

Who Will Speak for America?

By James Reston

In the agonizing crisis at the beginning of the last World War, when Neville Chamberlain was departing as Prime Minister and Winston Churchill was coming forward to take command, a loud cry went out across the House of Commons: "Speak for England!"

We could use a little of this spirit in the impeachment debate in the House of Representatives. The first days of the televised proceedings have been courteous and orderly. On the whole, members have been solemn and dull, and have spoken for themselves, or for or against Richard Nixon, but who will "Speak for America"?

The Supreme Court answered the question. "We will," the Justices said, and by a unanimous vote cut across all the personal and party arguments and defended the Constitution. It is an old American story: There really was no "Roosevelt Court," as F.D.R. discovered when he tried to pack it, and now we know there is no "Nixon Court," for he appointed three of the eight men who voted against him. There is only "The Court" and it reaffirmed the principle that the judicial branch, and not the President, will decide what the law is.

It is interesting and significant that the Court narrowed its decision in order to expand its support on the main point. Sometimes, Robert Frost once said, you have to cut away all the secondary issues and "come out clear and plain as a joke." In a divided country, the Court apparently felt that some institution had to be unanimous on something, and compromised to come down 8-0 on the main thing.

If our information is correct, and it is hard to be sure, there were members of the Court who wanted to be much more precise in defining the limits of the President's authority in keeping diplomatic and military information beyond the reach of the courts; and who also wanted to go further and state that when the President is personally involved in charges of criminal wrongdoing, he has a conflict of interest and cannot be involved in judging what evidence will be made available to the courts and Congress.

In the end, however, the Justices restrained their rhetoric and their reach and settled for a plain judgment on the principle of judicial supremacy in determining the law. The Congress has a harder job, for it has to deal with the imponderables and ambiguities of human behavior, and decide, not only what evidence must be produced, but what it means. But the Court has given them a model.

There was never much doubt that the Court would order delivery of the tapes, and the White House has insisted from the start that the Congress settle this prolonged agony as fast as possible and "get off the President's back." But during the months of debate over the issue, the White House apparently did not transcribe and index the tapes, and now the President's lawyer, James St. Clair, is saying that he will "take whatever measures are necessary to comply with [the Court's] decision in all respects," but that this will now be a "time-consuming process."

This could take weeks and even months and raises all kinds of awkward problems for the Congress. For example, though the hearings in the Judiciary Committee are now going forward on television, the committee is being asked to interrupt its inquiry until the new evidence compelled by the Supreme Court is available.

If it agrees to do so (probably it won't), the whole impeachment process will be sidetracked, and the attention of the country will be diverted by other things, but if it insists on going forward with the articles of impeachment, it will undoubtedly be charged with trying to impeach the President without waiting for the evidence on the tapes the Supreme Court has ordered turned over to Judge Sirica.

This, obviously, can lead to endless debate, and meanwhile an election is coming up in November, which raises other fundamental questions. If there is a long delay in producing the tapes, the fate of the President could be decided after the election by a Congress that has been changed by the votes of the people. Should a lame-duck Congress sit on the impeachment of the President? Or the present Congress insist on settling the issue before it hears the tapes the Supreme Court has released?

This is the tangle of obscurities the men on the Judiciary Committee are going to have to face. They are not really having a debate on the fundamental issues, as the Supreme Court did. They are making recitations before the TV cameras, and reading scripts, written usually by their staffs or somebody else. Unfortunately, this produces endless arguments over secondary issues, bad law, and boring television.

In short, the procedures of the Judiciary Committee, and the "time-consuming" tactics of the White House are keeping the "debate," if that's the right word, on secondary and tactical questions. But despite this, something is happening in the Congress since the Supreme Court spoke. There are quiet echoes of the past along the benches in the Judiciary Committee and the low rumble of a distant drum.

"Greatness is lying in the streets of Washington these days," Henry Kissinger said the other night, "and somebody may pick it up." In other words: Somebody may "Speak for America," but it hasn't happened yet in the Congress.