Public Law 93-525

AN ACT

December 18, 1974
[S. 3906]

**To amend title 10, United States Code, by repealing the requirement that only certain officers with aeronautical ratings may command flying units of the Air Force.**

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That title 10, United States Code, is amended by repealing section 8577 (relating to the command of flying units of the Air Force) and by striking out the corresponding item in the analysis of chapter 845.

Armed Forces, Command of flying units.

Approved December 18, 1974.

Public Law 93-526

AN ACT

December 19, 1974
[S. 4016]

**To protect and preserve tape recordings of conversations involving former President Richard M. Nixon and made during his tenure as President, and for other purposes.**

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That this Act may be cited as the "Presidential Recordings and Materials Preservation Act".

Presidential Recordings and Materials Preservation Act.
44 USC 2107 note.

## TITLE I—PRESERVATION OF PRESIDENTIAL RECORDINGS AND MATERIALS

### DELIVERY AND RETENTION OF CERTAIN PRESIDENTIAL MATERIALS

SEC. 101. (a) Notwithstanding any other law or any agreement or understanding made pursuant to section 2107 of title 44, United States Code, any Federal employee in possession shall deliver, and the Administrator of General Services (hereinafter in this title referred to as the "Administrator") shall receive, obtain, or retain, complete possession and control of all original tape recordings of conversations which were recorded or caused to be recorded by any officer or employee of the Federal Government and which—

44 USC 2107 note.

(1) involve former President Richard M. Nixon or other individuals who, at the time of the conversation, were employed by the Federal Government;

(2) were recorded in the White House or in the office of the President in the Executive Office Buildings located in Washington, District of Columbia; Camp David, Maryland; Key Biscayne, Florida; or San Clemente, California; and

(3) were recorded during the period beginning January 20, 1969, and ending August 9, 1974.

(b)(1) Notwithstanding any other law or any agreement or understanding made pursuant to section 2107 of title 44, United States Code, the Administrator shall receive, retain, or make reasonable efforts to obtain, complete possession and control of all papers, documents, memorandums, transcripts, and other objects and materials which constitute the Presidential historical materials of Richard M. Nixon, covering the period beginning January 20, 1969, and ending August 9, 1974.

(2) For purposes of this subsection, the term "historical materials" has the meaning given it by section 2101 of title 44, United States Code.

"Historical materials."

AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

AVAILABILITY OF CERTAIN PRESIDENTIAL MATERIALS

44 USC 2107 note.

SEC. 102. (a) None of the tape recordings or other materials referred to in section 101 shall be destroyed, except as hereafter may be provided by law.

(b) Notwithstanding any other provision of this title, any other law, or any agreement or understanding made pursuant to section 2107 of title 44, United States Code, the tape recordings and other materials referred to in section 101 shall, immediately upon the date of enactment of this title, be made available, subject to any rights, defenses, or privileges which the Federal Government or any person may invoke, for use in any judicial proceeding or otherwise subject to court subpena or other legal process. Any request by the Office of Watergate Special Prosecution Force, whether by court subpena or other lawful process, for access to such recordings or materials shall at all times have priority over any other request for such recordings or materials.

(c) Richard M. Nixon, or any person whom he may designate in writing, shall at all times have access to the tape recordings and other materials referred to in section 101 for any purpose which is consistent with the provisions of this title, subsequent and subject to the regulations which the Administrator shall issue pursuant to section 103.

(d) Any agency or department in the executive branch of the Federal Government shall at all times have access to the tape recordings and other materials referred to in section 101 for lawful Government use, subject to the regulations which the Administrator shall issue pursuant to section 103.

REGULATIONS TO PROTECT CERTAIN TAPE RECORDINGS AND OTHER MATERIALS

44 USC 2107 note.

SEC. 103. The Administrator shall issue at the earliest possible date such regulations as may be necessary to assure the protection of the tape recordings and other materials referred to in section 101 from loss or destruction, and to prevent access to such recordings and materials by unauthorized persons. Custody of such recordings and materials shall be maintained in Washington, District of Columbia, or its metropolitan area, except as may otherwise be necessary to carry out the provisions of this title.

