

OCT 17 1974

Letters to the Editor

Watergate: To Study the Broader Problems

To the Editor:

Your editorial prescription for tying up the loose ends of Watergate-related matters (Oct. 5) seems inadequately considered. You endorse the Mondale-Brooke proposal to authorize the Special Prosecutor to report on "Mr. Nixon's role in Watergate." You then find that proposal "far superior to others which call for convening a major national commission"; a prosecutor's study, you say, would make "any new commission redundant."

I agree that a full prosecutor's report should be authorized. But your assumption that such a report would make a commission study unnecessary rests on a flawed perception: It overlooks the fact that a commission inquiry could be of far broader scope than the special prosecutor's investigation.

The Watergate cover-up is only a small, albeit the most dramatic, part of the nation's concerns about abuses of Presidential power. A prosecutor's report would indeed be the proper vehicle to air the undisclosed remnants of the cover-up story. But adequate exploration of the broader problems of Presidential abuse may well require a body with a broader charge—a body such as a national commission.

To confuse a narrowly focused prosecutor's study with a broader commission inquiry is akin to a failure to perceive the significant differences between the first and second Articles of Impeachment. You will recall that Article I, the obstruction of justice charge, dealt with the cover-up. Article II, by contrast, had a far broader abuse-of-power focus. The Nixon resignation came in the wake of new evidence to support Article I. That resignation thwarted further consideration of the Article II charges. Yet those broader charges raised the most serious problems for the future and warrant the most careful thought about the proper standards for Presidential behavior.

A prosecutor's report would probably focus on criminal behavior. But as the impeachment proceedings made clear, Presidential misbehavior is not a concept synonymous with criminality. A prosecutor's inquiry would assure fuller exploration of the relatively narrow issues raised by Article I. But without more, the broader questions symbolized by Article II may remain unexplored.

GERALD GUNTHER

Stanford, Calif., Oct. 7, 1974
The writer is professor of constitutional law at Stanford University Law School.

ways is most assuredly not the way to do that.

It will be easier to repeal the archaic and obsolete Highway Trust Act than to pass a 5 per cent surtax law. The Highway Trust has long since outlived its usefulness to the people of the United States.

JOHN S. HUGHES

Franklin Lakes, N. J., Oct. 9, 1974

A Jury of Non-Peers

To the Editor:

I have no sympathy with Ehrlichman, Haldeman, et al. but wonder if, seen from the perspective of history, their trial will be considered fair.

Americans are entitled to trial by a jury of their peers, or equals. While people have equal rights under the law, they are not equal by any standard of measurement, whether wisdom, income or blood pressure. Trying men accused of complex white-collar crimes by a jury of doormen and variety-story salesgirls seems as illogical as trying an Arizona water-use case by a jury of New England fishermen. Surely the "peer" requirement is intended to insure that the jury is composed of people who can best understand the nature of the crime: people of the same social-economic class as the accused.

TOM ADAMS

New York, Oct. 12, 1974