

Milk and Bribery *Book 5/1/74*

THE EVIDENCE of bribery, in the milk case, would now be sufficient to justify a criminal indictment if the central figure were any citizen but the President. But the President himself argues that a President in office cannot be indicted. If one accepts that position, there is no forum in which this painful inquiry can go forward but the House Judiciary Committee. That committee is holding itself to a rigorous and disciplined pursuit of its tremendous responsibilities, but its cautious tone ought not mislead anyone regarding the character of the material that it now holds. The material appears at this point to present a stronger case than that on which the government prosecuted former Sen. Daniel B. Brewster, whose trial is compared with the milk affair elsewhere on this page today.

Sometimes the President's spokesmen argue that he cannot properly be impeached because he is not guilty of any crime. It is quite true that he is not guilty of any crime, in the technical legal sense that only a court can pronounce a verdict of guilty. But if a President cannot be indicted, he cannot be brought into court. The impeachment process now beginning offers the only possibility of having the evidence of bribery presented systematically in public where it can be challenged, examined and debated.

The milk case arose from the ferociously effective fund-raising operation that Mr. Nixon and his managers ran in preparation for the 1972 campaign. That series of collections involved countless outrages and a number of crimes already acknowledged; some 10 business corporations have conceded that they made donations illegally. But the milk case deserves special attention because, unlike the others that have come to light so far, it involves the President personally and directly. It pivots on an act—the annual setting of the milk price support level—that the President himself performed. Most of the other collections were carried out at a discreet distance from the White House, if only across the street. But the dairy lobby came literally into the Oval Office and the Cabinet Room. In this case the central question does not turn on the relationship between the President and his subordinates and whether he knew what they were doing. To the contrary, Mr. Nixon himself is the chief figure in these events.

Mr. Nixon knew that the Associated Milk Producers Inc. had promised \$2 million to his campaign. His assistant, Charles Colson, had told him so. Mr. Nixon knew it on March 23, when a group of representatives of the milk industry came to call on him. That is what the

White House said, in its public explanation last Jan. 8. According to that White House statement, "The President opened the meeting by thanking the dairy leaders for the support they had given to administration policies and praised them for their activism in pursuing goals which were important to them." The House Judiciary Committee now adds that while the President decided to raise the price supports that afternoon, he kept the decision under wraps for two days until the White House had extracted from the dairymen \$25,000 and the renewal of the pledge for \$2 million. Whether the Judiciary Committee can prove this sequence remains to be demonstrated. But it can be observed that other sources over the past week have confirmed and amplified the committee's outline of the events.

The law regarding bribery has been sharpened and refined through a long and unhappy succession of cases. It makes no difference, under the law, whether a bribed official actually does whatever he was bribed to do. It also makes no difference whether he was going to do it anyway, bribed or not. It is only necessary for the prosecution to show that the donor thought that he was buying a favor and that the official let him think so. In the January statement, the White House argued that Mr. Nixon was under great congressional pressure to raise the milk supports. All that is irrelevant. What counts is the dairymen's motive in giving the money and the recipients' part in nourishing that motive. It might also be observed that the law makes no distinction between money that goes to the personal use of an official and money that goes into a campaign. The law wants to know why the money was given and why it was taken; the law does not care whether it ultimately went into a legitimate campaign committee's bank account or into the official's own pocket.

Bribery is a crime as old as government itself. The appearance of bribery in high places has correctly been regarded, for many centuries, as the sign of decay in a political tradition. The absence of bribery alone hardly constitutes a definition of clean and decent government. It is only the beginning of a definition, the first and most obvious requirement. The financing of the 1972 election appears to offer other examples of bribery and the closely related crime of extortion. If this turns out to be true, no doubt these instances will come into the courts in due time. But the milk case involves the one American who asserts that he cannot be accused in court. That is why it has now become necessary and urgent to resolve the final question of guilt or innocence through the constitutional procedure of impeachment.