN: He can.

Q He can?

MR. BUCHEN: He can order them destroyed.

Q If they were making any copies, would the originals then be destroyed in the second five-year window?

MR. BUCHEN: The originals will be destroyed. The copies will be destroyed immediately after they are used.

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Q And he could do it after five years and one day for everything?

MR. BUCHEN: Right.

Q Now can you go then from there to the documents?

MR. BUCHEN: The documents are a different category. There is no present gift of documents as distinguished from the tapes. However, there is a three-year period when there will be controlled access by the owner of those documents requiring the double-key arrangement with the General Services Administrator. And the former President is under obligation to respond to any subpoena involving documents, just as he is to those involving tapes.

During the three-year period involving documents, the former President will be under obligation to respond to subpoenas involving those documents. At any time, the former President can designate certain documents by description to become the absolute property of the United States.

However, after the three-year period, he may either elect to complete his gifts or to withdraw materials as he desires. These are documentary materials.

Q Why the three-year limit?

MR. BUCHEN: We felt that as a practical matter on the documentation that would be long enough. It gives everybody a warning. Obviously if there is a subpoena out that was obtained in the three years and the matter of its resolution has not been concluded, the subpoena would prevail.

Q Can you destroy the documents after three years?

MR. BUCHEN: Yes, if he wants to withdraw them.

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Q By the way, Mr. Buchen, I may be wrong in what I am about to say, but I am going to predicate a question on it, nevertheless.

I am under the impression that the tapes, as opposed to documents, the tapes were -- that things such as taperecordings were not covered when Congress covered that loophole and for that reason, the former President could donate those tapes to the Government and claim a tax exemption.

Your second window, the ten-year time for destruction appears to rule that out; is that right?

MR. BUCHEN: He has already given them to the U.S. Government to be a gift effective at the end of the 5-year period.

Q After he destroys them all?

MR. BUCHEN: He can't destroy them during the first five-year period.

Q He has given them as a gift to the United States -- we are talking about tapes now -- he has given them as a gift to the United States for five years; is that right?

MR. BUCHEN: No, it is the other way around. He has retained title for five years and the gift takes effect at the end of the fifth year.

Q But he can destroy his gift?

MR. BUCHEN: He doesn't have access to them.

Q But he can the next day. Didn't you say five years and one day he could destroy them all?

MR. BUCHEN: He can order their destruction.

Q What can he do with the copies? Can he dispose of them for his own purpose?

MR. BUCHEN: No, the copies will go back into the hands of the General Services Administrator and they will be destroyed after he has listened to them.

Q Mr. Buchen, after the ten-year period, is it mandated that the tapes, all tapes and all copies be destroyed?

MR. BUCHEN: That is a condition.

MORE

Q So, his gift in the second five years is a limited gift, in time it is a limited gift, say limited to five years; is that right?

MR. BUCHEN: No.

Q You say he has given them to the United States?

MR. BUCHEN: Effective five years from now.

Q Why are they going to be destroyed after five years?

MR. BUCHEN: Well, maybe they never should have been made in the first place. This was his desire and I think it is consistent with the fact that these matters do involve conversations with people who had no realization that their voices were being recorded.

As an old spokesman for the right of privacy, I think there is considerable merit for putting these in a separate category from documents.

Q Mr. Buchen, was any consideration given to the right of history?

MR. BUCHEN: I am sure the historians will protest, but I think historians cannot complain if evidence for history is not perpetuated which shouldn't have been created in the first place.

Q Is there anything he can keep, or intends to keep?

MR. BUCHEN: I am sure there are items in the documents that he would intend to keep. Of course, it would involve family letters, things of a highly personal nature.

Q Mr. Buchen, if it is Mr. Nixon's desire to destroy the tapes after ten years, would it not be logical to assume he will destroy them after five years?

MR. BUCHEN: That is his option, order them destroyed.

Q What about the gift option? The tax deduction option?

MR. BUCHEN: I am not his tax lawyer and it seems to me if you give a gift with instructions that the items have to be destroyed, that the gift immediately loses its value, so I would think it would be very questionable.

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Q What about the President, though? Could he --

MR. BUCHEN: They will not be perpetuated beyond the limited use.

Q Does the word "copies" include written transcripts as well as the originals?

MR. BUCHEN: Yes.

Q As a practical matter, at the end of five years, then all the tapes will be destroyed except those under subpoena?

MR. BUCHEN: No, because he reserves the right to keep the window open for himself for another five years?

Q Just the President, no public?

MR. BUCHEN: That is right.

Q Is it a question they can be destroyed in five years, but must be destroyed in ten years?

MR. BUCHEN: They can't be destroyed short of five years.

Q Mr. Buchen, Prosecutor Jaworski gave no indication that he objected to the pardon. Is it your impression that he sort of feels relieved?

MR. BUCHEN: Wouldn't you if you were in his place?

THE PRESS: Thank you.

END

(AT 1:28 P.M. EDT)

OFFICE OF THE WHITE HOUSE PRESS SECRETARY

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OF
PHILIP BUCHEN
COUNSELLOR TO THE PRESIDENT

THE BRIEFING ROOM

AT 12:12 P.M.

MR. TER HORST: Gentlemen, if you are ready for the briefing, we have Philip Buchen, the legal counsel of the White House to address your questions on the President's statement and on the documents you have in your hand.

As you know, he is the President's legal adviser. He was very much a participant in the preparation of this proclamation and so here is Mr. Buchen to take your questions.

I think he may have an opening statement which he may like to read first.

MR. BUCHEN: Thank you, Jerry.

I appreciate your all being here on this Sunday morning, or midday.

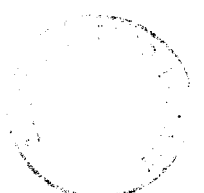
I wanted just to say a few things first, because it may answer questions in advance, and at the conclusion of these remarks, I will try to field the questions you throw this way.

