

Impeachment: The 'Intrinsic Difficulty'

Impeachment, wrote Alexander Hamilton, was "designed as a method of national inquest into the conduct of public men" and into those offenses which proceed "from the abuse or violation of some public trust." Accordingly, the framers of the Constitution assigned the power and responsibility for such inquests to the people's representatives in Congress, acting as guardians and custodians of the public trust. While defending this arrangement, Hamilton also recognized "the intrinsic difficulty of the thing." Because impeachable offenses "are of a nature which may with peculiar propriety be denominated political," he wrote, their prosecution "will seldom fail to agitate the passions of the whole community" and may "enlist all their animosities, partialities, influence, and interest on one side or on the other." In other words, the contemplation of impeachment of a President is an occasion which demands the highest possible degree of dispassionate statesmanship—in circumstances which are bound to arouse and abet the meanest instincts of partisans.

The Hamilton remarks are particularly appropriate to the moment. For even as a debate of sorts is under way, one year after Richard Nixon's triumphant re-election, as to whether impeachment or resignation is the preferable mode of his departure, it is important to think about the drawbacks and dangers and obligations that go with each. A few days ago in this space we took note of some of the complexities that attend the idea of a presidential resignation from office at mid-term and under the circumstances in which Mr. Nixon currently finds himself. Impeachment as a process and as a prospect is no less complex or danger-fraught. In this case, however, it is not a loose collection of politicians and editorialists administering pressure for resignation who have special responsibilities to discharge. Rather it is, at least in the first instance, a particular group of elected officials: the 38 members of the House Judiciary Committee where the preliminary impeachment proceedings have already begun.

The question for the House Judiciary Committee now is not whether its investigation into Richard M. Nixon's conduct of the presidency will be political; it is inescapably that. The question is what political impulses—the national interest or the narrow concerns of parties and personalities—are going to dominate the inquiry. If the committee's performance at its first meeting on the subject is any guide, the prospects are dreary and disheartening. The matters on the agenda were procedural items which congressional committees usually manage to negotiate ahead of time and dispatch in a few minutes. But the judiciary committee's session degenerated into loud wrangling and straight party-line votes. While members of both parties publicly denied the existence of any

serious rifts, the symptoms of mistrust and disarray were obvious.

As many committee members have since acknowledged, this is hardly a reassuring way to embark on the first phase of a "national inquiry" of enormous gravity and scope. In weighing the record of Richard Nixon's presidency, the committee must go over much of the ground explored by the Ervin committee, plus many of the matters probed by the special Watergate prosecution force, plus areas investigated by other committees and grand juries. The inquiry must review evidence of possible criminal activity by the President of the United States; it must also examine alleged abuses of constitutional powers, issues which turn on judgment and interpretation as much as they do on the discovery of facts. And for this to be done with competence and credibility, the committee's entire membership and staff will have to show a consistent attention to detail, a rare regard for confidentiality, and the self-discipline to forego cheap headlines, premature conclusions and grandstand plays.

The task would challenge the most experienced, harmonious committee—and the judiciary committee has several characteristics which could be either great assets or real liabilities. The panel is quite large. Its 38 members cover the entire spectrum of regions, ideologies and temperaments in the House. It has its share of firebrands, diehard partisans, and members hungry for their bites of television time. It has a high proportion of junior representatives; 22 of its members have come to Congress since 1968. Its leadership, Chairman Peter W. Rodino Jr. (D-N.J.) and ranking Republican Edward Hutchinson (R-Mich.), are new in those posts this year and have never conducted a major investigation of any kind, much less one of this magnitude.

In many ways, then, the judiciary committee is all too representative of the sprawl and clamor of the House. The question is whether the committee will be able to summon and sustain the wisdom, leadership and basic political courage which have inspired the House and steadied the nation at other decisive moments in our history. The panel's capabilities should start to become more evident very soon through its decisions on the staffing and organization of the inquiry. The job demands a highly qualified chief counsel with recognized talent and experience and no encumbering political taint, someone in whom the chairman will be willing to vest wide authority over both the investigation and the flow of information. Through this and subsequent decisions, the judiciary committee will show the extent to which its members really grasp and appreciate what Hamilton called "the delicacy and magnitude of a trust which so deeply concerns the political reputation and existence of every man engaged in the administration of public affairs."