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Tapes Can't Prove Nixon Innocence

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However the issue of the Nixon tapes is finally resolved, this central point ought to be understood:

They might conceivably prove his guilt but there is no way they could establish beyond question his innocence of the Watergate affair, either in its coverup stage or before.

For guilt to be demonstrated, the President would have had to do the unlikely: In full awareness of the taping, speak to others in blunt English that made his involvement unmistakable.

If he was involved and was ever that rash, it is difficult to imagine, courts to the contrary notwithstanding, that any prosecutor or investigator is ever going to get the chance to hear the damaging words from Mr. Nixon's own mouth.

We can never forget, however, that in any conversation he held in the "taping areas" (Oval Office, etc.), he alone in each and EVERY instance knew the recording was being made.

Thus he could, in all such instances, speak in whatever way suited his mood or his judgment of necessity — guardedly, with disarming casualness that might make firm orders sound like tentative proposals or even just rambling comment, or in the peculiar coded language that often does not have to be carefully devised but simply develops between a man and his close advisers.

If the President was a participant in Watergate matters in any way, the closest and most perceptive listening might not produce anything conclusively damaging in the event he spoke for the tapes in the above-suggested cautionary fashion.

Furthermore, as some excitable observers appear to have forgotten, the tapes — for all their stated purpose as a means of recording vital history — come nowhere near covering the totality of Mr. Nixon's official presidential life. Who needs a primer-lesson in the number of opportunities he had on any given day to speak out of taping range?

So, while the tape controversy is both interesting and important, it is not necessarily crucial to the determination of the President's role in and knowledge of Watergate (if any). As I noted in an earlier report, it is believed in knowledgeable circles that they may be more decisive in cases affecting some of the key White House and re-election committee subordinates.

As it pertains to Mr. Nixon's conduct with respect to Watergate, is this, then, how matters must be left?

The answer naturally is "no." The Senate Ervin committee's report may decide to say a little or a lot about his presumed role as it wades through the reams of testimony it is compiling on Watergate.

Nor should it be forgotten that the mandate given the Justice Department's special prosecutor, Archibold Cox, reaches beyond amassing evidence and seeking indictments and convictions of many of the well-advertised suspected or admitted participants in Watergate.

Cox is directed to prepare a final report on his inquiry, and authorized to submit interim reports. As he sifts through his own mountains of evidence, there is nothing to prevent him from setting down his own assessment of Mr Nixon's role. In theory it might make slight impact. Then again, it might be absolutely devastating — and undo the President.