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Probers Seek Middle Path On St. Clair

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The House Judiciary Committee is seeking a middle path past the unpleasant alternatives of appearing unfair or letting the President's lawyer share control of its impeachment inquiry.

The problem arose last week when President Nixon's counsel, James D. St. Clair, asked permission to cross-examine and present his own witnesses at committee hearings or at pre-hearing sessions where the staff takes sworn testimony.

This is a standard part of due process in court trials. But committee Chairman Peter W. Rodino (D-N.J.), insisted that the investigation is not an adversary proceeding like the court trial of a person accused, but an inquiry searching for truth. It is generally likened to a grand jury inquiry, where lawyers for those under investigation are not permitted to take part. If Mr. Nixon is impeached by the House, his trial would take place in the Senate.

Republicans solidly defended St. Clair's request to take part, and felt they could win public opinion on this issue of fairness, even if they could not on the White House's resistance to committee requests for tapes for its inquiry.

Rep. Jack Brooks (D-Tex.), one of the bluntest of committee members, said St. Clair shouldn't be permitted "to sit there putting the evil eye on witnesses, divulging what goes on and delaying proceedings. He hasn't been very helpful so far."

But there is a widespread feeling among members that the committee must not only be fair, but give the appearance to the country of being fair in its deliberations as to whether for the

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him in...
The comparison to a grand jury is inexact because these bodies are chosen from all citizens by lot and operate in strict secrecy.

crecy.

Rodino appears in no rush to force a decision on the issue and apparently will let it simmer until next week to see if an acceptable middle ground can be found. The committee staff is preparing a legal brief on the issue.

One proposal suggested in cloakrooms is to let St. Clair cross-examine and present witnesses in the later stages when the staff presents its evidence to the committee. He would not take part in the preliminary stages where the staff takes depositions sworn statements from witnesses that might be presented at committee hearings.

Rep. Charles Wiggins (R-Calif.) called this unfair, saying St. Clair could not cross-examine a statement.

Another proposal is for the staff to take no depositions but rest its case on tapes and documents. That would eliminate the issue of permitting St. Clair to take part in depositions.

Brooks suggested that St. Clair be permitted to send up a statement and suggest

witnesses that the committee or its staff might call out he would not give St. Clair equal standing with the committee staff as a participant.

A sample of the President's most outspoken critics suggested that St. Clair might be given access to the committee if the President in return turned over 42 tapes the committee had requested. But committee elders rejected a "deal."

Republicans do not claim that St. Clair has a legal right to participate, but contend that the privilege has been extended in several im-

been extended in several impeachment cases involving federal judges.

Rep. David W. Dennis (R-Ind.) researched the precedents and sent a letter to committee colleagues saying that the privilege to appear and cross-examine has been "extensively granted, not as a matter of right, but as a matter of essential fairness, and in aid of a complete investigation."

In recent days, Vice President Ford and House Speaker Carl Albert spoke out on opposite sides of the issue.

Ford said in an interview

that he thought the President could win this issue because the American people understand fairness. "While the public may not be with the President when he adamantly refuses a request for documents or reluctantly gives in to one," said Ford, "I think the President is on the right side of this issue."

Albert, interviewed on the Public Broadcasting Service last night, said: "The role of the White House attorney should be very limited . . . because there is no trial here. I have tried to keep the House from making this . . . an adversary operation."

Albert also turned down a request from Rep. John Conyers (D-Mich.) that he seek television time to respond to Mr. Nixon's criticism of the committee for requesting more White House information that he thinks it needs. Albert said he feared this would push the inquiry toward an "adversary confrontation."

Chairman Rodino and Rep. Edward Hutchinson (R-Mich.), the committee's senior Republican, also rejected a proposal by Wiggins that the dispute over the 42 tapes be resolved by having Ford and Albert jointly screen out material not relevant to the inquiry. Rodino and Hutchinson insisted that this was the responsibility of the committee. The suggestion for a neutral third party to screen the tapes was floated two weeks ago as an idea Mr. Nixon was considering.

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first time in history a President should be removed from office.

Public confidence in the committee's proceedings is vital to acceptance of its conclusions. Rep. James Mann (D-S.C.) said "legal purists" might say "Keep St. Clair out," but the need to be fair might require letting