

## A Judicial Undertaking

Regardless of the judgment on impeachment finally reached by the House of Representatives, it is profoundly important that the members of the House Judiciary Committee approach this grave question in the proper spirit. This is only the second time in nearly two centuries of national independence that a Presidential impeachment has been seriously considered. Impeachment is patently not a narrow partisan issue. Rather, it is second only to a declaration of war as a somber exercise in constitutional responsibility.

After some minor partisan bickering at the outset, the members of the House Judiciary Committee in recent weeks have indicated that they are mindful of their great responsibility and are determined to discharge it in a worthy manner. The senior members of both parties are beginning to work cooperatively together. Their ideal must be to act as citizens, as members of the bar, and as elected representatives of the people and not as political in-fighters.

In this endeavor, they are helped by their legal counsel, John Doar and Albert Jenner, who are both in their different ways distinguished attorneys who have shown in past situations that they know how to place the public interest above partisan spirit.

If President Nixon intends to "fight like hell" against impeachment, he faces a committee united in its understanding of its own authority in an impeachment proceeding. Representative Edward Hutchinson of Michigan, the ranking Republican on the committee, has stated that "executive privilege in the face of an impeachment must fail." His statement accords with the traditional view of legal scholars that a President has no choice but to make documents and information available to the House of Representatives when it considers an impeachment.

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The committee plans a public hearing on Feb. 20 to hear the views of its legal staff on what constitutes an impeachable offense. Although this question once looked as if it could prove a major source of disagreement between Democrats and Republicans, that now seems less probable. Impeachment seems to have been intended by the framers of the Constitution to encompass more than specifically indictable criminal offenses, but, as a practical matter, a Presidential breach of trust would have to be tied fairly closely to criminal misconduct if the articles of impeachment are to receive the broad bipartisan support that is essential.

What matters most is that the impeachment inquiry as it proceeds is seen to be not a political lynching party but a judicial undertaking. In a broad sense, impeachment is a political determination but it can still be approached with care, disinterestedness, and a sense of responsibility with which a good judge approaches a trial.

Mr. Nixon is not under investigation because he has been a strong President or an unpopular President or has had a few corrupt subordinates. He is under inquiry because he personally is thought by a great many responsible Americans to have violated his oath of office in specific and usually illegal ways. It is with regard to that official misconduct that the House Judiciary Committee and ultimately the House itself is being asked to sit as grand jury for the nation.