

# The Agnew Case

For several weeks, speculation and rumors concerning possible criminal charges have swirled around Vice President Agnew. He has held one full-scale press conference, and also issued a brief supplementary statement, denying these charges. The Justice Department now seems to be moving toward decisive action in the investigation.

There appears, however, to be legal uncertainty whether the Constitution prevents a grand jury from indicting Mr. Agnew—assuming the evidence warrants any such action—so long as he holds the office of Vice President. The only proper procedure, it has been argued, is to submit the evidence to the House of Representatives for possible impeachment. Under this theory, only if and when he is impeached and removed from office would he be subject to the normal penalties of the law.

The impeachment section of the Constitution seems, however, to be almost a dead letter, in the viewpoint of many legislators. Whether the House of Representatives would act even in the case of overwhelming evidence against a President is uncertain, but so far as the Vice President and judges are concerned, impeachment appears to be honored only in the breach. The House is politically unwilling and institutionally unprepared to act as a grand jury and draw up a bill of impeachment. The Senate is equally reluctant and unorganized to act as a trial jury and render a verdict.

It is nearly forty years since the House Judiciary Committee brought an impeachment against a Federal judge. The respected manager of the case for the House was so disgusted at that time by the indifference and poor attendance of the members of the Senate that he vowed never again to participate in such a farce. His vow proved prophetic. Since that time, members of the judiciary accused of wrongdoing have been tried in the courts like other citizens. That is true, for example, of Circuit Court Judge Otto Kerner who is now appealing his conviction.

If there are any criminal charges to be made against Vice President Agnew, they should be made to a grand jury and, if an indictment is justified, it should be returned and acted upon in a court of law. Mr. Agnew could then decide whether he wished to press the procedural issue. If he did, only the Supreme Court could then determine whether the Constitution required a prior impeachment before he would be subject to a normal trial. In the event that he elected to pursue this line of defense, Mr. Agnew would have to weigh conscientiously whether he could serve as a stand-by President during the months prior to the Supreme Court's decision on the constitutional issue, while unproved and unresolved charges still hung over his head.