In addition to the major developments of this morning when President Ford granted a pardon to former President Nixon, I have two other legal developments to announce which occurred prior to the issuance of the proclamation of pardon.

The first involves the opinion of Attorney General William B. Saxbe ~~and~~^{to} President Ford dealing with papers and other records, including tapes, retained during the Administration of former President Nixon in the White House offices.

In this opinion, the Attorney General concludes that such materials are the present property of Mr. Nixon; however, it also concluded that during the time the materials remain in the custody of the United States, they are subject to subpoenas and court orders directed to any official who controls that custody. And in this conclusion, I have concurred.

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This opinion was sought by the President from the Attorney General on August 22.

Q When you say the President, you mean President Ford?

MR. BUCHEN: That is right.

The reason for seeking the opinion was the conflict created between Mr. Nixon's request on the one hand for delivery to his control of the materials, and on the other hand, the pending court orders and subpoenas directed at the United States and certain of its officials.

The court orders have required that the custody of the materials be maintained at their present locations. And both the orders and subpoenas have called for the identification and production of certain materials allegedly relevant to court proceedings in which the orders and subpoenas originated.

In addition, we were advised of interests of other parties in having certain records disclosed to them under warning that if they were to be removed and delivered to the control of Mr. Nixon, court action would be taken to prevent that move and to protect the claimed rights to inspection or disclosure.

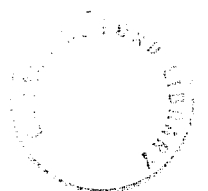
Therefore, it became fully apparent that unless this conflict was resolved, the present Administration would be enmeshed for a long time in answering the disputed claims over who could obtain information from the Nixon records, how requested information could, as a practical matter, be extracted from the vast volume of records in which it might appear, and how, and by whom its relevancy in any particular court proceeding could be determined, and at the same time to try satisfying the claims of Mr. Nixon that he owned the records.

Within a week of the request by the Attorney General for an opinion made by President Ford, I was advised informally of what its general nature would be. From that time on, I realized that the opinion itself would not provide a practical solution to the handling and management of the papers so as to reconcile rights and interest of private ownership with the limited but very important rights and interest of litigants to disclosure of selected relevant parts of the materials.

Thus I initiated conversations with the Attorney General's Office, Special Prosecutor Jaworski, with attorneys for certain litigants seeking disclosure, and with Herbert J. Miller, as soon as he became attorney for Mr. Nixon.

The purpose of these conversations was to explore ways for reconciling these different interests in records of the previous Administration so that this Administration would not be caught in the middle of trying on a case-by-case basis to resolve each dispute over the right of access or disclosure.

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The outcome of these conversations was the conclusion on my part that Mr. Nixon, as the principal party in interest, should be requested to come forth with the proposal for dealing satisfactorily with Presidential material of his Administration in ways that offered reasonable protection and safeguards to each party who has a legitimate court-supported right to production of particular materials relevant to his case.

Mr. Nixon and his attorney then agreed to pursue this approach and in company with White House Counsel, they were able to accomplish the second of the developments which I am announcing today.

And that is the letter agreement, of which you have copies, between former President Nixon and Arthur F. Sampson, Administrator of the General Services Administration.

These two developments are, of course, much less significant than the one you have learned about earlier. President Ford has chosen to carry out a responsibility expressed in the Preamble to the Constitution of ensuring domestic tranquility, and has chosen to do so by exercise of a power that he alone has under the Constitution to grant a pardon for offenses against the United States.

About a week ago, President Ford asked me to study traditional precedents bearing on the exercise of his right to grant a pardon, particularly with reference to whether or not a pardon could only follow indictment or conviction. The answer I found, based on considerable authority, was that a pardon could be granted at any time and need not await an indictment or conviction.

President Ford also asked me to investigate how long it would be before prosecution of former President Nixon could occur, if it were brought, and how long it would take to bring it to a conclusion.

On this point, I consulted with Special Prosecutor Jaworski and he advised me as follows, and has authorized me to quote his language, and I quote:

"The factual situation regarding a trial of Richard M. Nixon within Constitutional bounds is unprecedented. It is especially unique in view of the recent House Judiciary Committee inquiry on impeachment, resulting in a unanimous adverse finding to Richard M. Nixon on the article involving obstruction of justice.

"The massive publicity given the hearings and the findings that ensued, the reversal of judgment of a number of Members of the Republican Party following the release of the June 23rd taperecording, and their statements carried nationwide. And, finally, the

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resignation of Richard M. Nixon require a delay before selection of a jury is begun of a period from nine months to a year, and perhaps even longer.

"This judgment is predicated on a review of the decisions of the United States courts involving prejudicial pre-trial publicity."

Q Is that the end of the quotes?

MR. BUCHEN: No, I am going on to indicate something else that will be of interest to you. That is the end of that quote.

Another quote from his communication to me is as follows: "The situation involving Richard M. Nixon is readily distinguishable from the facts involved in the case of United States versus Mitchell, et al, set for trial on September 30th.

"The defendants in the Mitchell case were indicted by a grand jury operating in secret session. They will be called to trial, unlike Richard M. Nixon, if indicted, without any previous adverse finding by an investigatory body holding public hearings on its conclusions."

That is the end of the quotation.

Q Would you end that last sentence again?

MR. BUCHEN: Yes. It is an important one. "They," meaning the defendants, "will be called to trial, unlike Richard M. Nixon, if indicted, without any previous adverse finding by an investigatory body holding public hearings on its conclusions."

Except for my seeking and obtaining this advice from Mr. Jaworski, none of my discussions with him involved any understandings or commitments regarding his role in the possible prosecution of former President Nixon, or in the prosecution of others.

