

...Congress Must Decide

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NJR

The road now to be taken must be considered in the grim context of Mr. Cox's parting message: "Whether we shall continue to be a government of laws and not of men is now for Congress and the people to decide."

The responsibility for carrying the investigations forward must be picked up without delay by Congress and the courts. No diversionary tactics by the White House can be allowed to deflect attention from that responsibility—not the President's self-serving claim that he is protecting the historic confidentiality of his office nor the familiar plea that the Presidency must not be weakened "at a time of serious world crisis."

No crisis transcends in seriousness contempt for the law by a President, charged under the Constitution with executive responsibility for insuring enforcement of the law. This domestic crisis is almost wholly of the President's own making. Chief District Judge John J. Sirica warned in his decision on the tapes that Mr. Nixon's intransigence would set the White House apart as "a fourth branch of government" and place the President entirely beyond the reach of the law. The Court of Appeals for the District of Columbia, in upholding the Sirica order for surrender of the tapes, reminded Mr. Nixon that "the courts in this country always assume that their orders will be obeyed, especially when addressed to responsible government officials."

The courts, having been rebuffed by Mr. Nixon in their plea for a reasonable compromise, cannot now accept the President's dictate that he will neither appeal their orders nor comply with them. While the clear normal recourse would be a contempt citation, enforcement of such an order against the President would present enormous difficulties. Indeed, the need for continued functioning of Government would all but rule out enforcement against an incumbent Chief Executive.

It becomes, therefore, the first business of Congress to take the necessary steps—and to stand ready to override a Presidential veto that might nullify them—to enable the courts and the grand jury to reconstitute the abolished office of special prosecutor. Given true independence from the executive branch and headed, if possible, by Mr. Cox, the office could then move this crucial unfinished investigation forward to prosecution and trial.

Perhaps the most tragic aspect of the President's course is that his studied defiance of law and of the courts is driving a lengthening list of responsible citizens, including many Congressional moderates of both parties, to the conviction that only the constitutional remedy of impeachment offers any hope of restoring the country to balanced government under the rule of law.

With a Vice President freshly resigned and no replacement yet confirmed, this would unquestionably have to be a move of last resort—one that can only be viewed with grave disquiet. The President still has the opportunity to turn back from the reckless path down which he is rushing. A good start would be for him to remember, and live by, his oath to execute and uphold the law.