

# The Battle of the Tapes

Part 4/15/74

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## Will They Be Yielded...

Extremely complex, hardly understood causes led to the famous subpoena addressed by the House Judiciary Committee to the White House last Thursday. These are also causes that it is worth trying to see in proportion, since they explain much that is mysterious.

To begin with, the President's lawyer, James D. St. Clair, has been a man in the middle since he took the job. Lawyer St. Clair has thoroughly understood the frantic warnings of the House and Senate minority leaders, Rep. John Rhodes and Sen. Hugh Scott, that seeming-concealment would greatly increase the chances of President Nixon's impeachment.

President Nixon, however, has been an exceedingly difficult client. He has a high notion of his office's prerogatives. In large measure, he has also been trying to be his own lawyer—and there is an old legal saying that "any man who decides to be his own lawyer has a fool for a client."

In sum, lawyer St. Clair has been caught between the President pulling him one way, and political necessity and the House Judiciary Committee jointly hauling him the other way. By the same token, moreover, the Special Counsel of the House Judiciary Committee, John Doar, has also been a man in the middle.

Counsel Doar has wanted from the first to discharge his unprecedented responsibility carefully, judicially, above all, non-politically. Both lawyer St. Clair and the White House Chief of



*James St. Clair*

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Staff, Alexander Haig, are quite open in their praise of the Doar approach. In that approach, Counsel Doar has also been able to carry with him, at least in the main, the Chairman of the Judiciary Committee, Rep. Peter Rodino.

Yet Chairman Rodino has a lot of Democratic committee members on his hands who want an impeachment vote, no matter what. They know that charges of White House concealment will help such a vote along. They have therefore been bitterly impatient of all attempts to reach agreements with the White House.

In the light of all these internal pullings and haulings in the committee, the subpoena issued last Thursday can be seen as a compromise. It was only issued after several other steps that are every bit as significant. The list of charges against the president was narrowed. The subjects of interest to the House committee were carefully specified in a letter from Counsel Doar on April 4—a letter long delayed, of

course because of the pulling and hauling. Chairman Rodino also came out in support of lawyer St. Clair's request for a watching brief throughout the committee inquiry.

None of these latter developments pleased those members of the committee who want to destroy the President at all costs. The subpoena did please them. But in lawyer St. Clair's capacity as the other man in the middle, all is now up to him. It can be fairly confidently predicted that he will now arrange for the White House to respond fully to the committee subpoena. If so, this part of the drama will be over.

The importance of all this lies in the motive of the group of committee members who actively hankered for a confrontation with the White House—but have probably got no more than a fake confrontation. Here the point is simple. If many House members and with the feeling that the President has obstinately concealed relevant evidence, the members will naturally conclude he has a lot to conceal.

This is vital in turn, not for any high constitutional reason, but because of the rockbottom test the House of Representatives is plainly going to apply in the President's case. The rockbottom test, to be blunt, is the presence or absence of solid proof that the President was personally, knowingly involved in criminal acts.

In theory, perhaps, the House should consider other matters, such as the President's choice of some of his former subordinates, and these subordinates' misdeeds. In practice, however, everyone who knows the mood of the House agrees that only the rockbottom test will be applied by a majority of members. The bill of impeachment will be voted by a big majority, if proof is shown of the President's criminality. In the absence of such proof, the bill will not be voted.

One other point can be added with some confidence. If there really is solid proof of the President's criminality, the President's supposedly impregnable defense line in the Senate will also crumble—as indeed it should. Yet this still leaves a most uncertain future, for anyone who has not violently prejudged exactly what will be proven by all the data Counsel Doar has now, and will get later.