President Ford has not talked with Mr. Jaworski, but I did report to President Ford the opinion of the Special Prosecutor about the delay necessary before any possible trial of the former President could begin.

I would also like to add on another subject, no action or statement by former President Nixon, which has been disclosed today, however welcome and helpful, was made a pre-condition of the pardon.

That is a negative because of the word "no" at the beginning. I might add that whether or not it was disclosed today, it was not a pre-condition.

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Q There were no secret agreements made?

MR. BUCHEN: That is right.

President Ford in determining to issue a pardon acted solely according to the dictates of his own conscience. Moreover, he did so as an act of mercy not related in any way to obtaining concessions in return.

Q Would you go over the last phrase?

Q After "mercy".

MR. BUCHEN: Mercy not related in any way to obtaining concessions in return. However, my personal view --

Q Is that yours or Ford's?

MR. BUCHEN: Mine. -- is that former President Nixon's words, which I have had a chance to read, as you have, that followed the granting of a pardon, constitute a statement of contrition which I believe will hasten the time when he and his family may achieve peace of mind and spirit and will much sooner bring peace of mind and spirit to all of our citizens.

Q Would you review that sentence?

MR. BUCHEN: Yes.

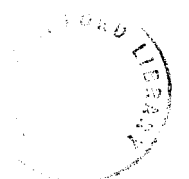
However, my personal view -- these are my own words -- is that former President Nixon's words expressed upon his learning of the pardon, constitute a statement of contrition which I believe will hasten the time when he and his family may achieve peace of mind and spirit and will much sooner bring peace of mind and spirit to all of our citizens.

Now I have only one other paragraph that I would like to bring out in conclusion. I want to express for the record my heartfelt personal thanks and appreciation to a dear friend of the President's and of mine. He is Benton Becker, a Washington attorney, who has served voluntarily as my special and trusted consultant and emissary in helping to bring about the events recorded today.

Q Emissary to Mr. Jaworski or Mr. Nixon?

MR. BUCHEN: To Mr. Miller and Mr. Nixon, not to Mr. Jaworski.

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I also acknowledge with deep gratitude the services of William Casselman, II; who is the highly valued counsel -- who was the highly valued counsel to Vice President Ford for his whole tenure in that office, and is now my close associate in the service of the President of the United States.

Q Who informed President Nixon that he was getting a pardon, and also is President Ford basing this pardon only on the fact that it would have taken a long time to try the Presidency in his own conscience?

MR. BUCHEN: Let me take the first question first.

When Mr. Becker went to San Clemente on Thursday evening, he was authorized to advise the former President that President Ford was intending to grant a pardon, subject, however, to his further consideration of the matter because he wanted to reserve the chance to deliberate and ponder somewhat longer, but he was authorized to say that in all probability a pardon would be issued in the near future.

The second question?

Q The second question is: There is no admission of guilt here at all and despite your assumptions that it is contrition, there is no actual admission of guilt. Do you agree?

MR. BUCHEN: Well, my interpretation is that it comes very close to saying that he did wrong, that he did not act forthrightly.

Q Mr. Buchen, what is the linkage between the agreement between Mr. Sampson and Mr. Becker's negotiations at San Clemente?

MR. BUCHEN: The initiative for getting an agreement that would help solve our problems came from me and I advised Mr. Miller as attorney for Mr. Nixon that that was my desire. I so advised him before I knew anything about a contemplated pardon.

Q Mr. Buchen --

MR. BUCHEN: May I finish, please?

However, as we pursued talks on what to do with the papers, I made it very clear to Mr. Miller that I wanted the initiative to come from him and his client as to the specifics of what he and his client would be willing to do regarding the management and ultimate disposition of the papers and tapes.

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Q Mr. Buchen, what will this mean as far as former President Nixon's role as a witness in the upcoming trials are concerned?

MR. BUCHEN: It would have no effect on that. If the documents do get transferred in a timely fashion, it may permit him to review the pertinent material more adequately so far as his testimony is concerned.

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Q Mr. Buchen, doesn't this pardon eliminate any possibility that the former President might invoke the Fifth Amendment to testify?

MR. BUCHEN: I think you better ask his own lawyer that. As you know, this applies only to offenses against the United States. It does not apply to possible offenses against State law.

Q But regarding offenses against the United States, he would have no Fifth Amendment rights now that he has been pardoned; is that correct?

MR. BUCHEN: I don't know that you can separate them when you plead.

Q Mr. Buchen, why did the President decide to do this now at a time before the jury has been sequestered in the September 30th trial?

MR. BUCHEN: That will have to be information that will have to come from his statement. I have nothing to add.

Q Can you tell us if the President has assured himself that former President Nixon is not guilty or liable to accusation of any very serious charges that have not been made public so far, that there is no other time bomb ticking away?

MR. BUCHEN: I don't think he said that.

Q No, no, I am saying, has President Ford done anything to assure himself that there is no evidence of any more serious criminality committed by former President Nixon than what is generally out in the House Judiciary Committee report and this sort of thing?

MR. BUCHEN: So far as I know, he has made no independent inquiries. If he had wanted to satisfy himself as to the content of the evidence still in the White House, of course, that would have been an insurmountable task, as you have no idea of the huge volumes.

Q Did you assure yourself --

MR. BUCHEN: Just a minute. There are huge volumes. However, I did personally consult with Mr. Jaworski as to the nature of the investigation being conducted and I was able to tell the President that so far as I was able to learn through that inquiry, there were no time bombs, as you call them.

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Q Mr. Buchen, what was the President's reaction when Mr. Becker conveyed this message to him?

MR. BUCHEN: I don't know that it was done in person. I don't think he was necessarily in the room, so I don't believe he can --

Q Did you get any reaction from the President, even if it was by mail or through counsel, did the President say he was grateful for this?

