NYTIMES ® 1851 JUN 3 1971

No Light on Mayday

President Nixon did little in his news conference remarks on the arrest and prosecution of the Mayday demonstrators in Washington to clarify the difficult issues in that controversy.

The President is unquestionably right that the Washington police had a duty to prevent the demonstrators from blocking the movement of traffic and "shutting down the Government." In carrying out that duty, the police did have to make some arrests. What is in dispute, however, is whether the threat to public safety was so severe at all times and in all places in Washington during three days of demonstrations that it was necessary for the police to suspend normal arrest procedures.

After the police used a dragnet technique to sweep the streets clean of demonstrators, the District of Columbia's Corporation Counsel and the police collaborated to hold these improperly arrested persons for 24 hours or more. The purpose was to prevent them from returning to the streets for further demonstrations, but the law provides no sanction for mass preventive detention to achieve such a purpose.

Although the faulty arrest procedures meant that the prosecutors did not know the specific offenses for which these persons had been picked up and had no way of presenting evidence against them, the Corporation Counsel insisted on pressing the charges, a policy which can only be construed as a form of harassment. The Federal Court of Appeals has now warned the prosecutors that they cannot continue to press charges unless they believe they have a reasonable expectation of obtaining convictions. The day after the court made this ruling, the Corporation Counsel abandoned charges against 2,000 persons.

President Nixon was specifically asked in the perspective of a month's passage of time what he now thinks about "the broad constitutional question involved of protecting individual rights in a difficult situation." Unfortunately, Mr. Nixon could not see the constitutional issues any more clearly—or at all—than he had a month ago. He was still narrowly focused on a fight between the good guys—the police—and the bad guys —the demonstrators. It clarifies nothing to say: "I think the police showed a great deal more concern for their rights than they showed for the rights of the people of Washington."

On the contrary, the police showed no concern whatever for the demonstrators' rights because they arrested thousands of people without making specific charges or being prepared to back up charges with evidence. Since the courts have refused to countenance this wholesale resort to illegality, the police action stands tacitly condemned.

The initial arrests, if not the subsequent detention and the futile attempts to prosecute, could be rationalized on a rough, pragmatic basis. But, by fully identifying himself and his Administration with every aspect of this arbitrary police action, President Nixon puts himself in the position of championing a course rejected by the courts. He is undoubtedly on the politically popular side of the controversy, but it is scarcely a position which befits the Chief Executive of a government under law.