

News of the Profession

administered by the National Archives and that thus there is no need for Justice Department memorandum. In addition to the normal safeguards restricting release of national security and private materials, the regulations provide that no Nixon material may be opened without Mr. Nixon and other principals being notified so that they may have the opportunity to object. Another issue of considerable concern was that the memorandum significantly expanded understanding of executive privilege, extending it throughout the president's life. This position is in obvious odds with the Presidential Records Act, passed in 1978 and which is to go into effect with the Reagan records, which provides for former presidents to exert executive privilege over their papers for twelve years following their term of office.

Unless there is some congressional action the National Archives will be obliged to adhere to the Justice Department memorandum.

Discussion during the hearing on options for resolving the problems posed by the Justice Department memorandum included: urging the withdrawal of the memorandum, amending PRMPA, and preparing a comprehensive Congressional Report clarifying the intent of the legislation and the regulations. To have the courts make sense of the conflicting position of the regs and the memorandum—a position advocated by the Justice Department—did not seem to subcommittee a responsible course of action. Steve Ross, General Counsel to the Clerk of the House, stressed that through various laws, Congress has expressed its intention that the Archivist should have authority over presidential records. Although Ross noted that the Archivist serves at the pleasure of the President, he said that Congress has the authority to vest an official with discretionary decisionmaking power not subject to direction from the President.

The consideration of the regulations and

memorandum is also tied to questions surrounding the pending selection of the U.S. Archivist. Some in Congress and in the scholarly community have expressed concern that if the Justice Department memorandum is allowed to stand, the act passed in 1984 establishing an independent National Archives would be nullified. The intent of that legislation was to remove the National Archives from the politicizing influences of the General Services Administration. This memorandum would again politicize the National Archives by undermining the Archivist's authority to act as an independent professional.

The House Subcommittee on Government Information, Justice, and Agriculture expects to release this summer a report on the proposed regulations and the accompanying Justice Department memorandum. If Congress allows this sixth set of regulations to stand, it will still be some time before any of the material is opened to the public because the regulations require the Archivist to give thirty days notice in the *Federal Register* before making public any segment of the materials. □

News from the Archives

Editor's note: The following two articles were taken from the Spring 1986 issue of News from the Archives, a quarterly compilation of activities of the National Archives and Records Administration.

Watergate Court Records Unsealed

On February 20, 1986, Judge John J. Sirica of the U.S. District Court for the District of Columbia issued an order unsealing most of the records that were still sealed in the Watergate cover-up case, *United States v. John N. Mitchell, et al.* (Cr. No. 74-110). This order followed the recommendations set out in a report filed by the federal government in response to a petition requesting that the records be unsealed. This order opens for research the documents filed by the Watergate Special Prosecution Force which named former President Nixon as

an unindicted co-conspirator in the Watergate cover-up. Four categories of information were not ruled on in this order: grand jury, national security, executive privilege, and transcripts of Presidential conversations.

On April 1, 1986, Judge Sirica ruled that the grand jury materials were to remain sealed. The transcripts of Presidential conversations however, were unsealed and transferred to the custody of the National Archives. In his opinion, the Judge stated that the transcripts should be processed under the access provisions of the Presidential Recordings and Materials Preservation Act, the statute controlling access to the Nixon Presidential records.

This order reflects an earlier decision of the U.S. Court of Appeals for the District of Columbia in the case *Penny G. Ricchio v. Ray Kline*. In that case, the Court of Appeals ruled that transcripts of presidential conversations among the records of the Watergate Special Prosecution Force were not subject to the Freedom of Information Act, but were under the control of the provisions of the Presidential Recordings and Materials Preservation Act.

Senate Foreign Relations Committee Opens Bulk of Archival Records

The Legislative Archives Division was recently informed by Senator Richard Lugar, Chairman of the Senate Committee on Foreign Relations, that most of the Committee's records can now be made available for public inspection. The exceptions are documents that contain national security classified information and information that relates to personal privacy. According to the Senate rules on access, these records would normally be closed for 20 years after their creation. The Division currently has records of the Committee from 1816 to the early 1980s. With this action, Sen. Lugar has made the records of the Foreign Relations Committee the most accessible of any committee in Congress. □

Announcements

***PS* Starts Book Search Column**

At the request of Martha Derthick, an APSA member, *PS* plans to publish on a regular basis requests from readers unable to locate out-of-print books. Derthick is trying to locate a text by Ranney and Kendall, *Democracy and the American Party System*. If you can assist her in obtaining this title, please contact her at: Woodrow Wilson Department of Government and Foreign Affairs, 232 Cabell Hall, University of Virginia, Charlottesville, VA 22901; Phone (804) 924-3192. □

***Publius* Invites Manuscripts**

Publius: The Journal of Federalism invites manuscript submissions for a special topical issue to be published in 1988 on Federalism in West Germany.

The issue will focus on the following kinds of questions: What are the historical origins of German federalism and the forces that have shaped German federalism, especially since the eighteenth century? How does the modern German federal model differ from previous federal models and experiments in Germany? How does the German federal system differ, if at all, from other federal systems, such as those of the United States, Canada, or Australia? How, and how well, does it function, and what can be regarded as the strengths and weaknesses of German federalism? Does the federal system function in the manner intended by its founders? How has German federalism developed over the years, especially in comparison to other federal systems? What is the interplay between unitary principles and forces and federal principles and forces in Germany? To what extent do issues and processes peculiar to federalism influence national politics as well as politics in the *Lander* and localities? How does German federalism affect Germany's relationship with the EC, other European