

Editorials

The President And the Tapes

PRESIDENT NIXON has drawn the line against acceding to subpoenas for the White House tapes of his conversations about the Watergate affair with various of his aides. To comply, he wrote to Judge Sirica, would be "inconsistent with the public interests and with the constitutional position of the Presidency."

He noted that he had been a participant in the taped conversations which Prosecutor Archibald Cox had requested, and he went back to Lincoln's time to cite opinion that a President is not bound to produce papers or disclose information where the disclosure would be inexpedient.

We think his technical right to claim executive privilege for these presidential recordings may not be doubted, and the probability is that the Supreme Court would uphold the claim.

NEVERTHELESS, it would be desirable to avoid a confrontation between prosecutor Cox and the President, as well as between the Senate and the President, over these tapes. Both Mr. Cox and Senators Ervin and Baker recognize that, and they are trying to head it off. We are convinced that on the President's part, it might well be to his advantage to find some appropriate way of cooperating with the grand jury and the Senate committee to get the substance of the taped conversations onto the record while, of course, keeping irrelevancies out of the record.

One possibility might be for the President to ask Judge Sirica, or alternatively a wholly impartial panel of distinguished citizens, to listen to the tapes, screen out what it would be improper to reveal publicly, and thereafter confide their substance to the grand jury and the Ervin committee.

Whatever was brought out in such a way the public could have confidence in. And in turn the President would be cleared of any appearance of withholding pertinent evidence. The tapes exist; by cooperating to get the material facts that they contain into the record he would make good his statement of May 22, wherein he specifically waived any claim of executive privilege for the purpose of the grand jury's criminal investigation.

PARTICULARLY IN THE LIGHT of the promise of May 22, it seems to us there would be every merit in his releasing the substance of the taped recordings of his conversations with those persons who have since been involved in testifying about Watergate at one hearing or another. The White House tapes are the direct evidence, and the best evidence, of the very discussions about which witnesses have been testifying.