

# A Value Judgment

By Tom Wicker

WASHINGTON—Here is an analysis of the impeachment situation by one of the shrewdest and most knowledgeable members of Congress, a senior Democratic Senator who has supported Richard Nixon on foreign policy and law-and-order issues—even on all of Mr. Nixon's Supreme Court nominations:

There is not much doubt that a majority of the House of Representatives will vote to impeach Mr. Nixon if three conditions are met. The first is that at least some Republican members of the House Judiciary Committee vote for the articles of impeachment that the committee's Democratic majority will undoubtedly approve. The second is that the Supreme Court rules against Mr. Nixon's contention that he does not have to surrender the tapes subpoenaed by Special Prosecutor Leon Jaworski for use as evidence in the Watergate trials.

The third condition for impeachment, in this analysis, is at least one tightly written charge of obstruction of justice, or subversion of the Constitution, or both, that will force members of the House, in effect, to vote "yes" or "no" on whether Mr. Nixon should be impeached for acts he can be reasonably believed to have committed—failing to prevent illegal behavior by his closest aides, concealing knowledge of criminal acts, refusing to provide evidence needed in criminal trials and the constitutional process of impeachment, deleting or editing or altering substantive passages in the transcripts he did provide to the special prosecutor and the Judiciary Committee.

Such an article, in the Senator's judgment, is needed to sweep away all the peripheral areas of debate and doubt and obfuscation, and concentrate the impeachment question in a value judgment by each member of the House on what is known—at least reasonably believed—to have happened. In all these ways, a member would have to ask himself, did Mr. Nixon fail to protect and defend the Constitution and to take care that the laws be faithfully executed? Yes or no?

The Senator drew an analogy to political polling. Eighteen months, say, before a Presidential election, poll-takers usually present respondents with a list of six or seven potential candidates. Almost all will draw at least some support, since the situation is hypothetical and multi-choice; probably some on the list will not even run. Eighteen months later, however, in the voting booth, the voter faces a hard, real either/or choice between two candidates, one of whom is going to be President for four years.

When—and if—the House is faced with just such a hard, real either/or choice on whether Mr. Nixon's reasonably well-established acts warrant im-

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peachment, the Senator believes, a majority will vote for impeachment.

Members of the Senate then would face the harder questions—whether it is beyond reasonable doubt that Mr. Nixon did indeed commit the acts alleged, and—if it is—whether those acts warrant his removal from office. The Senator's judgment is that "the vote would be very close in terms of getting a two-thirds majority for conviction."

For the moment, as he sees it, the Republicans—from the White House down—are following a dual strategy of delay and of imputing partisanship and political motives to the Democrats—thus perhaps holding the votes of wavering Republicans and of Democrats who need the support of Republicans or conservatives or Nixon partisans in their home states or districts. But that makes it the Republicans, in the Senator's view, who are being truly partisan—making the defense of Mr. Nixon a party matter, rather than considering the case as a grave constitutional question.

That is not to say, of course, that no Democrat is partisan or political in his motivation. But the Senator believes that the record of the House leadership and the Judiciary Committee majority and staff is solid enough, and the evidence against Mr. Nixon of sufficient weight, to put the Republicans more nearly on the defensive as to partisanship.

In his view, one shaped through long acquaintance with House and Senate and politicians generally, Mr. Nixon will not finally be impeached, convicted or acquitted in either house for partisan or political reasons. In the long run, he believes when finally confronted with the hard decision—yes or no on specific questions—most members will vote honestly on their view of the evidence, and their conception of proper Presidential conduct.

"As for me," the Senator said, puffing a politician's cigar, "if we have to vote in the Senate, I plan to get up the next morning, look at myself in the mirror, and say, 'Well, you may not be coming back to this place after the next election. But when you voted yesterday, you did what you thought was right, if you never do again.'"