

When a lawyer for Ralph Nader and consumer groups who are challenging the Nixon Administration's dealings with the dairy industry played portions of a copy of a subpoenaed White House tape before friends at a cocktail party, he committed what he himself accurately described as "a very foolish mistake." Federal District Judge William B. Jones, after reviewing the incident, agreed with that description of the indiscretion while refusing to censure the lawyer, William A. Dobrovir. Central to Judge Jones' conclusion was the fact that the tape itself was not covered by any judicial restrictions or protection, nor had it been turned over to the court for secret inspection.

A fair assessment of the episode therefore is that, although it involved no legal offense, it ought nevertheless not to have happened. But the fact that fallible human beings commit deplorable errors of judgment cannot be legitimately used as a means of vindicating those who are under investigation on charges of serious betrayal of the public trust.

This is what some Nixon loyalists and White House spokesmen have tried to do, not only in the Dobrovir case but in similar previous incidents. When former special prosecutor Archibald Cox carelessly discussed with friends certain aspects of his investigations, Nixon partisans tried to make it appear that the indiscretion—which Mr. Cox, like Mr. Dobrovir, instantly and regretfully admitted—canceled out the serious issues under investigation.

When special prosecutor Leon Jaworski, Mr. Cox's successor, let it be known that White House lawyers had approached him with a request to delay publication of the discovery of the 18 minutes of obliterated tape recordings, a White House spokesman accused Mr. Jaworski's office of deliberate attempts to hurt the President.

The pattern is transparent. It is similar to the maneuver used when Patrick J. Buchanan, Mr. Nixon's political strategist, tried to prove most of the Watergate charges to be inoperative because Democratic campaigns have not always been examples of purity.

That an Administration under fire and a President threatened with impeachment should grasp for the straw of the "you're another" defense is not surprising. The fact that such counter-offensive tactics must be expected, however, makes it doubly important for the public and the news media to be on guard against such deceptive equations.

The President is entitled to insist on fair treatment under the law. Those who are conducting the investigations and prosecution of alleged White House offenses are under special obligation not to abuse their powers. They must be held strictly accountable for their conduct. But it would be absurd to suggest that the case against President Nixon can somehow be nullified by the fact that the prosecution may fall short of perfection.