

Bona Fides

By William Safire

WASHINGTON, July 25—A young Senator with a sepulchral voice frequently bemoans a "constitutional confrontation."

Television reporters excited by the prospect of high drama talk about a "counterattack" by the President.

Scenario-writers project a dire series of moves: rejection by the courts of the President's refusal to release his tapes, followed by a refusal by the President to listen to the judicial branch, followed by impeachment and the screeching-to-a-halt of American Government.

Wait a minute. We are not spectators at a football game or a chess match. We are dealing here with a strain on the system that preserves our freedom, and should approach the subject with more respect and less zest.

About ten days ago, the Watergate crisis had passed its peak, with the President hurt but not crippled, and the Congress domineering but not dominating. Events were in the hands of men.

Then, with the revelation of the omnipresent tape machine, men found themselves in the grip of events. With the inexorability of Greek tragedy, players followed the plot laid out by their characters and roles in life: The Senators had to ask for that tape evidence, the special prosecutor had to make his demand as well, and the President had to refuse both.

Even as this mechanical march toward an impasse was taking place, responsible voices were making it possible for men to overtake events.

"I can understand the President's not releasing the tapes at this time," said Senate Majority Leader Mike Mansfield. "I'm sure he's waiting until this phase of the hearing is concluded. Then, he'll have his day in court."

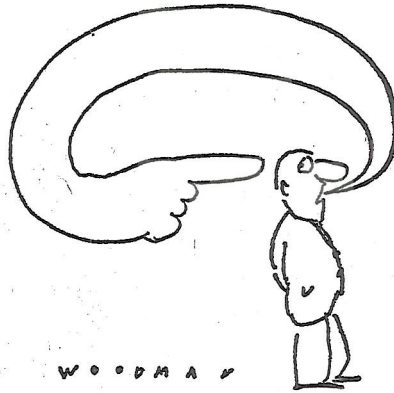
Special Prosecutor Archibald Cox, while dismissing the constitutional position put forth by White House Counsel Charles Alan Wright as "without legal foundation," carefully added, "but I do not question its bona fides."

"Bona fides" means "good faith"—sincerity—and Mr. Cox went on: "In seeking and obeying a constitutional ruling with respect to these papers and records, we would promote the rule of law. . . ."

Attorney General Richardson issued a statement in a similarly restrained vein. ". . . It seems to me important to try to work out some practical means of reconciling the competing public interests at stake."

These are not the voices of men hellbent for sawing the executive branch off the governmental tree. At the White House, the reaction has a strong side and a conciliatory side:

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1. Toward the Ervin committee, the attitude is "this far and no further." That's nothing new: Two weeks ago, it was decided that the committee had shown itself to be a hostile partisan political force.

2. The President decided that nobody—not the Senate, not the special prosecutor—will be given the tapes. They are ambiguous; their beauty is in the eye of the beholder; they contain all the varied material you might expect would be discussed at the center of power, and a few other things besides.

That's the strong part of the position, too readily characterized as a "counterattack"; the conciliatory side has different facets, too:

1. A White House spokesman said, "There was no question that the President has abided by court rulings in the past and that he would" in the future. That means that if the Supreme Court were to surprise the President by ruling "turn over the tapes," he would of course do so. With their point won, the responsible men then entrusted with the tapes would become nearly as protective of their contents as the President himself. Nobody wants to be Pandora.

2. The President is sure to make another detailed report as foreshadowed in his May 22 statement; after the hearings, he will subject himself to press questioning and he is considering other ways to address himself thoughtfully to the most profound lessons of Watergate.

So let's all back off a little. We do not have three driverless cars careening wildly toward an intersection. We have a constitution born in compromise and men in each branch of Government who respect each other and each other's institutions.

The cheerleaders on the sidelines of the game of separation of powers, played to no conclusion for almost two centuries, are well advised to remember that if somebody wins, the game is over—but when nobody loses, everybody wins.