

ON PRESIDENTIAL RECORDS

When "The Unanimous Declaration of the Thirteen United States of America" was distributed on July 4, 1776, its fourth complaint against the King of Great Britain read: "He has called together legislative bodies at places unusual, uncomfortable and distant from the depository of their Public Records, for the sole purpose of fatiguing them into compliance with his measures."

On November 1 of last year, President Bush signed Executive Order 13233, a document that clearly reversed recent trends toward openness in Presidential Records -- elevating Executive Privilege over the Public's Right to Know. My reaction was to send him copies of my books on President Kennedy and President Nixon. I said that they might be worth something some day as artifacts because it would be impossible to write them under his new order. I also enclosed a copy of a letter I had received from his father, George H.W. Bush, the 41st president. The old man said he thought "President Nixon: Alone in the White House" was an important contribution to history. He added, though, that before he read it he looked in the index to see what was said about him, then said: "It wasn't so bad. They never laid a glove on me -- except for Henry Kissinger always calling me an idiot."

That letter and the books, too, are probably classified by now. Don't want embarrass anyone, do we?

I have been plowing through presidential papers for more than fifteen years and think I have some insight into the thinking of people with power over this kind of information. They do not subscribe to the idea that what people don't know can indeed hurt them. My favorite "find" was an inscription by the Irish writer Brendan Behan in the Kennedy Library, classified for 25 years, apparently because it was on a copy of Evergreen magazine, considered something of a dirty book in those days. Finally getting them to open it, I read: "To my lantsman John Kennedy -- Best, Brendan Behan." Thank goodness, the American people were protected from that.

The fight to see Presidential papers is an old one. Another guy named George, Washington was his last name, took his papers home to Mount Vernon, thinking they were nobody's business but his, and he was outraged that members of Congress wanted to see documentation of casualties in the Indian frontier wars of the early Republic. Commenting on that and other presidential notions, James Madison wrote to a friend in 1822:

"A popular government without popular information, or the means of acquiring it, is but a prologue to a farce or a tragedy; or perhaps both. Knowledge will forever govern ignorance; and a people who mean to be their own governors must arm themselves with the power which knowledge gives."

Not everyone agreed. Abraham Lincoln's papers were not opened until 1949. They were considered private property, a legal condition that Richard Nixon changed -- by accident. The abuses of Watergate led to new laws opening papers to scholars, historians, journalists and even ordinary citizens. It is those laws and procedures Bush the younger seems determined to reverse.

To someone like me, those papers are almost self-protecting. First, presidents and their governments have the right and power to exclude most anything on the grounds of national security, executive privilege or personal privacy. Then, there are just too many papers. Even though much was destroyed and more lost, there are 44 million pages of the papers of President Nixon in the National Archives-- and millions more in other repositories -- along with thousands of hours of tape recordings. (There are more than 50 million pages of President Reagan's papers, though the number archived may decrease as Bush the younger or Reagan's heirs and representatives succeed in closing the ones they don't like.)

The biggest problems for presidents and their men are not only the chance of political embarrassment and such, the fact is these are valuable commodities. American officials, paid very little in relation to their power, generally depend on an informal system, scandalous, really, of deferred compensation. They say former President Clinton made \$15 million last year -- almost as much as George Stephanopoulos. The documents, as private property, are valuable in the first instance as the second rough draft of history -- if journalism is the first -- the raw material for memoirs. Since Eisenhower, American presidents have copied Winston Churchill, whose credo was: Make the history and then write it yourself before anyone else can. Henry Kissinger was an apt pupil, and one of the amusements of Nixon tapes now being released is that that they show just how very good the good doctor could be in obscuring the truth. Because I had early access to the transcripts of the Kissinger-Chou-Nixon conversations, I knew the deceptive meaning of Kissinger's statement that the future of Taiwan was a minor item in those talks, barely mentioned, he said, and only at the beginning. So it was: the early and only mention was "Taiwan is part of China." So much for American protection of Chiang Kai Shek and his boys. "Okay", said Chou, then we can have a summit. For me, it least, at was a sunny morning when that hidden truth was confirmed by tapes and transcripts released this March -- and Kissinger had to start publicly backtracking on his artful dodging.

The Nixon-Kissinger emphasis on secrecy combined with the Churchill impulse of both men really led to their destruction. Nixon, whose role model was another anti-democratic democratic leader, Charles DeGaulle of France, was determined to govern by surprise, which he did with brilliant maneuvers to circumvent the checks and balances written into the Constitution. Remember his most important initiatives -- the opening to China changing the geopolitics of the world, and the taking the United States off the gold standard to change the economics of the world -- were both taken without a world of public debate or consideration. In each case, he came on television one night and announced what had already happened -- only Kissinger, in the first instance, and Treasury Secretary John Connally in the second, were involved in the planning -- no Congress, no press, no We the People were involved in the process. Nixon's real intent (and abuse of power) was a coup, almost successful, against his own government. He wanted to govern by secret decree -- and damned near did.

