

Mr. Nixon's Best Hope

An overwhelming majority of the 17 Republicans on the House Judiciary Committee have within the last three weeks become covert Nixon advocates, rekindling President Nixon's hope to avoid impeachment by the House.

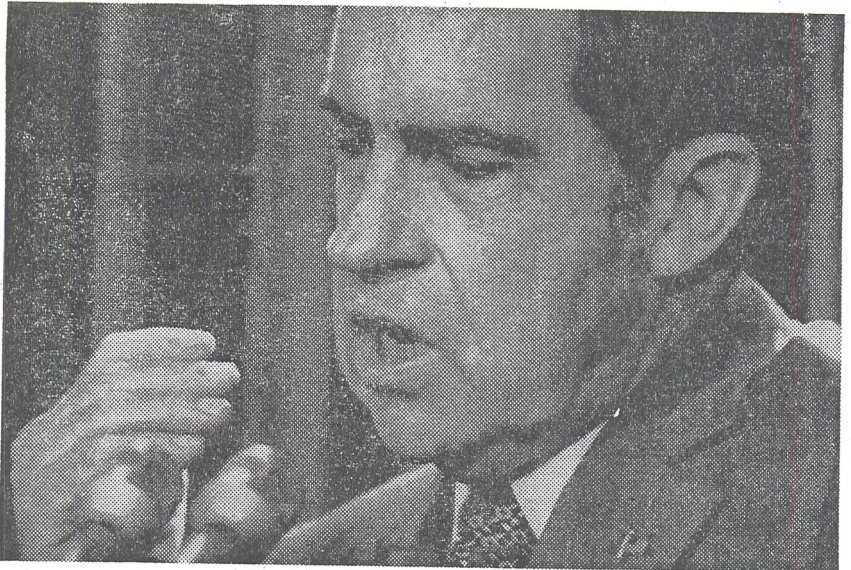
The Judiciary Committee Republicans, after months of procrastination between defending and castigating the President, have now come down hard on his side following the White House transcripts furor. They no longer complain about his defiance of committee subpoenas. Rather, they now discuss impeachment among themselves in starkly partisan terms. In the absence of incontrovertible evidence of criminal activity by the President ("finding the murder weapon," in committee jargon), they will vote overwhelmingly against impeachment.

That most likely will not deter the committee's 21-member Democratic majority from voting impeachment. But a party-line vote in the committee may close. Republican ranks on the House floor, which in coalition with conservative Southern Democrats could defeat the articles of impeachment. Thus, the House Judiciary Committee has been transformed from President Nixon's deadly threat to his best hope for survival.

The change stems from diverse factors: A perceptible decline in impeachment momentum; unrelenting pressure from Nixonite constituents back home; gradual emergence of House Minority Leader John Rhodes as an overt defender of the President.

Given that background, the committee's Republicans are insisting Mr. Nixon can be impeached only for a criminal offense. What's more, they compare themselves more to a petit jury (required to find him innocent if there is reasonable doubt) rather than a grand jury (empowered to indict for probable cause). Once enraged by presidential defiance of their subpoenas, these Republicans now privately concede Mr. Nixon's right to withhold whatever evidence he wants.

This means Mr. Nixon can absolutely count on 10 of the 17 Republicans. Three others—Robert McClory of Illinois, Henry Smith of New York and Lawrence Hogan of Maryland—can only dim prospects for voting for impeachment. That leaves four Republicans who may well support impeachment: Thomas F. Railsback of Illinois, Hamilton Fish Jr. of New York, William Cohen of Maine and,



most surprisingly, M. Caldwell Butler of Virginia. Just how these seven Republicans vote is a matter of utmost concern at the White House. A 10 to 7 GOP vote against impeachment would be regarded there as disastrous, guaranteeing House impeachment and adding impetus to possible Senate conviction. At the other extreme would be a 16 to 1 vote, with Maine's Cohen in uncomfortable isolation. That partisan freeze would pose hope for Mr. Nixon's victory on the House floor and even possibly prevent impeachment by the committee.

The reason why the actual outcome may prove closer to 16-1 than a 10-7 Republican split derives from closed-door caucuses regularly held by the 17 Republicans. The tone has become increasingly partisan and defensive. Rep. Charles Wiggins of California, a superb lawyer and hard-core Nixonite, has emerged as the committee's dominant Republican.

These caucuses are more and more critical of John Doar, majority counsel for the impeachment proceedings, behind his back, and Albert Jenner, minority impeachment counsel, to his face. Jenner, a brilliantly creative attorney plagued with the inability to still his tongue, is in perpetual danger of being fired by the committee Republicans—purportedly for talking too much but actually for not defending Mr. Nixon.

Among themselves, committee Republicans have deplored the Doar-Jen-

ner decision to interview the victims of last fall's Saturday Night Massacre which triggered the impeachment drive—Archibald Cox and Elliot Richardson. What in the world, these Republicans ask in all seriousness, do Cox and Richardson have to do with impeachment?

In demanding "the murder weapon," the Republicans establish standards far more rigid than those followed by grand juries in issuing indictments for white-collar crime. They follow the White House example in assailing John W. Dean's testimony, dwelling on minor inaccuracies rather than major accuracies.

This creates intense peer group pressure with implacable Rep. Delbert Latta of Ohio whipping the waverers. After Virginia's Butler once tried to help Doar perfect a subpoena for White House tapes, Latta privately upbraided him for, in effect, collaboration with the enemy.

Such pressure resulted in unanimous Republican demands that the committee take testimony from Dean, with cross-examination from Nixon defense lawyer James St. Clair. Those few Republicans on the committee seeking to avoid polarization have implored Chairman Peter Rodino to end his opposition to Dean's appearance, thus avoiding a needless confrontation. But they are too late. Polarization has occurred, to the immense satisfaction of the White House.