

Joseph Kraft

# Grounds for Impeachment

President Nixon last week was working on public opinion and in the courts to avert impeachment by the Congress. But in the process he defined one explicit issue—participation in a conspiracy to obstruct justice—on which impeachment seems more and more likely. And he ended the week on the wrong end of a slippery slope in the courts and the Congress.

The message the President wanted to put across was that he was innocent of wrongdoing and was cooperating fully with the impeachment inquiry being conducted by the House of Representatives by its Judiciary Committee. That message was first delivered by White House counsel James St. Clair in the court of Federal Judge John Sirica. The occasion was a hearing as to whether material given to the judge by the grand jury, along with seven indictments of Nixon aides on obstruction of justice charges, should be passed on to the Judiciary Committee.

Mr. St. Clair said the White House had no view on that issue. He then indicated that Mr. Nixon would turn over to the Judiciary Committee all the material that he had given the Special Prosecutor, Leon Jaworski. Mr. Nixon himself repeated that message at a press conference called that evening for prime TV viewing time. In response to the very first question, he said he would turn over to the Judiciary Committee "a total of 19 tapes, over 700 documents and enough mate-

rial that Mr. Jaworski was able to say that . . . the grand jury had all the information that it needed in order to bring to a conclusion its Watergate investigation."

Unfortunately for Mr. Nixon, the second question—and several thereafter—dealt with his role in the conspiracy to obstruct justice charged in the grand jury indictment. Mr. Nixon acknowledged that he had participated in a White House meeting last March 21 with former aides John Dean and H. R. Haldeman, at which Mr. Dean laid bare the details of a million-dollar project for hushing up the original Watergate burglars.

Mr. Nixon said that "we examined all the options at great length during our discussions." "I pointed out," he continued, "that raising the money, paying the money, was something that could be done . . . but that was clearly linked to clemency . . . I then said that to pay clemency (sic) was wrong."

Since the hush money was paid that day, one interpretation of what Mr. Nixon said was that he went along with the hush money proposal and only balked at clemency. But he insisted that the objection to clemency included the whole proposal. That issue has now emerged as central to the impeachment question. For Mr. Nixon himself acknowledged that if he had participated in the conspiracy to pay hush money he would have committed "a serious crime . . . an impeachable offense."

Access to evidence as to exactly

what he did do is now the subject of argument in the courts and the Congress. In Judge Sirica's court the attorney for the chief Watergate cover-up defendants has claimed that the grand jury material cannot be passed to the House Judiciary Committee because it is not the practice of grand juries in the District of Columbia and would violate the traditional rule of secrecy. But that argument on precedent is vulnerable to the claim advanced by Philip Lacovara of the special prosecution that impeachment represents an "unprecedented situation."

As to the Judiciary Committee, a letter from the White House Counsel, Mr. St. Clair, seemed to deny the committee demand for access to six White House tapes apparently connected with events of March 21 which were not turned over to the special prosecutor. The committee, at a meeting Thursday, postponed any action to enforce its demands for additional material.

But it was clear that the delay was only to allow the public to become aware that the President, despite all his claims, was in fact withholding material from the committee. Both Republicans and Democrats emphasized that the committee would write the rules for impeachment—not the President or his lawyer. More and more the attitude seemed to be that the full pursuit of the investigation was what the Republican counsel, Albert Jenner, called "an overall, pervading, dominant, constitutional duty."