

Impeachment Study Is Slated to Resume Amid Delays Favorable to the President

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WASHINGTON — The impeachment inquiry lumbers ahead this week along a road mined with delays.

The delays, which can only help President Nixon's chances for staying in office, are these:

—The House Judiciary Committee may give in to pressure from Mr. Nixon, some of its members and the press to open its hearings, possibly transforming them from a tidy monologue by chief counsel John Doar into a messy televised circus.

—The Supreme Court may refuse to short cut judicial review of the President's refusal to surrender 64 taped conversations that Special Prosecutor Leon Jaworski says he needs to try seven of Mr. Nixon's former aides indicted for obstructing justice after the Watergate break-in. If the high court won't hear the tapes case now, Mr. Jaworski says, the cover-up trial will be delayed a year.

—Five former Nixon aides are likely to appeal a court ruling that national security didn't justify their breaking into the offices of Daniel Ellsberg's psychiatrist without a warrant. Such an appeal could delay the start of their trial, scheduled to begin next month, and deny the Judiciary Committee help in deciding whether Mr. Nixon ordered the burglary.

—The White House has agreed to talk to the committee about giving it the Internal Revenue Service's study of Mr. Nixon's taxes. Negotiations over this evidence will further delay the panel's already lagging inquiry into whether Mr. Nixon committed tax fraud.

Effect on Public

While these are the most likely sources of delay, others exist as well, casting a large question mark over Chairman Peter Rodino's goal of reporting to the House on impeachment by mid-July. And as the summer wears on, the public will begin to feel "growing contempt for the committee's inability to report," warns Rep. Robert Kastemeier (D., Wis.). "Time is not with the committee, it's with the President," he adds.

Late this week, the committee will try to decide how to respond to Mr. Nixon's refusal to comply with one subpoena for 11 taped conversations bearing on the Watergate break-in and cover-up and another subpoena for his daily appointments calendar during crucial periods before and after the break-in. Some of the committee's most liberal Democrats want the panel to ask the

House to find the President in contempt now, in the hope that a public debate on Mr. Nixon's defiance would increase public pressure for impeachment.

"If people knew what we know," declares Rep. John Conyers (D., Mich.), "the temperature would be up several degrees."

Some Republicans, on the other hand, want the committee to ask the courts to rule on whether the President must comply with its demands for evidence. A full-scale debate on contempt or an appeal to the courts could sidetrack the impeachment inquiry for weeks.

A Second Letter

Thus, a majority of the committee probably will vote to send the President the same sort of "you're-not-in-compliance" letter that it sent when he answered the panel's first demand for tapes with about 1,300 pages of edited transcripts. Only one Republican voted for that letter. The number of Republicans who vote for a second letter will be a sign of how firmly Mr. Nixon's GOP support is holding in the committee and in the House.

Mr. Nixon's strategy toward the Judiciary Committee can be summed up in three words: delay, divide and discredit. Any partisan scrap over how to respond to the President's defiance of subpoenas divides the committee and makes it look bad.

The cause of delay could be served if the committee decides to let the networks turn on the expensive cameras they've installed in the committee's meeting room. The networks want a spectacle, and the liberal Democrats want to bring the public in on the impeachment act.

Meanwhile, Mr. Nixon's lawyer, James St. Clair, is arguing that leaks from the closed hearings are all one-sided against his client.

Behind closed doors, the panel's 38 members have been content to sit quietly and let counsel Doar lay out the case. Under the TV lights, some of this politicians will try to get a word in edgewise, if only to show they're awake. Democrats may want to express moral outrage at something Mr. Nixon did or said. Republicans may feel constrained to defend him.

A Media Event

"The committee has had time, in isolation, to come to some objective conclusions," says a Rodino aide. "Add TV and the American people, and it becomes a media event."

Chairman Rodino this week will ask his colleagues for permission to make public most of Mr. Doar's presentation to date,

which could provide the basis for a compromise on the issue of open or closed hearings. Rep. John Seiberling (D., Ohio) says he'd like to keep the hearings closed but release Mr. Doar's presentation as he makes it.

Another reason for keeping the doors closed at this stage is to avoid publicizing grand jury material that might prejudice the trial of the seven former Nixon aides charged with covering up the Watergate break-in. The Judiciary Committee likes to consider itself the guardian of the rights of the accused.

What's more, some members fear, if the Watergate defendants can get their case thrown out because of adverse pretrial publicity, they won't be pressured to avoid jail by telling all they know about any involvement by their old boss in the cover-up.

Similarly, delaying the cover-up trial past its scheduled September start probably would mean that any new revelations from that quarter would come too late to be useful to the impeachment inquiry. That may be one reason why Mr. Jaworski has asked the Supreme Court to take immediate jurisdiction of Mr. Nixon's refusal to yield the 64 taped conversations.

Avenue of Appeal

The district court has ordered the President to hand over the tapes, and the next step normally would be for the court of appeals to review the lower court's decision. But an appeals court review would delay Supreme Court review until next fall, putting off the cover-up trial "until the spring of 1975," according to Mr. Jaworski.

Meanwhile, the Judiciary Committee has been waiting patiently for the start of another trial, that of the five White House "plumbers" accused of denying Daniel Ellsberg's psychiatrist his Fourth Amendment right against "unreasonable searches and seizures." District Judge Gerhard Gesell has ruled that the defendants can't hide behind the argument that they burglarized in the hope of plugging a national security leak. But the defendants are likely to appeal.

Even if they don't, the plumbers' trial could be thrown out because Mr. Nixon refuses to provide evidence that the defendants say would prove their claim that he gave them the authority to approve national-security break-ins. Some committee members believe that the President has a "sweetheart" deal with his indicted former aides: They ask for evidence that could get them off, and he refuses to provide it, thereby forcing an end to their trial and removing the danger that they might incriminate him.

The President "is continuing the cover-up" by withholding this evidence, declares Rep. Conyers. And even Judge Gesell warned Mr. St. Clair that Mr. Nixon "is acting deliberately . . . (in) aborting this trial." He wants Mr. St. Clair to pass that message to Mr. Nixon and report back this week.

If this is Mr. Nixon's game, it carries a high-risk. The Judiciary Committee may decide to add deliberate abortion of the plumbers' trial to any articles of impeachment it might adopt.

"If the judge says he's got to see those files and the President refuses," says Rep. Seiberling, "I'd certainly consider that possible grounds for impeachment."