REGULATIONS RELATING TO PUBLIC ACCESS

Report to Congress. 44 USC 2107 note.

SEC. 104. (a) The Administrator shall, within ninety days after the date of enactment of this title, submit to each House of the Congress a report proposing and explaining regulations that would provide public access to the tape recordings and other materials referred to in section 101. Such regulations shall take into account the following factors:

(1) the need to provide the public with the full truth, at the earliest reasonable date, of the abuses of governmental power popularly identified under the generic term "Watergate";

(2) the need to make such recordings and materials available for use in judicial proceedings;

(3) the need to prevent general access, except in accordance with appropriate procedures established for use in judicial proceedings, to information relating to the Nation's security;

(4) the need to protect every individual's right to a fair and impartial trial;

(5) the need to protect any party's opportunity to assert any legally or constitutionally based right or privilege which would prevent or otherwise limit access to such recordings and materials;

(6) the need to provide public access to those materials which have general historical significance, and which are not likely to be related to the need described in paragraph (1); and

(7) the need to give to Richard M. Nixon, or his heirs, for his sole custody and use, tape recordings and other materials which are not likely to be related to the need described in paragraph (1) and are not otherwise of general historical significance.

(b) (1) The regulations proposed by the Administrator in the report required by subsection (a) shall take effect upon the expiration of ninety legislative days after the submission of such report, unless such regulations are disapproved by a resolution adopted by either House of the Congress during such period.

(2) The Administrator may not issue any regulation or make any change in a regulation if such regulation or change is disapproved by either House of the Congress under this subsection.

(3) The provisions of this subsection shall apply to any change in the regulations proposed by the Administrator in the report required by subsection (a). Any proposed change shall take into account the factors described in paragraph (1) through paragraph (7) of subsection (a), and such proposed change shall be submitted by the Administrator in the same manner as the report required by subsection (a).

(4) Paragraph (5) is enacted by the Congress—

(A) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such it shall be considered as part of the rules of each House, respectively, and such rules shall supersede other rules only to the extent that they are inconsistent therewith; and

(B) with full recognition of the constitutional right of either House to change such rules (as far as relating to the procedures of that House) at any time, in the same manner, and to the same extent as in the case of any other rule of that House.

(5) (A) Any resolution introduced under paragraph (1) shall be referred to a committee by the Speaker of the House or by the President of the Senate, as the case may be.

(B) If the committee to which any such resolution is referred has not reported any resolution relating to any regulation or change proposed by the Administrator under this section before the expiration of sixty calendar days after the submission of any such proposed regulation or change, it shall then be in order to move to discharge the committee from further consideration of such resolution.

(C) Such motion may be made only by a person favoring the resolution, and such motion shall be privileged. An amendment to such motion is not in order, and it is not in order to move to reconsider the vote by which such motion is agreed to or disagreed to.

(D) If the motion to discharge is agreed to or disagreed to, such motion may not be renewed.

(E) When the committee has reported, or has been discharged from further consideration of, a resolution introduced under paragraph (1), it shall at any time thereafter be in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of such resolution. Such motion shall be privileged. An amendment to such motion is not in order, and it is not in order to move to reconsider the vote by which such motion is agreed to or disagreed to.

(6) For purposes of this subsection, the term "legislative days" does not include any calendar day on which both Houses of the Congress are not in session.

"Legislative days."

(c) The provisions of this title shall not apply, on and after the date upon which regulations proposed by the Administrator take effect under subsection (b), to any tape recordings or other materials given to Richard M. Nixon, or his heirs, pursuant to subsection (a)(7).

(d) The provisions of this title shall not in any way affect the rights, limitations or exemptions applicable under the Freedom of Information Act, 5 U.S.C. § 552 et seq.

