

The Light of History

By Anthony Lewis

BOSTON, March 31—Once before in our history, in 1866-67, the House Judiciary Committee investigated a President with a view to possible impeachment. The study of Andrew Johnson's conduct lasted more than 10 months. Its scope was summarized in a recent memorandum by President Nixon's Justice Department:

"The committee interviewed almost 100 witnesses, including Cabinet officers and the President's personal secretaries. Department and Presidential documents were produced, either voluntarily or in response to committee requests, and conversations with the President were related. It does not appear that any claim of executive privilege was made."

History can hardly guide us through all the perplexities of an impeachment. But it does provide convincing evidence on one pressing question—the right of the House to get the Presidential records it needs.

The Johnson inquiry is the one direct precedent, and it supports the widest Congressional power to inquire. In addition to that actual pre-impeachment episode, at least seven Presidents have made statements implying or plainly stating a broad view of what Congress may inspect when it formally undertakes the impeachment process.

George Washington, refusing in 1796 to give the House documents that he thought lay within the Senate's treaty-ratifying powers, said: "It does not occur that the inspection of the papers asked for can be relative to any purpose under the cognizance of the House except that of an impeachment, which the resolution has not expressed." It is only negative, but the implication may be there that impeachment gives the House overriding powers of inquiry.

Andrew Jackson, a President extraordinarily concerned to preserve his power against Congressional intrusion, said in 1835 that he would not account to Congress for his removal of an executive official—"save only in the

mode and under the forms prescribed by the Constitution" for impeachment. Two years later, in a more general context, he said that if Congress had "the slightest reason to suspect corruption or abuse of trust, no obstacle which I can remove shall be interposed to prevent the fullest scrutiny by all legal means. The offices of all the departments will be open to you. . . ."

James K. Polk made the most famous statement on the power of an impeachment inquiry. "In such a case," he said in 1846, "the safety of the Republic would be the supreme law, and the power of the House in the pursuit of this object would penetrate into the

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most secret recesses. . . . All the archives and papers of the Executive Departments, public or private, would be subject to the inspection and control of a committee of their body. . . ."

James Buchanan said in 1860 that the House acquired an "accusatory jurisdiction" when it thought "any grave offense had been committed by the President" and looked to impeachment. "Except in this single case," he said, "the Constitution has invested the House with no power, no jurisdiction, no supremacy whatever over the

Character

By John W. Dean 3d



Deep-seated in every individual is the desire to be held in high esteem by his fellow-men. What appeals to our fellows is our character—our honesty, our industriousness, our considerateness, the life we live, the way we tackle problems. Men see more of us than we like to admit. Building character is a life-long process in which the foundations are laid in our youth.

Here at SMA we are in a position to examine ourselves and to get to know what the weak points of our character are. Once realizing these weak points we can begin to make corrections. We can do this on our own, away from our old environment, among the new friends we have made here at SMA. This is the opportunity to grow from youth into manhood, to build strong character.

Temptations are great here at SMA; in fact, our lives are being tested constantly. We must decide between what is right and what is wrong, and which we will follow. Strong character does not try to evade the issue or to compromise with evil. It faces up to the situation. A real test of character that comes to all of us is the temptation to do the thing that seems to be popular, even though we know it is wrong. When we can overcome this we are really building up our defenses against temptation and a foundation of a strong character. Use your head. Be wise.

J.W.D.

John W. Dean 3d, former counsel to President Nixon and a principal witness in the Senate Watergate hearings, as a high-school student wrote this editorial for the Nov. 16, 1956 issue of "The Kablegram" of Staunton Military Academy in Virginia. A senior, he was one of two editors in chief of the school paper at that point in time.

President. In all other respects he is quite as independent of them as they are of him."

Ulysses S. Grant spoke in 1876 of impeachment empowering the House to "require as a right . . . its demand upon the Executive for information."

Grover Cleveland in 1886 refused a Senate demand for material showing why he had removed a United States Attorney—unless Congress acted "through the process of trial by impeachment." Impeachment, he said, was a "grant of extraordinary powers," giving Congress "all the control and regulation of executive action supposed to be necessary for the safety of the people."

Theodore Roosevelt in 1909 adamantly refused to give the Senate Judiciary Committee papers on why he had decided against bringing an antitrust case. He told an assistant: "The only way the Senate or the committee can get those papers now is through my impeachment."

Those Presidential comments over more than a century vary in persuasiveness. But so far, and significantly, none to the contrary has been produced. President Nixon and his aides, asserting the right to decide what evidence they will give to the House inquiry, have relied only on their own self-serving claims, without support from legal authority or scholarship.

The history is not really surprising. Impeachment was written into the Constitution as the final check on executive wrongdoing, and it would be an illusion if it could be thwarted by some Presidential privilege. James Wilson of Pennsylvania, one of the great figures at the Constitutional Convention of 1787, said it was good that Presidents had no privilege:

"The executive power is better to be trusted when it has no screen. Sir, we have a responsibility in the person of our President; he cannot act improperly and hide either his negligence or inattention; he cannot roll upon any other person the weight of his criminality."