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Mr. Nixon's 'Definitive' Escape Clause

The relatively obscure word "definitive" is about to become the most prominent and controversial word in the American, if not English, language.

Since the future of the United States is going to turn on it, readers would do well to refresh themselves on what this somewhat elite word means, or rather what it has meant up to now. They will find that Webster's Unbridged defines it as "serving to supply a final answer, solution or evaluation, and to end an unsettled, unresolved condition."

The immediate and more critical question, however, is what "definitive" means to the President, for no one but Mr. Nixon can answer that, and he won't say. Many weeks ago, when the presidential tape recordings of Watergate conversations first came to light, the White House was asked if the tapes would be released if the court so ordered.

The answer of the press secretary was that the President would obey "a definitive decision by the Supreme Court." At his recent press conference at San Clemente, Mr. Nixon, with studied precision, reaffirmed that statement.

Several days ago, at his latest meeting with the media at the White House, he was pressed to define "definitive" but declined to do so.

It is widely, but imprudently, taken for granted that the President will yield if the Supreme Court upholds the order of U.S. District Court Judge John Sirica to turn over the tapes. The Wall Street Journal, for instance, says, "The President has wisely said he will abide by what the Supreme Court finally rules in the matter."

That seems to be the general interpretation. Judge Sirica himself has brushed aside as unworthy the possibility that Mr. Nixon would refuse to obey a final court order. George Meany, head of the AFL-CIO, is another who predicts presidential compliance. Sen. Sam Ervin, chairman of the Watergate investigating committee, also finds it hard to believe that the President would defy the Supreme Court. Finally, Attorney General Elliot Richardson, commenting on the White House defense briefs filed with Judge Sirica, said it was not his understanding that the President's lawyers were indicating that the tapes would not be surrendered if the Supreme Court so orders.

Nevertheless, the word "definitive" looms ever larger as the case moves to-

ward the highest court.

Mr. Nixon, over the years, has shown that he is a master of the fine-print technique of investing his most categorical pledges with escape clauses. There is hardly a major position that he has not reversed since entering the White House.

A month or so from now, when the Supreme Court gets the case, what will "definitive" add up to? Will anything less than a unanimous decision meet that test? If Mr. Nixon loses, but there is a minority dissent, will he consider the ruling definitive? Should the

Supreme Court go against Mr. Nixon, but on qualified grounds, will it be acceptable to the President? As of today, it is a good bet that if the highest court merely upholds Judge Sirica's comparatively limited order, the President will find it nondefinitive.

What happens then? A President, for the first time in American history, would be in contempt of the courts, of Congress and the public. How would the Congress react? Sen. Ervin says, "As long as I have a mind to think, a

tongue to speak and a heart to love my country, I shall deny that the Constitution confers on any President the arbitrary power to turn George Washington's America into Caesar's Rome."

How would the working people of America react? George Meany, who fought Sen. George McGovern's candidacy so hard, would call for impeachment. And there seems little doubt that much of the general public would join in that sentiment if Mr. Nixon decides on total defiance.

The President, being one of the shrewdest politicians of the century, knows, of course, that he would be risking impeachment if he spurns a Supreme Court decision—be it definitive or not. Why then could he even contemplate such a course? The only logical conclusion is that surrendering the tapes might expose him to a still greater risk of impeachment, not to say possible prosecution. We shall soon see.

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