MR. BUCHEN: The only reaction we have gotten is the statement that came over the wire.

Q Are you saying that Ziegler got the word from Becker and that President Nixon was not informed personally at any time by Ford or by any emissary?

MR. BUCHEN: I think you will have to ask Mr. Becker that. My understanding is that initially the talks went through Mr. Ziegler, but there were also face-to-face meetings between Mr. Becker and the President and what occurred by one method, and one by the other, I don't know.

Q There was no personal contact between Ford and Nixon?

MR. BUCHEN: None at all.

Q You refer to Becker as an emissary and you talk about one meeting out there Thursday to notify him. What were the reasons for his previous trips back and forth? What was discussed?

MR. BUCHEN: Becker only went once.

Q Only on Thursday?

MR. BUCHEN: Yes. And not only to discuss that, they had to work out the details of that letter agreement because Miller and Becker were in negotiation and Miller had to consult his client and they had to make modifications. And they had to call back to see whether that fit in correctly with what General Services Administration could feasibly do. So, that involved a lot of the time he was out there.

Q Mr. Buchen, did Mr. Jaworski inform you that an indictment, or indictments, against former President Nixon were expected?

MR. BUCHEN: No, he did not.

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Q May I follow that, then? Isn't the granting of a pardon at this stage an admission that an indictment was expected and that conviction was probable?

MR. BUCHEN: I think you have to recall that word came out that the Grand Jury at one time wanted to name the former President, or then President, as a co-conspirator and that is one evidence that something more would have happened.

And I think it is very likely, from all we have read, that there would be people who would want him prosecuted and would intend to do so, although I don't say that that was Mr. Jaworski's view.

Q Was Mr. Jaworski ever consulted about this pardon, ever asked about this?

MR. BUCHEN: No.

Q Did Jaworski agree to what was done today?

MR. BUCHEN: He has no voice in it.

Q Do you know what his mood or sentiment was?

MR. BUCHEN: You will have to ask him. I want to get to Peter, here.

Q I wanted to follow up that line. You know we are not able to get a response from Mr. Jaworski's office and it would really help us for you to tell us all you can about the status of the investigation against the President, former President Nixon?

MR. BUCHEN: I don't have that information, Peter. That is kept in his shop.

Q But in that regard, why was he not consulted about what kind of action he contemplated against the President before the pardon was issued?

MR. BUCHEN: We didn't think that was relevant.

Q You assumed he would be prosecuted; is that right?

MR. BUCHEN: We assumed that he may be prosecuted.

Q When was Jaworski told?

MR. BUCHEN: About the pardon?

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Q About the pardon.

MR. BUCHEN: I called him about three-quarters of an hour before I knew the President was going to announce it so that he would know it.

Q Today?

MR. BUCHEN: Yes.

Q What was his reaction?

Q When was that?

MR. BUCHEN: He thanked me for advising him in advance of his hearing it over the radio or TV.

Q And he did not object?

MR. BUCHEN: He didn't. He didn't say anything one way or the other.

Q As we read this statement, which does not admit guilt whatsoever, what is to prevent the former President from going out, say six months hence, and saying that nothing was really ever proven against him and he was hounded out of office?

MR. BUCHEN: I guess he has the right to say that because, until an indictment and conviction, I think that would be true in his case as well as anybody else's case who is under a cloud of suspicion.

Q But President Ford spoke of the historical aspects of this and what is going to keep history from getting more muddled than ever?

MR. BUCHEN: I think the historians will take care of that.

Q Mr. Buchen, does President Ford plan to grant a similar pardon to the former President's subordinates who are scheduled to go on trial later this month?

MR. BUCHEN: To my knowledge, he has not given that matter any thought.

Q Can you clarify, was the agreement reached with the GSA about the disposal of the tapes and documents? Was the pardon contingent on that?

MR. BUCHEN: Neither.

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Q They are not together?

MR. BUCHEN: Right.

Q Number two, why did he choose 10:30, Sunday morning, to make the announcement?

MR. BUCHEN: I think you will have to ask him that. He figured that this was a very solemn moment that exemplified, I think, an act that was one of high mercy and it seemed appropriate, I think, to him that it should occur on a day when we do have thoughts like that, or should.

Q Mr. Buchen, I don't understand why you contrast the treatment of Nixon with the treatment of Mitchell coming up. If I understand your statement right, you said that Mitchell has not had the publicity and the action by a hearing as Nixon had before the House Judiciary Committee.

MR. BUCHEN: That was Mr. Jaworski's statement. That was not mine.

Q I don't understand this and maybe you can explain what you think he means there. Mitchell certainly had the hearing with conclusions and explanations of conclusions of a hearing by the Watergate Committee.

MR. BUCHEN: There was a hearing, but I don't know how conclusive the findings were.

Q There was a hearing and Mitchell testified. There was a public hearing and there were conclusions and recommendations on that, and a press conference on that, and great publicity.

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MR. BUCHEN: I would judge that Mr. Jaworski does not find those conclusions prejudicial to Mr. Mitchell's upcoming case.

Q Mr. Buchen, the President, in his statement this morning, referred to this matter threatening the former President's health. Do you have any further details on that? Do you know anything about the former President's health that we don't?

MR. BUCHEN: No, I didn't go out there, so I didn't see the man.

Q Do you know what he meant by that?

MR. BUCHEN: I think it is generally known that this man has suffered a good deal. I think you people who saw him more recently than I have can form your own conclusions.

Q Has Mr. Ford and Mr. Nixon talked this morning?

MR. BUCHEN: No, not to my knowledge, but I do not believe they did.

Q Do you know, was the President in a depression and has the President threatened to commit suicide or anything like that?

MR. BUCHEN: I have no knowledge.

