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Impeachment: Mr. St. Clair's Role

Mr. Nixon's department, as President and taxpayer, proves that his is an original mind not inhibited by mere lack of precedent. That is why many people, including conservatives who respect precedents, sometimes assume that anything Mr. Nixon endorses thereby acquires a momentum for disrespect.

But at last Mr. Nixon has taken a stand that is no less respectable for being self-interested. He has requested that his counsel, James St. Clair, have the right to cross-examine witnesses and present evidence in the House Judiciary Committee's impeachment proceedings. Precedents and right reason converge in support of this request.

The precedents span 170 years and include the rights accorded the counsel to the last man impeached, a judge, in 1936. Right reason refutes the idea that St. Clair's participation should be severely restricted because the Committee is like a grand jury, and opposing counsels do not clash in grand juries.

Grand juries hear only the prosecutor's case. Because the proceedings are so one-sided they are secret, lest the dissemination of uncontested allegations "jeopardize defendants' rights. Congress leaks like a sieve, so hearings could not be secret. Besides, we

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should want them to be public and, hence, conspicuously fair.

St. Clair's aggressive participation would slow things down, but who really cares about the difference between a brisk and a lethargic snail's pace? Justice, not speed, is the goal. Justice in today's setting requires a St. Clair rampant on the field of battle.

Impeachment, at every step, is an adversary process, with its acceptable ethics of evasiveness and combativeness. So Mr. Nixon no longer needs to pretend that he wants "to get the truth out." With impeachment under way, Mr. Nixon's attitude, which has been so destructively inappropriate until now, suddenly is appropriate to the adversary process.

This attitude is: "Go ahead, try to prove me guilty, while I resist with all the recalcitrant maneuvers sanctioned by the ethics of the adversary process."

This process is messy, but is supposed to produce justice in courtrooms.

It is our best hope for justice in the committee room, where the tone and substance, and probably outcome of the entire impeachment process will be determined.

Few Congressmen have had the time or inclination to master the complexities of the Watergate evidence. So the sitting of evidence in the committee room will go a long way toward deciding how the full House will vote on a bill of impeachment, and that bill will control the unfolding of events before the 100-man Senate jury.

The committee is the least cumbersome body involved in the impeachment process. Hence, it is the last, best hope for rectifying the glaring defects of the Senate Watergate hearings. It can ask the many questions that should have been but were not put to John Dean and the others last summer, and it will have new questions derived from the tapes and grand jury report it received.

But now, with the impeachment

wheels turning, all questioning takes place in an adversary atmosphere, which makes cross-examination by St. Clair necessary.

Evidence of Mr. Nixon's involvement in the cover-up may be powerful even though largely circumstantial. But it may consist largely of wildly suspicious behavior by Mr. Nixon and his aides, and may include surviving bits of undoctored tapes that can just barely be construed as ambiguous in Mr. Nixon's favor.

The cumulative effect of such evidence can be conclusive against Mr. Nixon but only if St. Clair first has an unfettered crack at discrediting it. Thus, ironically, St. Clair's vigorous participation in the committee process is necessary for testing the strength of the evidence against Mr. Nixon.

St. Clair resembles a cross between a beaver and an owl, with a spot of spider blood in him. Industrious, wise and tricky, he has brought to the defense of Mr. Nixon a flair that is striking, even considering the fact that his predecessors included J. Fred Buzhardt, so he had an easy act to follow.

St. Clair's public spiritedness is obvious, as is his duty to be aggressive on his client's behalf. So have some compassion for St. Clair, the professional. We may assume that he wants justice to be done. If it is, his client won't be grateful.