

Accountable Presidency

By a margin of 21 to 17—substantially narrower than its divisions on the first two articles of impeachment—the Judiciary Committee yesterday voted a charge against the President which is at least as close to the heart of the case against him as the charge that he abused the powers of his office.

Superficially, a case could be made—as some of the opponents of the article endeavored to do—that to impeach the President for his failure to obey the four subpoenas issued by the Judiciary Committee in this impeachment inquiry would imply an exercise in Congressional peevishness. In reality, it is profoundly more than that; for the basic issue in the wrangle over the subpoenas is Presidential accountability.

One coherent picture emerges from the evidence depicting the surreptitious wiretaps on citizens' telephones, the attempts to use the Internal Revenue Service for political purposes, the establishment of an extra-legal intelligence service in the White House, the burglary of Dr. Fielding's office, and the fraudulent or negligent tax returns filed by the President. It is the picture of a White House entirely on its own, operating on the assumption that it was accountable to no higher authority than the wishes of and the steady accretion of power by the President. It is the picture of a Presidency growing steadily more sure that it was above and beyond the reaches of the law.

It was to forestall such a situation that the Founding Fathers wrote impeachment into the Constitution. There can be no more fundamental American law than that stated by the United States Court of Appeals for the District of Columbia in deciding *Nixon v. Sirica* when it said, "Sovereignty remains at all times with the people and they do not forfeit through elections the right to have the law construed against and applied to every citizen." When a President forgets that, as this one has, the people's instrument for the assertion of their sovereignty is impeachment.

When Mr. Nixon wrote Chairman Rodino to notify him that he would not honor the Committee's subpoenas, he said that to acquiesce "would render the executive branch henceforth and forevermore subservient to the legislative branch." In impeachment proceedings—unlike ordinary legislative proceedings—that is precisely the point. The Founding Fathers decided that Presidents, unlike King George III, would be accountable to the people through the House of Representatives by impeachment. Every President who has written on the subject has recognized this principle. President Polk put it clearly when he stated that in an inquiry into executive misconduct the "power of the House . . . would penetrate into the most secret recesses, of the Executive Departments."

To conclude that the President could withhold information in the "Grand Inquest of the Nation" would make a nullity of the Constitution's grant to the House of the power to inquire and to impeach and it grant to the Senate of the responsibility of trying the nation's civil officers.

Thus, Mr. Nixon's refusal to obey the Judiciary Committee's subpoenas was no ordinary contempt of Congress. It was a continuation of his pattern of attempting to establish a Presidency above the law and the Constitution. In choosing not to give to the representatives of the people who entrusted him with their highest office evidence by which they might judge his conduct, Mr. Nixon violated the basic terms of that trust. In adopting Representative McClory's article, the Judiciary Committee served notice on this President and on all future occupants of that office that Presidents are and must be accountable to the people of the United States.