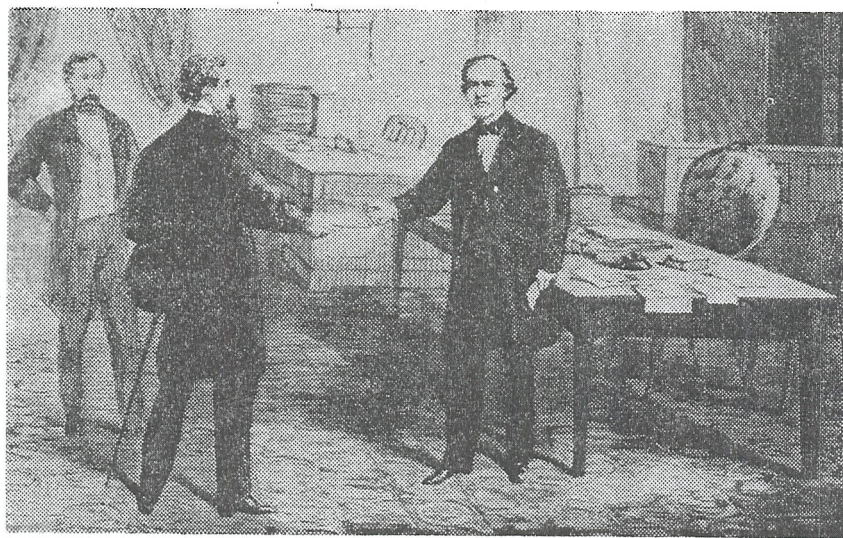


# President Nixon's Impeachment Challenge

The American political tradition is a cautious one, and has generally considered impeachment a dangerous word to set loose. But the Nixon administration itself put that word into common currency last spring, throwing it at Congress as a taunt and a challenge. The then Attorney General, Richard G. Kleindienst, told a Senate hearing in April that if Congress didn't like President Nixon's definition of executive privilege, there was only one thing it could do: impeach him.

Mr. Nixon is currently stating his position more elegantly, but he has not changed it.

To those who want him out of office, he offers the most painful and uncertain of procedures. But impeachment has several advantages, in the long run, over the cheaper and simpler



Frank Leslie's Illustrated Newspaper, March 28, 1868

*Serving the summons of impeachment on President Andrew Johnson.*

alternative of resignation. Impeachment creates a massive public record, and it requires a showing that a very large majority of the country wants him out.

Does the political base now exist for impeachment? The answer is that it has not yet been demonstrated, although events seem to be moving in that direction. The base for impeachment could be created by the kind of direct defiance of the courts that Mr. Nixon avoided, at the last minute, in his decision to turn the celebrated tapes over to Judge Sirica. Unanswered evidence of direct and personal responsibility for deliberate crimes would obviously constitute grounds. Congress is probably the best gauge of the national climate just now, and Congress is apprehensive and attentive rather than committed to drastic action.

Mr. Nixon has lost, at this point, some very important pieces of the coalition that brought him to that enormous victory a year ago. His situation is best described by saying that he is standing curiously alone, with no signs of the tight ring of last-ditch defenders that commonly forms around an embattled President. Both Presidents Hoover and Truman, at the worst of their troubles, held the loyalty of large classes of Americans, but Mr. Nixon's case continues to be a personal lawsuit.

In the 1868 example, the impeachment of Andrew Johnson was a struggle over the terms of settlement after one of the bloodiest wars in human experience. Johnson was a Southern Democrat, brought onto a unity ticket by Lincoln in 1864, and Congress was totally controlled by radical Republicans from the North. He was less than an ideal President, but he never ceased to keep his party with him or to be the symbol of a serious and substantial policy of reconciliation with the defeated South. He stood for something solid and that is why, in the end, the vote in the Senate was one short of the two-thirds necessary to remove him from office.

It would be peculiarly hard to describe any great public hope or cause

that Mr. Nixon now represents. He is not much identified, in people's minds, with any particular region or social class. He is not providing his natural allies and supporters with any very comfortable place to stand in his defense.

Businessmen, in particular, are showing little inclination to come to his aid. A lot of major corporations have been bruised and humiliated by the revelations of their part in the Republicans' illegal fund-raising last year. Beyond that, there has been a series of financial scandals around the country recently and, while they are unrelated to Mr. Nixon's troubles, they have left executives and directors feeling vulnerable and wary. As long as Mr. Nixon is fighting on issues of personal morality—his houses, his taxes,

and the handling of cash—he is not likely to get much help from big business.

As for labor, Mr. Nixon's design to bring the unions into the Republican Party has now collapsed altogether. The union leaders are back in the councils of the Democrats. The AFL-CIO is calling loudly for the President's impeachment.

Mr. Nixon is not being assailed for his large decisions of national policy. The country is not talking impeachment because Mr. Nixon went to China, or bombed Hanoi. It wasn't the budget cuts for the war on poverty that did it, or the illegally impounded highway funds. He is in trouble because he fired the special prosecutor, and because he keeps invoking executive privilege against the investigation of crimes already shown to involve his White House. It's hard to pull a party together on a platform of defending the privacy of documents that, if produced in court, might send somebody to jail.

Raoul Berger of Harvard writes, in his book on impeachment: "The chief lesson which emerges from the Johnson trial is that the impeachment of the President should be a last resort." It is good advice. Impeachment is inherently divisive and destructive. It means a prolonged paralysis of the federal government—in 1868 it took four months from the House's vote of impeachment to the end of the trial in the Senate. A vote that narrowly failed to carry two-thirds of the Senate, as in the Johnson case, would leave the President crippled but still in office, with three years of his term to run.

Congress has not yet arrived at the last resort. But the Senate committee's investigation is not yet over, the special prosecutor's work has hardly begun, and Mr. Nixon keeps declaring that he will not permit the prosecutor to go to court for presidential papers that might be criminal evidence. He is still asserting that there is no limit to executive privilege but impeachment. If he persists, there is eventually only one answer that Congress can give him.