

Articles of Impeachment

Impeachment is at one and the same time a political and a legal process. The Constitution specifies the legal grounds, however vaguely, as "treason, bribery or other high crimes and misdemeanors." It also recognizes the political nature of the process by designating Congress as the special court to institute and adjudge the impeachment proceedings.

For many troubled weeks now, the possibility of impeachment of the President of the United States has been under discussion both by the President's critics and by his supporters. It has only been intensified by Mr. Nixon's explicit rejection of the proposal, made by this newspaper and many other voices of public and private opinion, that he resign his office in view of his evident involvement in the Watergate spectrum and as a preferable alternative to the trauma of the impeachment process. Since Mr. Nixon refuses either to resign or to clarify his own role in Watergate, the only alternative, it seems to us, is impeachment itself.

Impeachment, it must be remembered, is not the equivalent of conviction; it is rather in the nature of an indictment on charges brought by the House of Representatives and tried by the Senate sitting as a court. The grave act of bringing such charges against the President is one that would be voted by the House only under the standard of "probable cause," in Chief Justice Marshall's words: ". . . proof furnishing good reason to believe . . ." that the alleged crime has been committed by the accused.

Impeachable offenses fall into two general categories: those that are broadly political, involving unconstitutional extension of Presidential powers or unconstitutional limitation of Congressional prerogatives, and those that could be termed more distinctly criminal, involving alleged violations of law that in the case of an ordinary citizen might be criminally indictable but in the case of the President of the United States are reachable only

through the impeachment process.

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Millions of Americans are legitimately asking: "What actual crimes, if any, is President Nixon suspected of committing?" One set of answers to this question, which goes directly to the issue of impeachment, is contained in a massive brief recently published by a public interest law firm in Washington. No less than 28 separate violations of constitutional or statutory law are alleged to have been "committed or caused either by the President personally or by persons answering to him." The charges range from conspiracy, illegal wiretaps and burglary, on through obstruction of justice, bribery and fraud, to embezzlement and tax evasion.

Of course this brief, citing in each case the specific provisions of law allegedly violated, does not in itself constitute proof; like any advocate's argument, it invites reply, an opposing brief—not in the form of speech or polemic but in the same kind of legal framework as that in which the charges have been made. But publication of this brief is a challenge to the House Judiciary Committee, which has been moving with something less than deliberate speed, to get on with its work of determining whether the House itself should institute impeachment proceedings.

To let the case against Mr. Nixon ferment in its present imprecise and emotional political context much longer would be unfair and, indeed, dangerous. It would satisfy none of the legal and constitutional procedures for removing a public official from office, yet it would perpetuate the mood of distrust and despair that threatens his leadership even while he remains in office.

Senator Aiken urged the other day, "Either impeach him or get off his back." The House Judiciary Committee needs to get moving.

* Paperback, advertised 7 Aug 74:
"The Offenses of Richard M. Nixon:
A Guide to His Impeachable Crimes."
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York Times Book Co. and Public
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