

Secrecy Led To Leaks at Rodino Unit

By Richard L. Lyons
Washington Post Staff Writer

The selective leaks from the House Judiciary Committee's impeachment inquiry are the inevitable result of the secrecy that has made full and fair news coverage of the momentous event impossible.

The investigation into whether President Nixon should be impeached and removed from office has moved along now for six months in secrecy. The ra-

News Analysis

tionale was that the committee is functioning as a grand jury and should examine evidence in closed session to prevent injury to innocent third parties and avoid prejudice of Watergate trials. This point has been impressed on the committee by one of the Watergate trial judges, Gerhard Gessell.

There wasn't a single leak during the four months and more that special counsel John Doar's staff of more than 100 assembled evidence for the committee to consider.

But once the 38 partisan politicians who comprise the Judiciary Committee sat down in their locked room six weeks ago to examine the evidence, they began to talk about it. Or some of them did. The more responsible members, those who might have given a balanced account, abided by the committee's rule of confidentiality and kept quiet.

Reporters were forced to take what they could get from as many members they could talk to, never sure which was the distorted account and pass it on as differing views. What the nation has learned of the second presidential impeachment inquiry in the nation's history has thus been filtered through the partisan eyes and ears of politicians who often hear and see only what they want to.

Bits of the staff presentation trickled out in leaks the White House denounced as calculated efforts to destroy the President.

Last week when the President's counsel, James D. St. Clair, gave his response behind closed doors, his entire defense of the President in the key Watergate cover-up issue was given to the Washington Star-News. This was

admittedly a one-sided presentation, omitting many facts, presumably because the committee staff had already presented them—in secret.

The White House had nothing to say about this, but turned instead to denounce Chairman Peter W. Rodino Jr. (D-N.J.) for offering the guess during a chat with three newsmen that all 21 committee Democrats would end up voting to recommend impeachment.

The grand jury with its aura of secrecy and sanctity is inexact at best. Grand jurors are citizens drawn from a community by lot, not elected politicians.

An impeachment is not a judicial proceeding, but a political one. The framers of the Constitution went to great lengths to insulate the courts from political pressures. But they threw impeachment right into the middle of the political process.

Under the Constitution, the House has "sole" jurisdiction over impeachment.

The House Judiciary Committee is so jealous of this prerogative it won't even ask the courts to help enforce its subpoenas against Mr. Nixon. If a majority of the House votes to impeach and two-thirds of the Senate votes to convict, the President would be removed from office. Most scholars believe the Constitution forbids any court review of the congressional decision. The only non-congressional role is played by the Chief Justice of the United States who presides over the Senate trial of a President.

There is no way that 38 politicians, responsible only to their constituents and holding strong views for or against the President, can be forced to keep quiet. The only way to prevent selective leaks would be to let the public in to see for itself what the evidence is.

Several committee members have contended from the start that the evidentiary hearings should be open so that the nation would have confidence in the committee's final decision. Much of the justification for secrecy disappeared when Mr. Nixon released his edited transcripts of the White House tapes, which showed him and his top aides sitting around talking about who was involved in the Watergate cover-up.

At the beginning, Chairman Rodino, indicated that only the Watergate phase of the inquiry, which included grand jury testimony, would be conducted in closed session. As it turned out, the entire six-week staff presentation covering more than a dozen other allegations has been closed.

One reason had nothing to do with the grand jury rationale. For most of this time, committee members have been sitting silent while Doar and staff presented the evidence. Politicians don't like to be seen learning like school children.

From all accounts, Doar was so intent on being objective and non-partisan that he never attempted to put the evidence in perspective, never suggested that a certain point was more important than another.

As a result, some members who weren't familiar with the complicated Watergate story were unable to grasp the significance of all they were hearing. This undoubtedly accounted for the fact that one member occasionally emerged to report a sensational bit of evidence which another said he hadn't heard.

This was the reason several Democratic members asked a member of the regular Judiciary Committee staff, William P. Dixon, to prepare a series of memoranda putting parts of the Watergate story in perspective.

Dixon's thirteen memos pointed out numerous significant differences between the edited White House transcripts and those transcribed from the same tapes by the committee's impeachment staff. The memos began leaking, and the White House jumped on this as an attempt by anti-Nixon members to destroy the President.

Dixon worked for Sen. George McGovern in his attempt to remove Mr. Nixon from office in 1972.