Q You say that you looked into this matter from a constitutional standpoint for the President, and I am sure you looked into the history of it. Has any President ever granted a pardon before in history to anyone prior to that person being charged with a crime formally?

MR. BUCHEN: Oh, yes, there are lots of precedents for that.

Q Like what?

MR. BUCHEN: Well, one of your colleagues, named Mr. Burdick, was pardoned before he was asked to testify regarding some alleged criminality involving the Customs Service during the Wilson Administration and he was given a pardon.

Q He was a newsman?

MR. BUCHEN: He was a newsman.

And, of course, the pardons granted by President Lincoln, for example -- the pardons granted after the Whiskey Rebellion and other insurrections, were applied to people who were not indicted.

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Q Mr. Buchen, I am a little confused at your words, more or less dismissing the question of whether or not the President would grant pardons to Mr. Haldeman, Mr. Ehrlichman, Mr. Mitchell and the others who will go on trial September 30th. Is it not fairly clear to you, or at least do you not, here in the White House, admit the possibility that their defense now, in light of the action of President Ford today, will be that the President has pardoned the man under whose orders they were operating and what is your reaction to this possible line of defense or line of appeal by the defendants in that trial?

Surely, this must have been given some consideration and I again would ask you what you think is going to happen, what you think the President would do when confronted with this question?

MR. BUCHEN: Well, I question your broad characterization that the acts for which they are being charged were necessarily --

Q I am just suggesting this may be their defense.

MR. BUCHEN: This may be their defense. Now, that will become Mr. Jaworski's problem and, of course, the judge's problem. You have already seen that Mr. Jaworski apparently assumes that the situation in their case is far different from the situation in the former President's case.

Q Phil, can I ask you this: Did this process that led up to the pardon today start a week ago when the President came to you?

MR. BUCHEN: Yes.

Q Was there something that happened just prior to his coming to you that got his interest working in doing this thing just now?

MR. BUCHEN: If there was, I don't know what it was, Ron.

Q Have they talked on the phone at any time this week, or immediately prior to this week?

MR. BUCHEN: They have not talked on the phone since Jack Miller became his attorney.

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Q Did this process start after last Sunday's publication of the Gallup poll that said that the majority of the public wanted to see Mr. Nixon prosecuted?

MR. BUCHEN: Let me figure my dates. That was Labor Day week-end, was it? I worked all Labor Day week-end so it came before that.

Q To what extent did the transition team look ahead to the problem of a pardon, and have you done any work at all --

MR. BUCHEN: They didn't consider that. They had far too much else to consider.

Q As a matter of equal justice under law, we have now had the two top officials of the United States, both allegedly involved in crimes, namely, Vice President Agnew and Mr. Nixon, who have been freed of criminal charges. Both of them are entitled to go around the country and represent themselves as being innocent. What is a citizen to make of that situation when ordinary criminals, including the aides involved in this, have to be tried?

MR. BUCHEN: Of course I cannot speak at all for the treatment of former Vice President Agnew because this Administration was not in any way involved. But I think you have to understand -- and maybe it is a good time on Sunday to think about it -- that there is a difference between mercy and justice.

I don't think that you can assume that mercy is equally dispensed or how it could be equally dispensed.

Q Mr. Buchen, is there any pardon being considered for the aides who performed their acts allegedly in the name of and in behalf of Richard Nixon?

MR. BUCHEN: I have already spoken to that question.

Q I don't think you have, Mr. Buchen. I am actually talking about those now in prison, not Mr. Nixon. John Dean and others?

MR. BUCHEN: So far as I know, no thought has been given to that.

Q Mr. Buchen, is it now possible under the agreement on the custody of Presidential tapes and papers for any tape made during the Nixon Administration to be subpoenaed even though it is not now the subject of a subpoena?

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MR. BUCHEN: It is possible. In order to get a subpoena, or court order, of course, certain showings would have to be made. It is also possible, of course, for the owner of the tapes to interject objections.

Q A follow up to that. If the owner of those tapes doesn't want to give them up -- he has now been pardoned of everything -- what is the leverage?

MR. BUCHEN: It doesn't affect the court orders or subpoenas, and he is subject to the consequences of not obeying a valid court order or subpoena.

Q In other words, that would come under the expiration date of August 9 in the pardon; is that right?

MR. BUCHEN: That is right.

Q Do you feel the agreement with Mr. Sampson has insured that the Ford Administration cannot be implicated in any Watergate cover-up? Was that one of your considerations?

MR. BUCHEN: That was not involved because I don't think that is a relevant issue.

Q Is there any change in the rules of access to documents by former White House aides?

MR. BUCHEN: The problem is that there would, of course, be an interim before the Nixon-Sampson letter agreements can be fully implemented. How we will handle the interim arrangements, I am sure can be worked out with Jack Miller as attorney for Mr. Nixon.

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Q As you recall, in the Agnew case, a paper prepared by the Justice Department listing the law violations by the former Vice President was presented in court on the theory that the American people were entitled to have the full story in addition to the specific charge to which the former Vice President pleaded?

In President Ford's preparation for today, what thought did he give to the presentation of an analysis by Special Prosecutor Jaworski of the full extent of President Nixon's role in the Watergate case, and is there any understanding at this point of eliminating Special Prosecutor Jaworski's ability to pursue that type of investigation?

MR. BUCHEN: There is no limitation on what Mr. Jaworski can do except, of course, the putative defendant has the defense now of pardon.

On the first part of your question, there is a distinct difference between asking a man to plead guilty to a limited offense and the treatment of Mr. Agnew, of course, was done under very different circumstances by the system of justice. In this case, it was reliance entirely on the pardon powers which involve acts of mercy.

Q You said earlier that you had assumed that Mr. Nixon may have been prosecuted, is that as far as you are willing to go on that issue? Did you all think it was likely that he would be prosecuted?