JUDICIAL REVIEW

44 USC 2107 note.

SEC. 105. (a) The United States District Court for the District of Columbia shall have exclusive jurisdiction to hear challenges to the legal or constitutional validity of this title or of any regulation issued under the authority granted by this title, and any action or proceeding involving the question of title, ownership, custody, possession, or control of any tape recording or material referred to in section 101 or involving payment of any just compensation which may be due in connection therewith. Any such challenge shall be treated by the court as a matter requiring immediate consideration and resolution, and such challenge shall have priority on the docket of such court over other cases.

Separability.

(b) If, under the procedures established by subsection (a), a judicial decision is rendered that a particular provision of this title, or a particular regulation issued under the authority granted by this title, is unconstitutional or otherwise invalid, such decision shall not affect in any way the validity or enforcement of any other provision of this title or any regulation issued under the authority granted by this title.

Compensation.

(c) If a final decision of such court holds that any provision of this title has deprived an individual of private property without just compensation, then there shall be paid out of the general fund of the Treasury of the United States such amount or amounts as may be adjudged just by that court.

AUTHORIZATION OF APPROPRIATIONS

SEC. 106. There is authorized to be appropriated such sums as may be necessary to carry out the provisions of this title.

Public Documents Act.

## TITLE II—PUBLIC DOCUMENTS COMMISSION

SHORT TITLE

44 USC 3315 note.

SEC. 201. This title may be cited as the "Public Documents Act".

ESTABLISHMENT OF STUDY COMMISSION

SEC. 202. Chapter 33 of title 44, United States Code, is amended by adding at the end thereof the following new sections:

44 USC 3315. *Post*, pp. 1699, 1701.

**"§ 3315. Definitions**

"For purposes of this section and section 3316 through section 3324 of this title—

"(1) the term 'Federal official' means any individual holding the office of President or Vice President of the United States, or Senator or Representative in, or Delegate or Resident Commissioner to, the Congress of the United States, or any officer of the executive, judicial, or legislative branch of the Federal Government;

"(2) the term 'Commission' means the National Study Commission on Records and Documents of Federal Officials; and

"(3) the term 'records and documents' shall include handwritten and typewritten documents, motion pictures, television tapes and recordings, magnetic tapes, automated data processing documentation in various forms, and other records that reveal the history of the Nation.

**"§ 3316. Establishment of Commission**

44 USC 3316.

National Study Commission on Records and Documents of Federal Officials.

"There is established a commission to be known as the National Study Commission on Records and Documents of Federal Officials.

**"§ 3317. Duties of Commission**

44 USC 3317.

"It shall be the duty of the Commission to study problems and questions with respect to the control, disposition, and preservation of records and documents produced by or on behalf of Federal officials, with a view toward the development of appropriate legislative recommendations and other recommendations regarding appropriate rules and procedures with respect to such control, disposition, and preservation. Such study shall include consideration of—

"(1) whether the historical practice regarding the records and documents produced by or on behalf of Presidents of the United States should be rejected or accepted and whether such practice should be made applicable with respect to all Federal officials;

"(2) the relationship of the findings of the Commission to the provisions of chapter 19 of this title, section 2101 through section 2108 of this title, and other Federal laws relating to the control, disposition, and preservation of records and documents of Federal officials;

44 USC 1901.
44 USC 2101, 2108.

"(3) whether the findings of the Commission should affect the control, disposition, and preservation of records and documents of agencies within the Executive Office of the President created for short-term purposes by the President;

"(4) the recordkeeping procedures of the White House Office, with a view toward establishing means to determine which records and documents are produced by or on behalf of the President;

"(5) the nature of rules and procedures which should apply to the control, disposition, and preservation of records and documents produced by Presidential task forces, commissions, and boards;

"(6) criteria which may be used generally in determining the scope of materials which should be considered to be the records and documents of Members of the Congress;

"(7) the privacy interests of individuals whose communications with Federal officials, and with task forces, commissions, and boards, are a part of the records and documents produced by such officials, task forces, commissions, and boards; and

"(8) any other problems, questions, or issues which the Commission considers relevant to carrying out its duties under section 3315 through section 3324 of this title.

