

THE SENATE Government Operations Committee, acting with appropriate dispatch, has cleared a bill to override the arrangement allowing former President Nixon to determine the uses to which the tapes and other records of his presidency may be put and also to authorize their destruction. In so doing the committee has recognized the valid public interest in preserving this mass of documentation for prospective legal proceedings and for historical purposes. The Senate bill would put the tapes and other records in the possession and under the control of the government. Under the bill, the General Services Administration would keep and protect the materials and would be required to make them available to the Special Prosecutor and other litigants in accord with legal processes. Nothing could be destroyed without congressional permission.

In spelling out these elementary safeguards, the committee wisely sidestepped the thorny question of ownership of the materials. As Attorney General William Saxbe and others have argued, the papers of past Presidents have generally been regarded as their private property to be disposed of as they chose. However, the law is not explicit on this point, and the issue is now before a federal court in connection with two Watergate-related civil suits. Rather than trying to anticipate a judicial ruling, the Senate committee has proposed to place the tapes and other records in a form of official protective custody which would be consistent with either public or private ownership. As a precautionary step, the bill also provides for compensation to Mr. Nixon if a court should decide that this custodial arrangement deprived him of his property.

In these central respects, the bill would meet the potential needs of the Special Prosecutor and the system of justice. The committee went beyond that however, in an effort to respond to the widespread desire for a

prompt public accounting of the full story of Watergate. Thus the panel approved two resolutions, sponsored by Senate Majority Leader Mike Mansfield, urging President Ford to provide full public access to all Watergate-related facts and the fruits of all pertinent investigations. The major bill, reaching even further, would require GSA to provide public access under reasonable rules to *all* the tapes and documents of the Nixon presidency, except where national security could be affected or an individual's right to a fair trial might be impaired.

This is disclosure carried to a fault. It is one thing to believe, as we most assuredly do, that the rest of the discussions and documents relating to misconduct in the White House should be made public as soon as possible. There is a legitimate national interest in the airing of these facts. But it is something else to let the public rummage through the confidential files of any presidency before partisan tempers have cooled and the passage of time has lessened the danger of reckless assaults on individuals' reputations. The records of the Nixon years, like those of other presidencies, should eventually become fully accessible—but in accord with traditional archival practices, not in a hectic, disorderly response to an unprecedented situation such as the one we are now in.

The Senate committee has not resolved every question about the future of the Nixon tapes and documents. The pending legislation would, however, insure that those decisions would be made by public agencies more detached than Mr. Nixon himself and better able than the White House staff to manage all of the details involved. Most important, the bill would solve the immediate problem of protecting potentially crucial evidence. Once the needs of justice have been served, Congress will have time to consider general legislation making the records of future presidencies public property from the start.