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Mr. Agnew and the Vice Presidency

The one meaningful duty of the vice presidency is a contingent one which may not occur during the tenure of any one incumbent. But it is no less vital to the country on that account, because that one duty simply stated is to pick up the burdens of the presidency at a time of extraordinary national stress. This imposes upon a vice president a continuing obligation that is quite different from the requirement upon every citizen—including the vice president—to obey the law. It is the vice president's sworn duty to *uphold* the law.

Similarly, the obligations imposed upon a vice president demand more of him than simply that he be innocent of a crime. For the effective discharge of his responsibility as a stand-in to the presidency, he must not even appear to be guilty of wrongdoing—to hold himself free, in other words, of any taint which would rob his office and himself of public confidence. It is in this light that one must examine not the allegations which have been raised against Mr. Agnew in recent months—for no formal charges have been placed against him—but his response to original official notification that he was the target of an investigation and his subsequent twists and turns in his defense as it developed once it began to appear that this investigation might lead to his indictment on criminal charges.

From the beginning, Mr. Agnew embarked on a vigorous and skillful defense. As soon as it became known that he was formally the subject of a federal criminal investigation, he issued a statement in which he declared, "I am innocent of any wrongdoing . . . I have confidence in the criminal justice system of the United States and . . . I am equally confident my innocence will be affirmed."

Shortly thereafter, he summoned the press to a conference which was televised nationally. He told the nation, "I have nothing to hide." He also disclosed that as soon as he had heard rumors of the investigation and stories that he was trying to impede it, he sent his lawyer to George Beall, the United States Attorney in Baltimore, to make assurances that he, Mr. Agnew, had no intention of blocking the investigation. Although he did not rule out a resort to constitutional arguments, Mr. Agnew in early August gave every appearance that he was prepared to deal with his problems in the only acceptable way for a man in his office—that is to say, quickly, cleanly and openly.

Then, after several quiet weeks, came reports of private conversations between Mr. Agnew's lawyers and the Department of Justice. Attorney General Richardson has now confirmed that such conversations did take place. Though both parties attempted to keep the substance of the talks private, the essence of those discussions became public and it disclosed that the vice president's "confidence in the criminal justice system," had apparently collapsed. All the evidence suggests, in fact, that he was prepared to bargain away his high office in exchange for the dropping of all or most of the charges against him. When negotiations broke down, and the Department of Justice decided to present its evidence about Mr. Agnew to the Baltimore grand jury, the vice president then appealed to the House of Representatives. That body, he claimed, was the only one which could carry out the kind of investigation contemplated by the Constitution for civil officers of the government. The measure of his retreat from his professed faith in the criminal justice system—and from his earlier publicly-stated distrust of congressional investigatons—can best be seen in what he had to say about the Senate Watergate Committee only a few weeks ago. The congressional investigation, the vice president said, "tends to complicate the search for truth by making both witnesses and (the) committee players on a spotlighted national stage." He also said such investigations had a "Perry Masonish impact" which made the public the ultimate judges of facts which should be heard before the court.

The move to the House gives us a good notion of the desperate position at which Mr. Agnew has lately arrived. It is consistent with his lawyers' view that he has to be impeached by the House and removed by the Senate before he can be indicted for criminal conduct. It is, in short, a clever maneuver, because if the vice president's legal argument prevails and if, for whatever reason the Congress thereupon fails to remove him by impeachment, Mr. Agnew could not be convicted of a crime until his term of office expires and the statute of limitations has run out on many if not all of the charges that might be placed against him.

Now this, we would acknowledge, is an entirely proper legal strategy for any private citizen engaged in a fight to avoid indictment or conviction for criminal activity. It may well be precisely the right sort of maneuvering and the best possible course of action if the objective is nothing more than to spare the vice president from going to jail. But precisely what would be right and reasonable about this strategy for a private citizen is what is wrong about it for the vice president of the United States. For what the vice president has clearly conveyed in the course of his various shifts of position is that he is not, in the last analysis, prepared to place his confidence in the judicial process, that he does not want to allow his case to move through the grand jury proceedings toward a possible indictment or conviction, that he is in fact prepared to seize upon whatever legal device may come to hand in order to prevent any of these things from happening. On the contrary, it appears that his lawyers are poised to put their case for impeachment as a precondition to indictment to the test of the federal judiciary, now that the Speaker of the House has wisely and correctly refused to grant him the special inquiry