But that kind of surprise requires great secrecy and the secrecy requires level upon level of lies. In the end no one, including Nixon himself, knew the truth. He had built a House of Lies that came tumbling down when the first few were revealed. Everyone was spying on everyone else to try to figure out what Nixon was actually doing. The military, under Secretary of Defense Melvin Laird, was tapping White House phones, collecting the garbage in wastebaskets and photographing the papers in Kissinger's briefcase each night. The papers and film were delivered to the Chairman of the Joint Chiefs, Admiral Thomas Moorer, who had installed a spy in Kissinger's office. It was that stolen material that the Department of Defense used to ignore Nixon orders, lying to him, for

instance, about weather conditions in the Persian Gulf in September of 1970 to avoid implementing his orders for air strikes against Syria and other countries after the simultaneous hi-jacking of five airliners, all headed for the United States, by Palestinians. Nixon grumbled, the military stalled and lied, and the crisis passed.

Scholars, operating on the premise that those who can't find history are prone to repeat it, now know such things because of a great irony: the Nixon papers were so well collected and filed by his chief of staff, H.R. Haldeman, who was a kind of pre-computer organizational genius. He required a written report within 48 hours from anyone who spoke to the President. That Rashomon picture of Nixon -- along with national security documents and devastating political records were collected as the White House Special File in 1972. Those were the papers that Nixon wanted moved out or destroyed if he lost the election. Then when Watergate escalated and the FBI seized White House records, what they grabbed was those Special Files -- they got the real stuff. Cabinets were full of the double books of the Cambodian bombing, the financial records on Nixon's illegal contributions including hundreds of thousands of dollars to George Wallace to discourage him from running as an independent in 1972, the lies, the lies, the lies, all filed alphabetically. It was the shock of such revelations that led to the laws Bush would like now to reverse. Post-Nixon, Presidential Papers were no longer personal property. They belonged to the American people.

So, now we live in a new historical reality, although plenty of old tricks still work. Under any system, it is the White House that controls classification involving security, privilege and privacy. And, as Bush is demonstrating, there is always the possibility of post-facto vetting. The best example of that that was in the Kennedy papers. In the early 1970s, The New York Times investigated a rumor that Vice President Spiro Agnew was being ministered to by a New York doctor named Max Jacobson, better known later in tabloids as "Dr. Feelgood"; who, it turned out, administered amphetamines to celebrities of all colors and creeds -- including President Kennedy. The Times could prove no Agnew connection, but their questioning around New York led the state medical board to revoke Dr. Jacobson's license to practice. Then, an interesting thing happened in Boston. From the day in 1972 when his name was revealed by The Times, documents bearing Jacobson's name began to disappear from the Kennedy archives -- and none were processed after that. He was being non-personed. Luckily for me, though, earlier airplane manifestos and hotel rosters and private photographs did prove that Jacobson travelled with Kennedy. I was also able to turn up his diary, describing him standing outside the door as Kennedy and Soviet Premier Khrushchev met in Vienna in 1961, ready to shoot up the president if he tired.

No matter what archival system is used, families and former aides will try to protect presidents and their reputation. They will try to create and write their own history and block any outsiders from challenging the official version. I assume that a desire to protect his dad is one of Bush the younger's scrutiny of Reagan papers. But I believe that is only one of the reasons for Executive Order 13233. The real problem for recent presidents have been papers related to assassinations and assassination attempts. Castro. Diem. Trujillo. Lumumba. Allende. The American people are uncomfortable with the idea of a president signing death warrants before the subjects (targets) are dead. That stopped, I believe, after the 1975 Church Committee hearings on the doings of the Central Intelligence Agency. The United States government got out of the assassination business for a time.

Obviously we are back in it, with Osama bin Laden on the top of the list.

Now, at the same time we are tracking down bin Laden, the globalization we cherish, which has done so much for us economically, is having unintended consequences. One of course is global terror. Another is the rise of global law. I don't think President George W. Bush wants to be sitting in a courtroom in the Hague twenty years from now explaining why he signed a National Security directive ordering the summary execution of CIA-identified terrorists. Better to keep the records secret -- or destroy them.

An aside here: We never seem to understand that we are not the only players in the game, and it is our leader who was shot down in 1963. Without enough forethought, we have set up systems to grab a Noriega in Panama or hundreds of alleged Taliban officials or possible terrorists in Afghanistan and transport them to face charges before American courts or military tribunals. Okay. What do we do if the Vietnamese come to New York and kidnap Bob Kerrey and put him on trial in Hanoi for alleged war crimes?

Back to the mainstream of archives and future history. It is, in fact, almost impossible to destroy records now. The greatest historian, or historical tool of the past half-century, has been the Xerox machine. Now we have the hard drive: can anything really be erased anymore? In writing "President Nixon" I was convinced that new technology could recreate the famous 18-1/2 minute gap on the Nixon tapes. But you need the original tape try that experiment, and the government would not let anyone touch that little magnetized strip. I notice now, though, that the National Archives says it is going to try to do the same thing itself.

