

VICE PRESIDENT FORD is faced increasingly with a tough choice between his duty to the American people and his obvious loyalty to and friendship with Richard Nixon—a friendship of a quarter of a century. Since his nomination, and especially since the momentum toward impeachment has increased, the problem for Mr. Ford has become manifest in his public utterances. He has at times been critical of the White House strategy for the defense of the President. But he has maintained his complete faith in Mr. Nixon's absolute innocence and the prospect of his ultimate vindication.

Going a step beyond mere assertion of Mr. Nixon's innocence, Mr. Ford took the occasion of the House Judiciary Committee vote on Article I of the impeachment resolution to refer to it as a "travesty." He said that he had seen nothing in the report of the Committee that commended itself to him as an impeachable offense. And yet, given the vote of the Judiciary Committee and the sentiments expressed by any number of members of both houses of Congress, it is likely that President Nixon will be impeached by the House at least and possibly that he will be convicted by the Senate and removed from office.

The consequences of this action would be twofold. First, it would constitute a declaration on the part of Congress that President Nixon had abused the powers of his office to a degree unacceptable under the Constitution and the laws of the land — that the standards of conduct reflected in the acts and activities for which Mr. Nixon would have been removed from office were not tolerable. That is the warning Congress would be serving on all future Presidents. And, second, Congress would by this action be elevating to the Presidency a man who plainly does not share this judgment. Mr. Ford, in other words, would arrive at the steps of the Capitol for his inauguration entirely out of sympathy with the view Congress had just expressed about the nature of the presidency. Moreover, if Mr. Ford does inherit the presidency as the result of Mr. Nixon's removal from office by impeachment proceedings, he would have as his first responsibility and highest priority the job of unifying a deeply divided and troubled America. And if the record of his own public utterances is replete with defenses of abuses by the present administration — abuses held to be impeachable offenses — his task will be much more difficult.

For these reasons, it is our view that Mr. Ford at this point — with articles of impeachment before the full House — would better serve the country, his party and himself by withdrawing from the impeachment debate for the duration. We admit that this will not be an easy thing for him to do — and not just because of his loyalty to Mr. Nixon. Any shift in his position would be quickly seized upon as a sign of weakened support for the President. Worse, it would be interpreted as self-serving in that the Vice President is the one man who could be said to have a direct and immediate stake in the outcome of the impeachment process.

But it is on just these grounds of a conflict of interest that he should feel fully justified in disqualifying himself from further comment on the case, now that it has advanced to the House floor. Mr. Ford has promised not to lobby on the President's behalf; it does not seem too much to ask that he give weight to this promise by excusing himself from passing further judgment on the President's guilt or innocence. For he cannot lay claim to the sort of familiarity with the issues involved that members of the full House, and possibly the Senate, will need to acquire before they make the only judgments that will matter.

If the problem of Mr. Ford's utterances were merely one of propriety, that would be reason enough for him to restrain himself. Unhappily for Mr. Ford, the issue is even more serious than that. Should Mr. Nixon depart the Oval Office prematurely, either by impeachment or resignation, the evidence so far amassed suggests that the United States government would have to make a decision with respect to prosecuting him as a private citizen on such charges as tax evasion, obstruction of justice and willful invasion of privacy, to name just a few; the Constitution explicitly deprives an impeached President of immunity from criminal prosecution by the federal government. It would be within the power of a new President to decide if those cases should be pursued or dropped. Should Mr. Nixon surrender his office, there would, no doubt, be strong arguments that the new President spare the departed President further disgrace and embarrassment. But Mr. Ford, having already taken such a categorical public position on Mr. Nixon's innocence, would find himself in a compromised position. If he should decide in favor of clemency for Mr. Nixon, he would be open to the charge of having acted in a prejudicial manner. And ironically, he would be open to the much more serious charge that he had failed to "take care that the laws be faithfully executed"—a charge that is central to the case for impeachment of Mr. Nixon. For Mr. Ford to be able to function effectively in deciding such matters, he must not only now be fair; he must also appear to be fair in the eyes of the American people. For Mr. Ford to continue on his current course is to undermine his own presidency in advance if he should rise to that office as a consequence of Mr. Nixon's removal by resignation or the impeachment process.

Mr. Nixon, if he chose to take cognizance of Mr. Ford's dilemma, could do much to ease his friend's burden. Mr. Nixon could say to the nation that he recognizes that it is in the country's interest that Mr. Ford remove himself from the debate at this time, a gesture that would help free Mr. Ford of the charge Nixon supporters would otherwise tend to raise—that Mr. Ford was abandoning his benefactor in an hour of need. Mr. Nixon, however, has shown no such inclinations.

On the contrary, the pressures on Mr. Ford to pitch in on the White House side, we concede, are doubtless enormous and difficult to resist. Mr. Nixon has demonstrated throughout his administration that he has a penchant for placing men of good repute out on the point in defense of his indefensible conduct. The record of ruined reputations from association with this administration is unparalleled in our history, a fact that cannot have escaped Mr. Ford's attention.

In almost every case, those reputations were lost out of some misguided devotion to Mr. Nixon's interests—as distinct from those of his office, of the country, or even of his party. Mr. Ford has an opportunity and a duty to avoid that calamity—in his own behalf and that of the American people. Mr. Nixon is now a defendant in the purest sense of the word. He stands accused by the House Judiciary Committee of high crimes and misdemeanors. He is likely to be impeached within the month and tried in the Senate soon afterward. His need is for a defense counsel, and he has one of the most prominent of the breed in James St. Clair. Whatever additional support Mr. Ford offers will not add very much of substance. Lest Mr. Ford make the national crisis even graver than it already is, he would do well to leave the defense to Mr. St. Clair and such others as can be spared for the task. Mr. Ford's obligations are clearly to the higher cause of the nation.