

If You Were Worried...

By William Safire

ESSAY

WASHINGTON—If you were worried about the outcome of the Supreme Court's deliberations about your case; if survival in office were your goal; and if you had a good instinct for the manipulation of the media—what would you do to get ready to turn a lemon into lemonade?

First, you would tell your press spokesmen to start playing a game called "rule-out roulette"—refusing to rule out the possibility of your defying the Supreme Court, pointedly declining to reiterate assurances given last year that you would abide by a "definitive" decision of the High Court.

Second, you would direct your lawyer to nourish speculation about the possibility of your defiance by declining to tell the justices you are seeking a Supreme Court "decision," saying only you wanted their "guidance and judgment"—which you could, if you wished, ignore.

Third, you would pass the word to every member of your official family not to give any off-the-record or deep-background hints to anyone that you might accede to the Court's demands, thereby fueling the rumors that it was your plan to defy the court and go down with separation-of-power flags flying.

Now why on earth would you want the jungle drums beating out that message of likely defiance if you were worried about the outcome of the case? Wouldn't that be getting people angry in advance?

Of course. Editorial writers would gobble up the bait, direly warning that if you dare to defy the Court, that in itself would be an impeachable offense. They would focus attention where you want it—not on the Court's coming decision, but beyond—on your reaction to the Court's decision.

In this way, you would subtly shift the focus of public concern away from "which way will the Court decide?" to "what will the President do if the Court decides against him?" You would thus regain some command of the situation.

Meanwhile, the torrents of abuse that are heaped upon you in the leaks and voluminous reports of Congressional committees are vitiated by the imminence of the Court decision and your reaction to it. Congressional-Presidential confrontation is old news; the possibility of a clash between judicial and executive branches is fresh news.

What happens when the Court decides? If the decision surprises everyone and is favorable to you, or at least not unfavorable, well and good; if the decision directs you to turn over the additional tapes, then the suspense you have built up would begin to pay off. The decision would not stand alone, a powerful support for

the forces of impeachment; it would stand as the prelude to your own decision, as all eyes turn to you.

If you defy, you would deserve to be impeached, most people would say, not realizing the obverse of their judgment: *That if you do not defy, you would deserve not to be impeached.* Public opinion would be perfectly set up for your next move.

Assuming that there is no blood-stained dagger with Presidential fingerprints on it in the tapes now being demanded—assuming that they contain more of those damaging but inconclusive statements to which the public is now inured—you would announce a prime-time telecast of your response, the suspense about which you have carefully built up with the unwitting help of your most vitriolic critics.

"My fellow Americans," you would begin, "as the careers of those great dissenters, Oliver Wendell Holmes and Louis Brandeis, have shown, the majority of the Supreme Court, is not always right. I believe that future generations, in the perspective of history, will come to agree with the eloquent dissent of Justice Soandso—" (Quote here from one dissent to the decision against you, if there is one).

Then you would relieve the suspense which you have manufactured with a gracious, even pious, acknowledgement of the supremacy of the Supreme Court in disputes between other branches and even within one branch. In so doing you may weaken the Presidency, but not so much as if you were to make a successful impeachment possible.

"I am a man of the law," you would assert bravely. "I accept the decision of the Supreme Court. I will make these tape transcripts public, along with 126 additional conversations that may be of interest. Let us see if this satisfies the Special Prosecutor and the Judiciary Committee—or if, as I suspect, they keep coming back for more in their strategy of 'delay, defame, destroy' . . ."

Public reaction would switch from a brief, stern "He'd better not defy the court" to a relieved "the President did the right thing, and if these tapes don't prove him guilty beyond a reasonable doubt, then the impeachment crowd has no right to keep harassing him."

And so you would have made lemonade out of an especially sour lemon. It would not be like winning a victory, but it would avert disaster, and there is some satisfaction in using your media opposition as a tool in building the suspense for your riposte.

That would be my plan, if I were worried. What would you do, if you were worried?