

The Committee has the full story of Watergate, insofar as it relates to Presidential knowledge and Presidential actions. Production of these additional conversations would merely prolong the inquiry without yielding significant additional evidence.—President Nixon, in his letter to the House Judiciary Committee, May 22, 1974.

IN THESE WORDS, the President two months ago slammed the door on the House Judiciary Committee's demands for evidence beyond the 1,300 pages of edited transcripts of presidential conversations he had furnished in response to subpoenas for the actual tapes themselves. Having refused to honor the Committee's subpoenas, in other words, he went on to establish a firm policy for the future of not honoring any further subpoenas for tapes or diaries. Since then the Committee has issued a number of other subpoenas for tapes of Presidential conversations—requests for tapes and other material relating to more than 140 presidential conversations are now outstanding—and the President has been true to his word: he has defied them all. For its part, the Committee has not pursued its requests or sought some method of enforcing its subpoenas; it has merely written the President a stiff note saying that his non-compliance is "a grave matter" from which committee members may feel free to draw "adverse inferences." There, for all practical purposes, the action stopped.

We track back over this recent history because it is relevant to what seems to be a developing sentiment among some committee members to delay their proceedings on the chance that the Supreme Court may soon order the production of certain tapes and other material requested by Special Prosecutor Leon Jaworski for his use in the Watergate cover-up trial scheduled to begin this fall. One argument for such delay apparently is that the members feel they might be accused of rushing to judgment without benefit of the "best evidence" that might become available. Another is the apparent thought that some "bombshell" concerning the President's conduct might turn up—and that this would make the decision easier for some members who are honestly undecided as to which way to vote on the mountain of evidence before them. Yet another consideration is that Presidential defiance of the committee's subpoenas has already been put forward as one possible ground for impeachment, and that therefore it would be unfair, in the event of a court ruling in favor of the Special Prosecutor, for the committee to move ahead without giving President Nixon a chance to reconsider his position vis-a-vis the Judiciary Committee. In the past, the President has followed a general policy of making available to the committee any tapes and related material which he has surrendered to the Prosecutor.

For one thing, it should be apparent to everyone by now that were there a body of exculpatory evidence available, the President would have produced it. That he has no compunction about acting on this impulse (however feebly) was demonstrated last Friday when he offered up a fragment of an edited transcript of one tape which the Committee had unsuccessfully subpoenaed in its entirety. For another thing, it is by no means obvious that the Committee would get the material Mr. Jaworski has sought for trial purposes. The Special Prosecutor has based his request on his needs in the trials of White House aides and associates in the cover-up case and he has indicated that he would not automatically pass the material along for use in the quite separate impeachment

proceedings in Congress. This would seem to leave it up to the Judiciary Committee and/or Judge Sirica to make this transaction, and the Committee has so far shied away from involving the judicial branch in its affairs; it was only through the processes of the grand jury that an earlier collection of tapes made their way via Judge Sirica's court to the Judiciary Committee.

So one can understand how some Democrats as well as Republicans on the Committee would see in the pending Supreme Court ruling a welcome reprieve—a way to delay the awesome and agonizing decision that confronts them. One cannot entirely blame them for grasping at any hope of deliverance from their ordeal, for their courage, their respect for the law, their faith in institutions and their responsibilities to their party as well as to their country are all being put to a cruel test.

But they ought not to succumb to so forlorn a hope, nevertheless. And the reasons they ought not to do so lie not only in the fact that the voluminous evidence at hand is more than adequate to their needs. There remains the possibility that Mr. Nixon, following his own policy, would voluntarily surrender to the House committee whatever new tapes or other material he might yield up to the prosecutor under an adverse ruling by the Supreme Court. But would this be sound grounds for delaying the impeachment proceedings? The President's own answer is obviously, No. He has told the Committee more than once that it has "the full story of Watergate." At this point, the Committee is entitled to take him at his word. The Committee is also entitled to take into consideration his record as a purveyor in good faith of documents. For a full year, we have had booby-traps, delays, alterations, unexplained gaps, disappearances and continuing resistance in the courts on a scale which would constitute a prolonged obstruction of justice on its own. So, even if Mr. Nixon, in the wake of a Supreme Court order, were suddenly to decide to make certain material available to the Committee as well as to the prosecutor, there would be, in the first place, a separate record of defiance of the orderly process of investigation that would still have to be dealt with. And, in the second place, there would be no reason to expect the President to abandon a strategy that has worked for so long to his purposes. In search of guidance on this matter, the Committee could do worse than re-read a passage from a letter it received on June 9, 1974 from the President:

Once embarked on a process of continually demanding additional tapes whenever those the Committee already has fail to turn up evidence of guilt, there would be no end unless a line were drawn somewhere by someone. Since it is clear that the Committee will not draw such a line, I have done so.

If the Judiciary Committee now wants to draw a different line, it can always test the President's good faith once again by renewing its request for the documentary evidence it believes so important to its inquiry and which the President has so airily refused to supply. But there is no need for the Committee to pursue this course at the expense of getting on with the business at hand.