**"§ 3318. Membership**

44 USC 3318.

"(a)(1) The Commission shall be composed of seventeen members as follows:

"(A) one Member of the House of Representatives appointed by the Speaker of the House upon recommendation made by the majority leader of the House;

"(B) one Member of the House of Representatives appointed

by the Speaker of the House upon recommendation made by the minority leader of the House;

"(C) one Member of the Senate appointed by the President pro tempore of the Senate upon recommendation made by the majority leader of the Senate;

"(D) one Member of the Senate appointed by the President pro tempore of the Senate upon recommendation made by the minority leader of the Senate;

"(E) one Justice of the Supreme Court, appointed by the Chief Justice of the United States;

"(F) one person employed by the Executive Office of the President or the White House Office, appointed by the President;

"(G) three appointed by the President, by and with the advice and consent of the Senate, from persons who are not officers or employees of any government and who are specially qualified to serve on the Commission by virtue of their education, training, or experience;

"(H) one representative of the Department of State, appointed by the Secretary of State;

"(I) one representative of the Department of Defense, appointed by the Secretary of Defense;

"(J) one representative of the Department of Justice, appointed by the Attorney General;

"(K) the Administrator of General Services (or his delegate);

"(L) the Librarian of Congress;

"(M) one member of the American Historical Association, appointed by the counsel of such Association;

"(N) one member of the Society of American Archivists, appointed by such Society; and

"(O) one member of the Organization of American Historians, appointed by such Organization.

"(2) No more than two members appointed under paragraph (1)(G) may be of the same political party.

Vacancies.

"(b) A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

"(c) If any member of the Commission who was appointed to the Commission as a Member of the Congress leave such office, or if any member of the Commission who was appointed from persons who are not officers or employees of any government becomes an officer or employee of a government, he may continue as a member of the Commission for no longer than the sixty-day period beginning on the date he leaves such office or becomes such an officer or employee, as the case may be.

"(d) Members shall be appointed for the life of the Commission.

Compensation.

"(e)(1) Members of the Commission shall serve without pay.

"(2) While away from their homes or regular places of business in the performance of services for the Commission, members of the Commision shall be allowed travel expenses in the same manner as persons employed intermittently in the service of the Federal Government are allowed expenses under section 5703(b) of title 5, United States Code, except that per diem in lieu of subsistence shall be paid only to those members of the Commission who are not full-time officers or employees of the United States or Members of the Congress.

"(f) The Chairman of the Commission shall be designated by the President from among members appointed under subsection (a)(1)(G).

"(g) The Commission shall meet at the call of the Chairman or a majority of its members.

**"§ 3319. Director and staff; experts and consultants** 44 USC 3319.

"(a) The Commision shall appoint a Director who shall be paid at a rate not to exceed the rate of basic pay in effect for level V of the Executive Schedule (5 U.S.C. 5316).

"(b) The Commission may appoint and fix the pay of such additional personnel as it deems necessary.

"(c)(1) The Commission may procure temporary and intermittent services to the same extent as is authorized by section 3109(b) of title 5, United States Code, but at rates for individuals not to exceed the daily equivalent of the annual rate of basic pay in effect for grade GS-15 of the General Schedule (5 U.S.C. 5332).

"(2) In procuring services under this subsection, the Commission shall seek to obtain the advice and assistance of constitutional scholars and members of the historical, archival, and journalistic professions.

"(d) Upon request of the Commission, the head of any Federal agency is authorized to detail, on a reimbursable basis, any of the personnel of such agency to the Commission to assist it in carrying out its duties under sections 3315 through 3324 of this title.

**"§ 3320. Powers of Commission** 44 USC 3320.

"(a) The Commission may, for the purpose of carrying out its duties under sections 3315 through 3324 of this title, hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Commission may deem desirable.