MR. BUCHEN: If you mean tried or indicted?

Q Indicted?

MR. BUCHEN: I think it would be very likely that he would be indicted. How and when he could be tried was still an open question.

Q This likelihood, is that on the strength of your conversation with Mr. Jasorski that you think it was very likely?

MR. BUCHEN: No, it was largely on the basis of what the Grand Jury apparently intended to do on the basis of less evidence than is now available.

Q Mr. Buchen, if the ex-President retains the sole right of access to the documents and as I understand this GSA agreement, can even limit access by the Archivist of the United States and his staff, why should the United States remain as custodian of the documents at all?

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MR. BUCHEN: There is a double-key arrangement. In other words, access can't be obtained by either the former President or the General Services Administration except by their concurrent acts.

Q But he could conceivably, to prevent himself from embarrassment, limit access -- no one could see these documents during the three years the United States agrees to act as custodian.

MR. BUCHEN: Unless there is a court order or subpoena.

Q What about the court orders or subpoenas that are outstanding?

MR. BUCHEN: We will have to take this agreement to the courts involved in those proceedings and seek relief from the present processes and subpoenas on the basis of the current agreement.

Q Mr. Buchen, did you and the President give much consideration to the fact that a criminal trial could have cleared Mr. Nixon of the charges of possible guilt, could have cleared him, cleared his name?

MR. BUCHEN: We certainly recognized that as a possibility. Whether it was given any consideration, I don't know.

Q I mean by you or the President?

Q Well, you were there. What was your own view?

MR. BUCHEN: My own view is that that was a possibility. If that was what the former President wanted to do, he certainly would have told us. He didn't have to accept the pardon.

Q Did you recommend the pardon?

MR. BUCHEN: I had nothing to do with recommending it or disrecommending it.

Q Did you ever discuss the political implications of this pardon with the President?

MR. BUCHEN: I did not.

Q Mr. Buchen, to follow up on some of these other questions, it seems that President Ford has an interest in building into the public record a record of Mr. Nixon's alleged criminality for the same reasons that Mr. Agnew's alleged criminality was made a part of the record, to prevent him from saying that he was driven out by political opponents, et cetera. Is President Ford satisfied that former President Nixon's record of wrongdoing is sufficiently in the public record now?

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MR. BUCHEN: All I can tell you is that he knows nothing that you don't know.

Q Mr. Buchen, does the pardon in any way affect Mr. Nixon's payment of back income taxes?

MR. BUCHEN: Not at all. This does not apply to civil liabilities.

Q Let's get back to this double-key arrangement. This is just so much lawyer's language.

MR. BUCHEN: I know that is complicated.

Q Does that double-key arrangement prevent the President from going in there and destroying some of those tapes if he wanted to?

MR. BUCHEN: Yes, it does.

Q So, there is adequate safeguards?

MR. BUCHEN: Yes.

Q Does it mean that if any of those tapes are subpoenaed and he just refuses to honor those subpoenas, then what would happen?

MR. BUCHEN: He would be subject to contempt of the court that issued the subpoenas. It doesn't apply to any future acts.

Q When will the tapes be physically moved to this repository in California or are they going to remain here?

MR. BUCHEN: No, they will be moved to the California repository as soon as we can get rid of, or modification of the existing orders that require they be retained here.

Q Is that that Laguna Niguel pyramid they will be put in?

MR. BUCHEN: Yes.

Q But nobody can get in there by themselves. There will always be somebody to watch; is that correct?

MR. BUCHEN: Yes.

Q When you say "current", are you referring to the two court orders that are pending?

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MR. BUCHEN: There are at least three court orders that I know of. One is in the Wounded Knee case in Minnesota. Another is in the nature of an order because the court declined to issue the order on the assurance that documents or tapes could not be moved, and that is the case involving the networks. So, you can get Ron to answer your questions on that.

The third one is the civil suit in North Carolina involving a suit by people kept out of a meeting to celebrate Billy Graham Day.

Q Mr. Buchen, Mr. Jaworski has, of course, in his possession a considerable number of tapes which are not the originals. They are copies. This agreement with Mr. Sampson does not affect that, does it? They don't have to be returned to the mass to be moved out to Laguna?

MR. BUCHEN: The copies will be disposed of as the court orders, I assume.

Q But this does not require them to be returned to the big group?

MR. BUCHEN: No.

Q Can I clarify the chronology of all this? When is the first time the President indicated to you he might want to pardon Mr. Nixon?

MR. BUCHEN: Just at the start of the Labor Day weekend.

Q On which day?

MR. BUCHEN: I know I started to work Friday night, so it must have been Friday.

Q Did you have any contact with Mr. Miller on the issue of a pardon?

MR. BUCHEN: Not at that time. The first contact, I think, was on Thursday of this week.

Q And you can't suggest what precipitated the President's interest?

MR. BUCHEN: I do not know.

Q Can you tell us whether the President ever tried to -- I hesitate to use "extract" -- but get any admission of guilt from the President, or was it strictly --

MR. BUCHEN: He did not.

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Q Mr. Buchen, you said that President Ford has not talked to former President Nixon since Mr. Nixon retained Miller. Could you tell us the last time President Ford had contact with President Nixon, direct contact?

MR. BUCHEN: I don't know. I think it may have been the time of the Rockefeller appointment.

Q Mr. Buchen, I am not clear on one thing, and following up Helen's question, your emissary went out on that Thursday, Mr. Becker went out on Thursday, that was the only time he went out. I am trying to get clear in my mind precisely what it was he told the former President, or told Mr. Ziegler, and both of them at different times, that President Ford, in all probability would grant a pardon. What did he ask either of Mr. Nixon or Mr. Ziegler? What did he ask that Mr. Nixon do? Did he ask that this statement we have been given today be issued? Did he suggest wording and what it should say or did he ask for nothing? Did he ask for more than what we got in this statement?

