

Impeachment and 25th Amendment



James Kilpatrick

TALK OF REMOVING Richard Nixon from office by impeachment is pure nonsense, but even pure nonsense offers a topic for rational discussion these days. And make no mistake: Impeachment is the talk here in Washington. Everybody is getting in on the act.

The talk is foolish for two reasons. The first is constitutional, the second political.

Unlike federal judges, whose "good behavior" presents a different and an additional question, Presidents can be impeached only for treason, bribery or other high crimes and misdemeanors.

The firing of the special prosecutor may be a blunder. The ouster of an Attorney General and his deputy may be a tactical error. But these acts simply are not crimes in the constitutional sense. Criminal contempt would be, but Mr. Nixon at this writing has not been found in contempt. Two-thirds of the Senate never could be mustered to convict Richard Nixon merely for giving the boot to Archie Cox. Too many Senators thought it a splendid idea.

★ ★ ★
 THE CONSTITUTIONAL question to one side, it is nonsense to talk of removing the President if his successor would be (a) Gerald Ford or (b) Carl Albert.

It is one thing to speak of confirming Ford as Vice President. By law and custom, the sole duties of a Vice President are to preside over the Senate, to raise funds for his party, and on appropriate occasions to praise physical fitness, highway safety, and the rule of law. The gentleman from Michigan is abundantly qualified for these obligations.

It is another thing altogether for Senators to cast a vote for removal, assuming that Ford has now been confirmed, that

would elevate this pleasantly anonymous person to the highest office in the free world. No way. For all his sins of omission and commission, lamentable as these are, Mr. Nixon does have the experience and the sense of command that are vital to the exercise of presidential powers. Jerry Ford does not.

Alternative (b) is beyond contemplation. The Senate numbers 56 Democrats, 42 Republicans, 1 Independent, and 1 Conservative. It is inconceivable that many Republicans, not to mention Harry Byrd of Virginia and James Buckley of New York, would cast a vote on impeachment that would elevate Democrat Carl Albert to the power and patronage of the White House. No way. The necessary two-thirds majority could not be mustered for an act of Republican hara-kiri.

★ ★ ★
 YET THE TALK of impeachment has its useful aspect. It has made us look critically at the Twenty-fifth Amendment, and to see that this recent engraftment, dealing with vice presidential nominations, will not do.

Could the American people accept in peace and obey in war a commander-in-chief who never had submitted himself to the voters as a whole?

Irving Brant, the distinguished historian and biographer of Madison, surely is no friend to impulsive amendment of the Constitution. Yet he had the wisdom to denounce the Twenty-fifth as a "disaster" when it was pending before Congress. Now he has proposed a further constitutional amendment to deal with the situation at hand. His plan would require a special presidential election at the earliest feasible moment after a non-elected Vice President had succeeded to the office. The plan makes sense.