

The President and the Impeachment Inquiry

LAST WEEK the President's Special Counsel chose Judge Sirica's courtroom as the setting for his announcement that the President was willing to furnish the House Judiciary Committee all the tapes and documents he had already supplied to Special Watergate Prosecutor Leon Jaworski. Subsequently, at his Wednesday news conference, the President himself made a great deal of this decision as a gesture of cooperation with the Committee. He did so by suggesting that Mr. Jaworski had been entirely satisfied with the documentary material he had received from the White House. Mr. Nixon told his television audience that he had turned over "enough material that Mr. Jaworski was able to say that he knew all and that the grand jury had all the information that it needed in order to bring to a conclusion its Watergate investigation."

There are several things to be said about all this, of which three seem to us especially important. One concerns the context in which Mr. St. Clair chose to make the original announcement of the President's intent with respect to a committee of Congress. The day Mr. St. Clair offered this piece of news in court was the day that arguments were being heard concerning Judge Sirica's disposition of the sealed material presented him by the Watergate Grand Jury. The principal question before the court was whether Judge Sirica could and/or should follow the grand jury's recommendation that its findings concerning the President be forwarded to the House Judiciary Committee.

Mr. St. Clair took no position in court on this question. Nevertheless, his timely disclosure of the President's response to the Judiciary Committee could be expected at the very least to seem to diminish the urgency of forwarding the sealed material to the Hill: after all, it guaranteed that large quantities of the raw material on which the grand jury's sealed report was based would become available to the Committee. It goes without saying, however, that it is one thing to send the Judiciary Committee the haystack—and quite another to send it the needle. And this is especially true when you consider that the sealed material furnished Judge Sirica by the grand jury presumably includes not only its findings but also the results of its own proceedings and of interviews conducted by the Special Prosecutor. Obviously none of this material would be part of the package the President originally sent to Mr. Jaworski and now is offering the House Judiciary Committee.

Our second observation concerning Mr. St. Clair's announcement and Mr. Nixon's elaboration on it is that the President was quite wrong in suggesting that the material in question had been considered sufficient and satisfactory by Special Prosecutor Jaworski. On the contrary, Mr. Jaworski in a recent progress report to the

Senate Judiciary Committee, asserted that he had been informed by Mr. St. Clair "that the President has decided not to comply with our outstanding requests for recordings for the grand jury investigations of the Watergate break-in and cover-up and certain dairy industry contributions, asserting that to do so would be inconsistent with the public interest and the constitutional integrity of the office of the Presidency." He went on to say: "Accordingly, it is now clear that evidence I deem material to our investigations will not be forthcoming."

Getting down to particulars the Special Prosecutor said that in the case of the Watergate break-in and cover-up the White House had refused requests for recordings of 27 presidential meetings and conversations, even after receiving statements of "particularized need" for each of them. "Although it is true that the grand jury will be able to return indictments without the benefit of this material," Mr. Jaworski said, "the material is important to a complete and thorough investigation and may contain evidence necessary for any future trials." Mr. Jaworski expressed similar dissatisfaction with the White House's response to his request for material concerning the milk deal, the plumbers case and the ITT affair. In short, Mr. Jaworski hardly sounded like a man who was saying that he "knew all."

Our third and final observation has to do with the fact that even if Mr. Jaworski had been satisfied with the material to which the White House chose to grant him access, this state of affairs would be of limited relevance to the requests of the House Committee. Just as Mr. Nixon sought to make himself the arbiter of what material the Special Prosecutor and the grand jury should seek for their inquiries, he now seems intent on determining for the House Judiciary Committee what its inquiry should consist of. The most dramatic moment in the President's pursuit of this role in relation to the investigations in the courts came with his spectacular attempt to limit the inquiries of Archibald Cox and unilaterally to determine how much of a federal court's order (not much) need be complied with. Nothing so dramatic has occurred in his relationship with the congressional investigators. But the President and his Special Counsel have been anything but shy about announcing what the Committee should and should not seek and may and may not have and what its procedures must be.

The point of all this is that when you inspect the nature of the President's offerings to the impeachment inquiry in the House you begin to get a sense of anything but openhandedness and self-confident cooperation. The signs are there, in other words, that the President may choose to repeat the now familiar pattern of resistance, circumvention and delay.