"(b) When so authorized by the Commission, any member or agent of the Commission may take any action which the Commission is authorized to take by this section.

"(c) The Commission may secure directly from any department or agency of the United States information necessary to enable the Commission to carry out its duties under section 3315 through section 3324 of this title. Upon request of the Chairman of the Commission, the head of such department or agency shall furnish such information to the Commission.

**"§ 3321. Support services** 44 USC 3321.

"(a) The Administrator of General Services shall provide to the Commission on a reimbursable basis such administrative support services and assistance as the Commission may request.

"(b) The Archivist of the United States shall provide to the Commission on a reimbursable basis such technical and expert advice, consultation, and support assistance as the Commission may request.

**"§ 3322. Report** 44 USC 3322.

"The Commission shall transmit to the President and to each House of the Congress a report not later than March 31, 1976. Such report shall contain a detailed statement of the findings and conclusions of the Commission, together with its recommendations for such legislation, administrative actions, and other actions, as it deems appropriate. Report to President and Congress.

**"§3323. Termination** 44 USC 3323.

"The Commission shall cease to exist sixty days after transmitting its report under section 3322 of this title.

**"§ 3324. Authorization of appropriations** 44 USC 3324.

"There is authorized to be appropriated such sums as may be necessary to carry out section 3315 through section 3324 of this title.".

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TECHNICAL AMENDMENT

SEC. 203. The table of sections for chapter 33 of title 44, United States Code, is amended by adding at the end thereof the following new items:

"3315. Definitions.
"3316. Establishment of Commission.
"3317. Duties of Commission.
"3318. Membership.
"3319. Director and staff; experts and consultants.
"3320. Powers of Commission.
"3321. Support services.
"3322. Report.
"3323. Termination.
"3324. Authorization of appropriations.".

Approved December 19, 1974.

Public Law 93-527

December 21, 1974
[S. 4040]

AN ACT

To amend title 38 of the United States Code to liberalize the provisions relating to payment of disability and death pension and dependency and indemnity compensation, to increase income limitations, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That this Act may be cited as the "Veterans and Survivors Pension Adjustment Act of 1974".

Veterans and Survivors Pension Adjustment Act of 1974.
38 USC 521 note.

SEC. 2. Section 521 of title 38, United States Code, is amended as follows:

Unmarried veterans.

(1) by amending subsection (b) to read as follows:

"(b) If the veteran is unmarried (or married but not living with and not reasonably contributing to the support of his spouse) and has no child, pension shall be paid according to the following formula: If annual income is $300 or less, the monthly rate of pension shall be $160. For each $1 of annual income in excess of $300 up to and including $500, the monthly rate shall be reduced 3 cents; for each $1 annual income in excess of $500 up to and including $900, the monthly rate shall be reduced 4 cents; for each $1 of annual income in excess of $900 up to and including $1,500, the monthly rate shall be reduced 5 cents; for each $1 of annual income in excess of $1,500 up to and including $1,900, the monthly rate shall be reduced 6 cents; for each $1 of annual income in excess of $1,900 up to and including $2,300, the monthly rate shall be reduced 7 cents; and for each $1 of annual income in excess of $2,300 up to and including $3,000, the monthly rate shall be reduced 8 cents; but in no event shall the monthly rate of pension be less than $5. No pension shall be paid if annual income exceeds $3,000.";

Veterans with dependents.

(2) by amending subsection (c) to read as follows:

"(c) If the veteran is married and living with or reasonably contributing to the support of his spouse, or has a child or children, pension shall be paid according to the following formula: If annual income is $500 or less, the monthly rate of pension shall be $172 for a veteran and one dependent, $177 for a veteran and two dependents, and $182 for three or more dependents. For each $1 of annual income in excess of $500 up to and including $700, the monthly rate shall be reduced 2 cents; for each $1 of annual income in excess of $700 up to