

Hanging On, By Hook Or Crook

By Tom Wicker

WASHINGTON, Feb. 28—As the Watergate drama began to unfold, Philip Roth published a hilarious satire on a Presidential speech, in which Richard Nixon declined to be impeached because of the "separation of powers." After Mr. Nixon's latest news conference, Mr. Roth's inspiration does not seem so funny.

The transcript of that news conference can hardly be read in any other way than as a proclamation of Mr. Nixon's intent to stay in office, come what may, at whatever cost. From the moment his difficulties deepened into crisis, he has insisted that he will not resign under any circumstances; at his news conference he repeated all those pledges and added specifically that he would not resign even if he knew that his presence in office would mean disaster for the Republican party in the November elections.

Mr. Nixon was casting himself as "above politics" and determined to do the job he was elected to do, but the experienced politicians on Capitol Hill knew that he was saying, in effect, to every Republican member of the House, "to hell with your problems." Yet, these are the men who probably will cast the most important votes on Mr. Nixon's impeachment.

This was one more demonstration of the Nixon strategy of clinging to office. The demise of Operation Candor apparently signaled the last attempt to win back public confidence and Congressional standing. Some astute criminal lawyers believe the famous eighteen-minute gap on a crucial tape recording necessarily represented a decision to "beat the rap" by any means, rather than a further effort to establish innocence. The news conference remarks about his own party hardly disclose a man still hoping to restore the political leadership and allegiances of other days.

Mr. Nixon already has established one essential part of his strategy—

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delay and obfuscation. Even in dealing with the House's constitutional function of an impeachment inquiry, he is claiming privilege, national security, the necessity to protect his office—for all the world like a character in a Philip Roth satire. While he can hardly hope to stall off an impeachment vote entirely, delay enables Mr. Nixon to "play for the breaks," to raise confus-

ing constitutional questions, to hamper the investigation, possibly to mount counterattacks on some vulnerable members of Congress. While he delays, he is not impeached.

Mr. Nixon may have disclosed another line of defense when he insisted, against the views of most constitutional authorities, that a President could be impeached only for a criminal offense; if anything, his lawyer's statement has strengthened that position. If the House Judiciary Committee, as seems likely, takes the opposite view, the ground may be laid for Mr. Nixon to challenge the constitutionality of a House resolution and vote to impeach him. How such a challenge would be settled & in what forum and by what means, is not clear. It certainly would cause more delay and confusion and might well affect the outcome of an impeachment vote or of a trial in the Senate.

Enough delay might even nullify any impeachment. If Mr. Nixon were impeached by the House this year but the Senate, for some reason, failed to act before this Congress adjourns, the House action might be no longer valid. That is another constitutional question for which there is no certain answer; nor is it clear whether a new House would impeach Mr. Nixon all over again on the basis of what the old House had done, or whether new charges would have to be developed.

Even at the point where Mr. Nixon might have been impeached or convicted, there could be opportunity for further delay through some form of judicial appeal. The House Judiciary Committee staff has taken the position that there is no judicial review of an impeachment proceeding, but some constitutional authorities think otherwise. Even if the House and Senate took the position that impeachment is a political matter solely within their province, and not susceptible to court review, if Mr. Nixon could make a plausible case that he had been deprived of what might have been his rights in a courtroom, difficult questions again would be raised about the proceeding.

Or suppose—just for a final Roth-ian touch—that Mr. Nixon, proclaiming a variety of constitutional objections, refused to yield his office even though convicted and removed by the Senate. Forcibly evicting a President is at best a distasteful matter; he might well cast a cloud over the legality of his successor's actions; and the conceivable consequences in national politics and foreign affairs are grim.

Merely to raise these possibilities, of course, is to raise the ultimate question: How much will the American people stand for? Even at that, Mr. Nixon may calculate that the point will come, if he can hang on long enough, when they will wish the whole exhausting matter would just go away.