There are also a hundred other ways to find documents. You can triangulate from existing papers, old journalism and withdrawal slips and new interviews. There comes a moment when you realize there had to be an order...and you go looking for it. Or, someone tells you, "You know I meant to donate my papers, but I never got around to it. They're in the garage. Do you want to take a look?" One critical source for "President Kennedy", offered to allow me to stay in his office as long as I wanted to, overnight even, to read his handwritten notes of the Eisenhower-Kennedy transition in 1961. And in these days of special prosecutors, and criminal and civil investigations of White House doings, there are court records. Much of what I discovered about Watergate did not come from Justice Department and FBI archives sanitized with black ink blots covering names and key phrases. There were sparkling clean copies of the same documents in the courthouse across the street. Thank you again, Xerox.

An example: In doing the Nixon book, I interviewed a lawyer and literary agent named Arthur Klebanoff, whom I had first met as a young assistant to Daniel Patrick Moynihan in 1970. After we finished talking about how the Nixon Domestic Council worked, Art said: " You know I was Bob Haldeman's agent when he wrote 'The Haldeman Diaries' ". He then told me that the sections excised for security and privacy in the book (and a CD with additional material) were listed as "Secret" but had never actually been classified by the government. Practically running to the National Archives, I discovered that was true and that no one had even looked at those pages. Suddenly I was reading of Haldeman's role as a buffer between Nixon and Kissinger, with each of them telling him the other one was nuts. Actually it was Kissinger who seemed the hysterical one, telling the President the Russians were about to invade China or land in Cuba -- "If you do nothing, they will call you a weakling, Mr. President," -- the line usually worked but the invasions seemed unlikely to Nixon. So unlikely, thought Nixon, that he told Haldeman not to let Kissinger back into the Oval Office until he saw a psychiatrist.

I love it. But it takes years. It is something like what I imagine diamond mining to be. You move around the muck and mire for weeks, for months, for years, and then suddenly something sparkles and you look at it. The found gems I remember best were documents from early 1961 indicating that President Kennedy knew in advance that the Berlin Wall was going up -- and that he wanted it up. He sent repeated signals to the Soviets, publicly and privately -- some through a KGB courier named Georgi Bolshakov, whom I tracked down in Moscow -- that what they did on their side of the border was their business, as long as they did not interfere with the inspection rights of the Allied occupiers of West Berlin, the United States, Great Britain and France. We had and retained the right to send officers into East Berlin on observation missions. "Checkpoint Charlie" and all that.

What Kennedy had figured out was that sooner or later, the communists were going to have to take military action to stem the flow of people fleeing from east to west through Berlin. Two thousand a day were walking in, driving in, taking the subway. They were the young, the best and the brightest, engineers, doctors, nurse, looking for a new life in the west. That was Khrushchev's problem. Kennedy's problem was that there were only 15,000 Allied troops in Berlin, surrounded by hundreds of thousands of Red Army troops. To "save" Berlin, or defend West Germany or even all of Europe, Kennedy would have to use nuclear weapons -- and he did not intend to do that.

"Better a wall than a war", he said in private. In public, of course he condemned the wall. He would have been impeached if the truth were known. But, I believe, the wall probably prevented a third World War -- if there were to be another great war in those days, it would not have started in Cuba or Africa, it would have started in Europe, in Berlin. That story was a secret -- and a valuable historical lesson -- that could only be revealed in archives. That's the point of archives. The truth, or the facts, shall make us free.

I set out years ago thinking that presidential history was not as tidy as all I had read about it in my life. Working in the White House, I had learned that everything happens at once, that a writer had to consider it all, what was on the president's mind and his desk on a particular day. What he knew and when he knew it. Kennedy didn't make decisions knowing he would be assassinated. Nixon didn't know he would have to resign. It has always been said that history is lived forward and written backward. With open archives, it was possible to write history forward by focusing tightly on what the president knew that day, that hour, that minute -- not on hindsight, not on what we would all find out years later.

So I need those papers. They mean money to me, too; this is how I make my living. I do battle for them. President Bush is on the other side of this game. So is Alexander Haig, a major figure in the book I am now doing on the presidency of Ronald Reagan. Here's the letter I got just the other day (March 1, 2002) from the assistant chief of the Manuscript Division of the Library of Congress, where Haig "donated" his papers -- or is hiding them.

"Dear Mr. Reeves:

"We have been notified that your request for permission to consult Alexander Haig Papers has been denied. Please let me know if we can be of any further assistance."

I guess I' m on my own. But that's the way it often is with politicians, government and history. There is an "us" and "them" quality to the game and I am greatly influenced by what I call Kelly's Law. I learned it in 1984 on a road in Honduras near Palmerola, the principal American base in the covert war against the Sandinista government of Nicaragua. I ran into a roadblock and stepped out the car, standing next to American truckdriver, who had also been stopped. "Sgt. Kelly" was the name on his uniform tag. His truck was carrying a huge load of telephone poles. Four old C-47s swept over the range of hills in front of us, coming toward us. Paratroopers began jumping out of the planes.

"What's that?" I said.

"What's what?" Sgt. Kelly answered.

"The paratroopers."

"What paratroopers?" he said.

That's the way it begins. It ends with assistants throwing papers into fireplaces and presidents closing their record to the public. But now we go to court to try to open them, it is our role to try to strike down the President Bush's order. To quote another president, his father: "This shall not stand!"

####

□