

The Emerging Impeachment Scenario

Whistling in the dark, or Wish-Is-Fa-
ther-to-the-Thought Department:
The impeachment movement is losing
momentum.

The House Judiciary Committee has
lost its standing because of "leaks" and
internal partisan conflicts.

The President's trips to Moscow and the
Middle East have restored his prestige.
Sentiment against removing Mr. Nixon
from office is gaining ground.

If people believed everything they
read and heard, they might well be
persuaded that the above reflected
what is really going on. In truth, how-
ever, it is a far cry from reality, for
now at last it is possible to see the
emerging impeachment scenario.

In a few days (July 8), the Supreme
Court will hold oral hearings on the
question of whether Mr. Nixon must
yield up scores of White House tapes
which both special prosecutor Leon Ja-
worski and the House impeachment
committee want, but which the Presi-
dent has refused to relinquish on the
grounds of so-called executive privi-
lege.

The general expectation is that the
high court, acting expeditiously, will
hand down a decision before the end
of July. And, in the opinion of almost
all disinterested constitutional authori-
ties, the court will rule against the
President—perhaps unanimously, even
though four of the justices are Nixon
appointees.

Thus, within a month or less, Mr.
Nixon will seemingly have to turn
over the explosive tapes to the investi-
gators or openly defy the highest court
in the land on the question of whether
he is above the law or not.

*"Sly circumvention of the court would in the
long run be almost as repugnant to the public as
open contempt, but the reaction would not be
as swift."*

If the tapes are as damaging as they
are reputed to be, their relinquishment
would mean certain impeachment. If,
on the other hand, the President ref-
uses to obey the court, such judicial
contempt would also mean inevitable
impeachment, as Republican leaders
have already warned Mr. Nixon.

When dealing with a politician as re-
sourceful as Mr. Nixon, however,
things are never quite that neat. Time
and again he has shown a capacity to
worm out of the tightest corners, so he
could very well find a way to circum-
vent the Supreme Court by appearing
to obey it without in fact actually do-
ing so.

That's how he got around U.S. Dis-
trict Judge John J. Sirica last October.
When the jurist ordered the President
to turn over a batch of tapes de-
manded by Archibald Cox, then the
special prosecutor, Mr. Nixon first re-
fused, but when the firing of Cox
aroused national indignation, he stilled
the storm by saying he would comply
with Sirica's order.

Later, however, the White House re-
ported that a couple of the tapes had
been lost, another supposedly had
never been recorded, and still another

had an 18-minute gap where a crucial
conversation had been erased. Natu-
rally, this aroused suspicion and did
not help Mr. Nixon's credibility with
the public. Nevertheless, it was compli-
ance after a fashion. The free-wheeling
with the tapes might be deemed ob-
struction of justice by some, but the
court did not construe it as defiance
and contempt. In short, the White
House got away with it judicially, even
though it suffered in the court of pub-
lic opinion.

Thus, if the Supreme Court orders
Mr. Nixon to turn over another batch
of tapes to Jaworski, what is to pre-
vent the President from again resort-
ing to the Sirica strategy? That is,
avoid contempt by going through the
motions of complying.

That would mean giving up the more
or less innocuous tapes (no doubt the
great majority) while losing, mislaying,
altering or erasing the really damag-
ing ones. Again there would likely be a
violent public reaction, but that would
not be as bad for Mr. Nixon as surren-
dering the tapes or flatly defying the
Supreme Court.

As Mr. Nixon knows, even his most
dedicated supporters on Capitol Hill

cannot afford to back him if he puts
himself above and beyond the Su-
preme Court, but some might go along
with him if he puts on a show of com-
pliance, no matter how phony.

Such a course would also assure fur-
ther delays and make it more difficult
for the House Judiciary Committee to
draw up its articles of impeachment.
As matters stand now, the committee
is expected to vote on the impeach-
ment bill before the end of July. If by
that time the Supreme Court had
ruled against Mr. Nixon, and he had
spurned the decision, the House com-
mittee would have no problem at all
voting for impeachment. But what if
Mr. Nixon says he will comply, even if
later on the compliance is less than
complete?

That is where the scenario becomes
cloudy. It is logical to assume that sly
circumvention of the court would in
the long run be almost as repugnant to
the public as open contempt, but the
reaction would not be as swift or as
certain as in the case of raw defiance.

Mr. Nixon and his lawyers have al-
ready shown themselves to be masters
of evasion and endless delay, so it is a
good bet that he will find some way of
rolling with an adverse Supreme Court
decision and, for a while at least,
blunting its effect. It's an equally good
bet, though, that the President will ul-
timately and inexorably be brought to
bay.

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*William Raspberry is on vaca-
tion. His column will resume on
his return.*