



Passing the Buck To Supreme Court

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IF THE SUPREME COURT sustains the President's claim that he does not have to turn over subpoenaed matter to the special prosecutor, then Mr. Nixon may well be home from Watergate scot-free. If, as seems much more likely, the court rules against Mr. Nixon, the impeachment is still on track.

So the Supreme Court has, in practice, become the whole ball game. For many reasons, nobody can be comfortable about that.

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THE IMPEACHMENT process should engage the broadest political issues in the nation. Legitimacy itself, the right relation of the governed to those who rule, is at stake.

But the Supreme Court is a narrow body. Its membership is tiny. It is drawn from a particular, not to say peculiar, profession. It likes to settle issues on small points of law.

Leaving the impeachment issue up to the Supreme Court is to put too much up for decision by an atypical group apt to reach its verdicts by a reasoning process remote from the thinking of most citizens.

The whole Congress had tended to approach the impeachment issue defensively. Democratic leaders have felt a primary obligation to show that they were not acting in a partisan fashion. As a result they have organized an impeachment inquiry impartial to the point of being almost directionless.

The directionless inquiry prepared a void that has now been filled by the worst kind of partnership.

When it finally came to asserting its

supreme right to manage the impeachment, the Congress was nowhere. In effect, the committee abdicated its job to the Supreme Court.

If the Congress failed to live up to its responsibility, those of us in television and the press did not do much better. Except in rare cases, the impeachment proceeding was not presented to the nation as the unfolding of a significant democratic institution.

On the contrary, because they had opened up the Watergate inquiry, investigative reporters who are normally held in check when fundamental institutions are at stake were given their head in the impeachment coverage. Journalistically, the impeachment procedure became a cocky competition for juicy items.

Leaks came into their own, with the usual result that important developments were often overlooked. The public, while not any more prone to support the President, came to have a jerky and confused impression of what was actually happening. Thus there was nourished an overwhelming disposition to have done with the whole thing—a feeling that further promotes a willingness to leave the issue to the Supreme Court.

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THE SUPREME COURT has emerged as the national arbiter largely because other institutions have not risen to the challenge of impeachment. Dependence on the court shows how much Watergate has been a tragedy for all of us. Mr. Nixon and his men have not only disgraced the presidency by their behavior; they have dragged down the Congress and the press.