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THE DISPOSITION ON THE WATERGATE TAPES

Mr. MANSFIELD, Mr. President, on September 9, I stated in a speech on the floor of the Senate:

May I say that I am also concerned that an agreement has been reached whereby, after 3 years, the White House tapes will become the property of former President Nixon. During that period, the former President and the Federal Government will have access to those tapes. It is my belief that those tapes should be retained in the control of the Federal Government, and I would suggest that except for those portions of the tapes dealing with the national security, they all be published.

Mr. President, article IV, section 3 of the Constitution contains the following statement:

The Congress shall have power to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States; and nothing in this constitution shall be so construed as to prejudice any claims of the United States, or of any particular state.

Two days later, on September 11, I introduced Senate Resolution 399, as follows:

Senate Resolution 399—Submission of a Resolution urging full public access to information regarding the Watergate investigation. (Referred by unanimous consent to the Committee on Government Operations.)

Mr. MANSFIELD submitted the following resolution:

S. RES. 399

Whereas, It is paramount to the national interest that the American public be made fully aware of all facts connected with and relating to Watergate matters and the fruits of all investigations conducted pursuant thereto; and

Whereas, It is uncertain that there is now assured public access to all such facts as they are contained in papers, documents, memoranda, tapes and transcripts, Be It Therefore

Resolved, That President Ford take all steps necessary to assure full public access to all facts connected with and relating to Watergate matters and the fruits of all investigations conducted pursuant thereto, and Be It Further

Resolved, That except in cases clearly vital to the national security interests of the United States, President Ford afford the American public full access to all such papers, documents, memoranda, tapes and transcripts originating at anytime during the period January 20, 1969 through August 9, 1974 at the earliest practicable time and in an adequate and effective manner.

This resolution speaks for itself. It calls upon President Ford to assure the American people that in the national interest they will be provided all of the facts of Watergate and all of the facts relating to matters connected therewith.

That the American people are entitled to these facts is unquestioned in my judgment; that they are not now assured of that opportunity is equally clear, however.

Watergate and all of its ramifications are not now behind us. They will not be behind us until the record is complete. To accomplish that objective in our free and open society will require full access by the American people to all relevant data and information. To justify this action I would refer to the words of Mr. Justice Story in a case cited by Attorney General Saxbe in his opinion issued by the White House on September 6:

From the nature of the public service, or the character of the documents, embracing historical, military, or diplomatic information, it may be the right, and even the duty, of the government to give them publicity, even against the will of the writers. (Folsom v. Marsh, 2 Story 100, 1841)

Such a duty and such a right have been clearly and amply demonstrated with respect to the nature of Watergate and to the character of all information relating thereto.

In my opinion, the public papers of the Presidency used in the transaction of the people's business belong not to any one person, but to the Government and through the Government, to the people. There is no law which states that these papers become the property of a retiring or resigned President. I am somewhat surprised that Mr. Richard Q. Vawter of the General Services Administration, said recently that:

We consider every piece of paper accumulated in the White House during the Nixon Administration to be Mr. Nixon's personal property.

It is interesting to note that our first President, George Washington, was of the opinion that his official papers belonged to the Government. To quote President Washington, he stated that his papers were "a species of public property, sacred in my hands."

In order to face up to what has become a custom based on precedents, but not on law, I have introduced Senate Resolution 399 along with a number of other Senators—I see that the distinguished Senator from New York (Mr. JAVITS) a cosponsor, is in the Chamber—so that congressional intent will be made clear that these papers are not private property but, in the last analysis, belong to the people.

Too many Presidents have stripped the White House of their official papers, some to preserve them in libraries, others to use them as a basis for books and interviews, and all of them being considered the private property of a President who was elected and who used public funds to be able to amass documents, papers, memoranda, tapes and transcripts, or whatever.

I am today addressing a letter to the distinguished Chairman of the Commit-

tee on Government Operations, the Senator from North Carolina, Mr. SAM ERVIN, and asking that he give consideration to S. 399 as expeditiously as possible to the end that these papers will not be stored away in a vault for 3 years under the joint ownership, so to speak—perhaps I should say under the joint supervision—of Mr. Arthur Sampson, Administrator of the General Services Administration, and Mr. Nixon or his designee, probably Mr. Ron Ziegler, after which time, they would become the property of the former President to use as he saw fit.

Incidentally, there is a request before the Congress at this time for \$100,000 to build a vault to store this accumulation of data in San Clemente, Calif. The place to store all this material is in the National Archives where it can be made readily available—all of it except those parts dealing with national security—to the courts, to the Congress, and to the American people.