You say at one point the former President could have turned down the pardon.

MR. BUCHEN: Yes.

Q Did he offer that option and did he say if the pardon was to be granted, what the former President then should do?

MR. BUCHEN: The former President was represented by counsel, you know.

Q Well, did he make the offer to Mr. Miller?

MR. BUCHEN: Mr. Miller is shrewd enough attorney to know that he could have advised his client to accept or reject the pardon.

To answer your other question, as you can see, that letter agreement is a very complicated one and it involved a lot of practical problems. Before Miller and Becker went out, a rough draft of Miller's proposal was in our hands. But it was obvious that we could not work out the details of what would suit Miller's client and what would suit GSA and what would suit what we thought was the best interests of the Government and of the potential other parties in interest without going out and making the final draft out there. And that was done.

As far as the statement from the former President is concerned, that was a matter that was left entirely up to the discretion of his own counsel and his own advisers.

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Q Let me see if I can put it another way, Mr. Buchen. Was the pardon in any of the conversations involving yourself, Mr. Becker, or anyone else, with anyone representing the former President, was this pardon contingent on anything?

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MR. BUCHEN: I have said no and I repeat no.

Q Are you saying if he had not given this letter at all, if he had said, "Well, I will make no letter agreement," are you saying categorically that a pardon would have been issued anyway?

MR. BUCHEN: I am not sure because President Ford could have changed his mind or not made up his mind finally.

Q When was the package completed that was announced today?

MR. BUCHEN: We got the agreement back on early Saturday morning and spent that day reviewing it with Mr. Sampson so that was wound up.

Q You mean yesterday morning?

MR. BUCHEN: Yes, yesterday morning. The statement, of course, we didn't see until we got it over the wires right after the speech.

Q Did the President know there was going to be a statement before he finally decided on the pardon?

MR. BUCHEN: Yes.

Q Did he have any idea what the contents would be, what the tone would be?

MR. BUCHEN: In a general way, yes.

Q You are saying that the pardon had nothing to do with this letter agreement?

MR. BUCHEN: That was not a condition.

Q This was a completely independent action?

MR. BUCHEN: Right. The negotiations for that agreement were started independently before even consideration of a pardon.

Q The decision to pardon was not made until after this agreement was obtained?

MR. BUCHEN: That is right.

Q What you are saying, you cannot say there would have been a pardon if the agreement had not been made?

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MR. BUCHEN: All I can say is that the President had the right not to grant a pardon because he had not finally made up his mind to do so.

Q When did he make up his mind to do so?

MR. BUCHEN: I suppose until that pen got on paper or until he started making the statement.

Q He made his decision after the agreement was made?

MR. BUCHEN: That is correct, but what went on in his mind, I don't know.

Q When did he write the speech?

MR. BUCHEN: Last night.

Q In sending this word through the emissary to Mr. Nixon that he was thinking of or expected to pardon him but was reserving time judgment, was that in any way intended as encouragement to Mr. Nixon to get on with the final agreements and possibly offer the kind of a statement that he did offer today?

MR. BUCHEN: That was not the intent. If it created that impression, it was a wrong impression.

Q Mr. Buchen, you just said that the President had an indication in a general way of content of the former President's statement. If I may ask a two-part question: How did he obtain this indication, and did he believe, or was he informed, that the statement would be one of contrition?

MR. BUCHEN: The report was through the mouth of Benton Becker, and the characterization of it as an act of contrition is mine.

Q Excuse me, then. What general feeling did the President have that the statement would be, what indication did he have of what the statement would be? How was it characterized by Mr. Becker?

MR. BUCHEN: He in general told the President what it amounts to and in particular called attention to the fact that there would be an acknowledgement of failure to act decisively and forthrightly on the matter of the Watergate break-in after it became a judicial proceeding.

Q Was that negotiated at all?

MR. BUCHEN: It was not negotiated.

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Q Was Mr. Becker informed of that on Thursday at the time he went out there?

MR. BUCHEN: I think he was informed on Friday because he got out there very late on Thursday night.

Q Do you know if that information had any effect on Mr. Ford's decision?

MR. BUCHEN: I don't know. I am sure it pleased him and made him feel that it was easier for him to act as he contemplated doing.

MR. BUCHEN: We will take three more questions.

Q Would you please clear up some things about this letter of agreement. I am sorry, but it will take me some time to understand it. Let me see here if this is what it means. Unless there is a subpoena or a court order which Mr. Nixon would reply to, any ordinary citizen of the United States, or any officials, outside of Sampson, could not just go in there and look at these tapes or listen to them, or see them at any time. They will be shut off completely to the public?

MR. BUCHEN: That is right.

Q Mr. Buchen, why is the date of July 1969 mentioned in the pardon?

MR. BUCHEN: It is January, the date of inauguration, January 20. President Ford misspoke when he used the word "July".

Q How complete was your explanation of the case against the former President by Mr. Jaworski? Did he go into what areas that he might be pursuing, what he heard on the tapes that have not been made public? Anything like that?

MR. BUCHEN: The question asked him what matters could arguably involve further steps, and it read like a list from one of your newspapers.

Q Did Mr. Becker talk strictly with you or did he ever speak to Mr. Ford? Did he deal strictly with you?

MR. BUCHEN: Oh, no; he was also in the room on occasions when I was speaking to the President.

Q Why did he pick Becker to do this?

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MR. BUCHEN: Part of the problem, as you may know, is we have a rather understaffed legal staff here and Mr. Becker is a man of rare talent that helped during the confirmation hearings of the Vice President, and he is such a good and trusted friend of both of ours that we felt he was the one we should call on.

THE PRESS: Thank you.

