

The Case Of Mr. Fish

It is difficult to believe that the House of Representatives intended to obstruct the machinery of justice when it resolved that Representative Hamilton Fish should ignore the special grand jury's subpoena until the House Judiciary Committee has had a chance to investigate the matter. Yet this action of yesterday may have precisely the effect of obstructing justice unless the committee promptly makes a report. The grand jury is engaged in an inquiry that has a direct relation to the safety of the Nation. That investigation must go on. The jury needs the testimony of a Congressman. The House would occupy an extremely embarrassing position if it should permit itself to be used to deny the grand jury the assistance which Mr. Fish can give it.

The pretense that the "rights and privileges of the House of Representatives may be infringed" is absurd. Of course, the Constitution provides that members of Congress shall be privileged from arrest during their attendance at Congressional sessions. But no attempt is being made to arrest Mr. Fish. He has merely been summoned as a witness in an investigation involving Nazi agents and an alleged propaganda ring said to be misusing the Congressional frank. Under no circumstances does the Constitution give any member of Congress immunity against grand jury subpoena. In at least three different cases the Supreme Court has held that members of Congress are subject to subpoena. Surely the House does not need to make an investigation to bring to light such elementary facts.

In criminal cases such as those with which the grand jury is dealing, moreover, that section of the Constitution cited by the House resolution does not apply. It makes a specific exception so as to permit the arrest of members of Congress in cases of "breach of the peace." All criminal charges have been held to fall within this category. So it appears that there is nothing for the Judiciary Committee to investigate. The distinguished lawyers of that committee will see at a glance that the resolution is only a smoke screen pretending to raise a constitutional issue where none exists. And, lest it become a party to the obstruction of justice, the committee may be expected forthwith to inform the House that there is no reason whatever why Mr. Fish should further delay his appearance before the grand jury.