

Records of Evidence ^{MT} 7/26/77

The telephone call to Senator Ervin yesterday, purporting to convey President Nixon's willingness to turn over the secret tape recordings of his White House conversations, was a hoax; the White House says there will be no Presidential decision on the issue of the tapes until the weekend. However, we hope that the earlier false "announcement" was not really wrong but only premature. The legal grounds are dubious, the practical justifications nonexistent, for the White House to withhold this evidence from public scrutiny.

The secretly recorded tapes might provide vivid corroboration for some of the charges leveled under oath by the former White House counsel, John W. Dean 3d. But they might not; and it is essential that the American public realize, "at this point in time," that the tapes could well prove nothing at all, even after they had been carefully studied in comparison with the testimony of other witnesses. No one could seriously expect to hear Mr. Nixon's voice in a meeting with Mr. Dean stating that he, too, was involved in a conspiracy to obstruct justice.

What the tapes would show, however, is the context and the precise words used in the various incriminating conversations Mr. Dean has described—if, indeed, these conversations occurred at all. If they did, it is perfectly possible that the President, knowing that his conversation was being preserved on magnetic tape, might well have spoken guardedly of dubious enterprises even with his top advisers, avoiding phrases which could be used against him by future historians.

Despite their potential for ambiguity or even abuse, the White House tapes are material evidence in the Watergate investigations. Conceivably they can prove that someone is guilty of something; equally they could only further confuse and complicate. In any case, they cannot be suppressed. It is an old principle of law, and it has been reaffirmed by the Supreme Court, that "the public has a right to every man's evidence."