

# Tailing the Tapes

Magnetic recording tape is a marvelous German invention. The tonal fidelity of tape recording, even in its primitive days, was such that Herr Hitler's propaganda ministry could have the Fuehrer seemingly addressing the people amid the falling bombs while he himself was securely elsewhere.

But there are limits to the uses of tapes, and one of those limits is that tapes can be doctored quite readily by any sound technician worthy of the name. A good man with the splicer and re-dubbing equipment can reassemble taped dialogue on a new and apparently original tape in such a way that those who took part in the taped conversation will not even recognize it.

**THUS WITH THE Nixon tapes:** The only way anybody could be reasonably sure the White House produced the original tapes, if the White House eventually had to, would be if those tapes roundly and utterly condemned the President. You'd be somewhat safe in assuming, then, that they had not been tampered with.

The way matters stack up, Nixon can't produce tapes exonerating himself, not now, because a large part of the more sophisticated citizenry would assume they'd been fixed.

It's difficult to theorize just when the Nixon tapes, if made public, would have been entirely convincing, except that the earlier this was done the more faith could have been attached to them. It's far too late now.

Disclosure that the President regularly made secret tapes of private conversations is damaging enough to his prestige anyway, no matter what's on those tapes. I'm not sure what the law is in the District of Columbia, but if he pulled this caper in California he was committing a felony.

Has anybody checked San Clemente for bugs other than termites?

The California law was written by Jesse Unruh, when that once formidable political figure was Speaker of the Assembly. The folklore is that Jesse got recorded once without his knowledge, and this made him sore.

Before the Unruh Act it was legally suf-

ficient if one party to a taped conversation knew there was taping going on. It was felonious to eavesdrop by tape on a conversation being carried on by others.

Unruh tightened the law to require all parties to a taped conversation to be advised before the iron oxide began to imprint its magnetic tracteries.

The law covers both person-to-person, face-to-face conversations and those carried on by telephone, although the phone company itself has its own regulations in the latter regard.

So what Nixon and his aides did in Washington is a slammer offense if it were done at San Clemente.

Some law enforcement people were inclined to oppose Unruh when he put forth his sharp regulation of tape recording devices, and it seemed to me at the time they had reason. If "I said and then he said" testimony was okay, there didn't seem much wrong with producing a tape which set forth exactly what "I said and then he said."

Since then, however, as electronic techniques have advanced, the accuracy of any tape is open to question, and it seems in hindsight (hmmm?) that maybe Big Jesse was right after all.

**A GREAT DEAL** depends, I suppose, on the use to which tapes are to be put. If the President wanted an accurate record of conversations for his own use only, as a precise method of recalling exactly what was said and with what inflection — a factor missing in cold type transcripts — his elaborate planting of secret microphones can perhaps be defended.

The way it was done was certainly on the sneaky side, and doesn't do much for the dignity of the Presidential office, but that dignity is in tatters anyway. But whether it was, Heaven help us, a penitentiary offense seems to be a matter of some confusion. There are Federal regulations on phone tapes, but what the local law is on secret microphones I do not know.

At San Clemente, anyway, such didoes would be a matter for the prosecutors, if anybody cares at this stage of the proceedings.