

For months now—or has it been years?—President Nixon has been telling us that he has been withholding evidence, defying subpoenas and inviting confrontations in the courts for the sake of protecting the Presidency. He has been acting, he regularly tells us, not for his own sake but for the preservation of the executive privileges, stability and authority of the office he will turn over to future Presidents. These are admirable objectives—or would be if they were not being debased by the purposes to which Mr. Nixon has put them. For one must ask a few questions. Authority to do what? To manipulate and misuse the police and regulatory powers of government? Stability in what sense and at what price? Is stability synonymous with merely continuing in office, no matter what crimes or improprieties or abuses of office may be committed in the President's name and with his authority? Privileges such as confidentiality to protect what? To protect executive office conversations where criminal activity is seriously contemplated?

The point is this: the presidency that Mr. Nixon has by his own acts created will in fact establish standards for the conduct of the office by future Presidents. And this is something the House Judiciary Committee needs to keep firmly in mind as it proceeds with the impeachment proceedings. For in a particular sense Richard Nixon is right. It is much less the fate of Mr. Nixon that is at stake than the character of the American presidency. Thus a vote against impeachment—a vote in effect to do nothing—will say something of enduring significance about what is tolerable and acceptable behavior on the part of future Presidents. And it will not be enough to rest such a vote on some narrow legalistic point, as one might in a different kind of proceeding. On the contrary, given the body of public knowledge now generally available, and given the implications of that knowledge, it will surely be required of any self-respecting congressman that he explain how he squares the conduct of the Nixon presidency with the minimum expectations of the public concerning the office.

We raise this matter, which you would think was self-evident, only because it does not appear to be all that

obvious to some members of Congress. Understandably, but regrettably, there seems to be a mad search on for some way to avoid the burden of judgment, a futile hope that some particular piece of paper or shred of evidence or fragment of a transcript will materialize to resolve the issue for the legislators. This forlorn wish is analogous to a feeling existing outside the Congress that the next "horror", whatever it may be, will dissolve all further grounds for doubt and bring the tawdry affair to an end. In both cases, what we have is a flight from judgment, an abdication of responsibility.

Now what does this mean for the Judiciary Committee in practical terms? It means, first of all, that the Committee members should take charge of the impeachment process and refuse to let the President define their duties and their rights. While continuing to seek the evidentiary material they have requested, they should also acknowledge the implications of the President's refusal to surrender it voluntarily. And on the basis of this, they should further acknowledge that the material they have in hand relating to specific incidents, while perhaps not adequate for a criminal trial, is not being used in a criminal trial. Their obligation is not to prove beyond a reasonable doubt that the President has committed crimes; rather it is to decide whether the information at their disposal does or does not constitute reasonable grounds for returning a bill of impeachment on which the full House will have an opportunity to vote. Even this would be no more than the equivalent of an indictment—the formal presentation of charges which the Senate would then be obliged to resolve.

If the Judiciary Committee lets itself get bogged down in disputes over the meaning of one piece of evidence, as if it were a trial jury, or if various of its members seek to buy time by endlessly pursuing an air-tight, politically risk free case, they will be abdicating responsibility. What is wanted is an act of will and judgment. It cannot be avoided because a failure to act would in itself be a judgment by default. And it would be a judgment not just upon the Nixon presidency but upon the standards this nation sets for future Presidents.