MR. BUCHEN: All I am going to say is, for the tapes there will be two five-year windows. The first of the five-year windows involves controlled access by the former President for his listening to copies of tapes, copies to be made by an operator who himself does not listen to the originals.

Also, during the first five-year window, anyone with a legitimate court subpoena or order that is upheld can have access or can require the former President to furnish the information contained on relevant portions of the tapes.

At the end of that first five-year period, the former President retains his window, but also can order selective destruction of tapes. At the end of the ten-year period, they all get destroyed, all that remain.

Q In the second five-year window, is that just by persons who have legitimate subpoenas and court orders closed off?

MR. BUCHEN: That is right, because there is a five-year statute of limitations on most, in fact on all, Federal offenses and most civil matters, so it is assumed the initial five-year window is long enough.

Q What is the limit on destruction after five years plus one day, or can he destroy them all?

MR. BUCHEN: He can.

Q He can?

MR. BUCHEN: He can order them destroyed.

Q If they were making any copies, would the originals then be destroyed in the second five-year window?

MR. BUCHEN: The originals will be destroyed. The copies will be destroyed immediately after they are used.

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Q And he could do it after five years and one day for everything?

MR. BUCHEN: Right.

Q Now can you go then from there to the documents?

MR. BUCHEN: The documents are a different category. There is no present gift of documents as distinguished from the tapes. However, there is a three-year period when there will be controlled access by the owner of those documents requiring the double-key arrangement with the General Services Administrator. And the former President is under obligation to respond to any subpoena involving documents, just as he is to those involving tapes.

During the three-year period involving documents, the former President will be under obligation to respond to subpoenas involving those documents. At any time, the former President can designate certain documents by description to become the absolute property of the United States.

However, after the three-year period, he may either elect to complete his gifts or to withdraw materials as he desires. These are documentary materials.

Q Why the three-year limit?

MR. BUCHEN: We felt that as a practical matter on the documentation that would be long enough. It gives everybody a warning. Obviously if there is a subpoena out that was obtained in the three years and the matter of its resolution has not been concluded, the subpoena would prevail.

Q Can you destroy the documents after three years?

MR. BUCHEN: Yes, if he wants to withdraw them.

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Q By the way, Mr. Buchen, I may be wrong in what I am about to say, but I am going to predicate a question on it, nevertheless.

I am under the impression that the tapes, as opposed to documents, the tapes were -- that things such as taperecordings were not covered when Congress covered that loophole and for that reason, the former President could donate those tapes to the Government and claim a tax exemption.

Your second window, the ten-year time for destruction appears to rule that out; is that right?

MR. BUCHEN: He has already given them to the U.S. Government to be a gift effective at the end of the 5-year period.

Q After he destroys them all?

MR. BUCHEN: He can't destroy them during the first five-year period.

Q He has given them as a gift to the United States -- we are talking about tapes now -- he has given them as a gift to the United States for five years; is that right?

MR. BUCHEN: No, it is the other way around. He has retained title for five years and the gift takes effect at the end of the fifth year.

Q But he can destroy his gift?

MR. BUCHEN: He doesn't have access to them.

Q But he can the next day. Didn't you say five years and one day he could destroy them all?

MR. BUCHEN: He can order their destruction.

Q What can he do with the copies? Can he dispose of them for his own purpose?

MR. BUCHEN: No, the copies will go back into the hands of the General Services Administrator and they will be destroyed after he has listened to them.

Q Mr. Buchen, after the ten-year period, is it mandated that the tapes, all tapes and all copies be destroyed?

MR. BUCHEN: That is a condition.

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Q So, his gift in the second five years is a limited gift, in time it is a limited gift, say limited to five years; is that right?

MR. BUCHEN: No.

Q You say he has given them to the United States?

MR. BUCHEN: Effective five years from now.

Q Why are they going to be destroyed after five years?

MR. BUCHEN: Well, maybe they never should have been made in the first place. This was his desire and I think it is consistent with the fact that these matters do involve conversations with people who had no realization that their voices were being recorded.

As an old spokesman for the right of privacy, I think there is considerable merit for putting these in a separate category from documents.

Q Mr. Buchen, was any consideration given to the right of history?

MR. BUCHEN: I am sure the historians will protest, but I think historians cannot complain if evidence for history is not perpetuated which shouldn't have been created in the first place.

Q Is there anything he can keep, or intends to keep?

MR. BUCHEN: I am sure there are items in the documents that he would intend to keep. Of course, it would involve family letters, things of a highly personal nature.

Q Mr. Buchen, if it is Mr. Nixon's desire to destroy the tapes after ten years, would it not be logical to assume he will destroy them after five years?

MR. BUCHEN: That is his option, order them destroyed.

Q What about the gift option? The tax deduction option?

MR. BUCHEN: I am not his tax lawyer and it seems to me if you give a gift with instructions that the items have to be destroyed, that the gift immediately loses its value, so I would think it would be very questionable.

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Q What about the President, though? Could he --

MR. BUCHEN: They will not be perpetuated beyond the limited use.

Q Does the word "copies" include written transcripts as well as the originals?

MR. BUCHEN: Yes.

Q As a practical matter, at the end of five years, then all the tapes will be destroyed except those under subpoena?

MR. BUCHEN: No, because he reserves the right to keep the window open for himself for another five years?

Q Just the President, no public?

MR. BUCHEN: That is right.

Q Is it a question they can be destroyed in five years, but must be destroyed in ten years?

MR. BUCHEN: They can't be destroyed short of five years.

Q Mr. Buchen, Prosecutor Jaworski gave no indication that he objected to the pardon. Is it your impression that he sort of feels relieved?

MR. BUCHEN: Wouldn't you if you were in his place?

THE PRESS: Thank you.

END

(AT 1:28 P.M. EDT)

