

# 'The Overriding Factor'...

The issue now bearing upon the nation is how best to remove Richard M. Nixon from the power of the Presidency. Mr. Nixon's admission that he wrongfully withheld from Congress, courts, counsel and country evidence bearing upon the question of his impeachment has removed any serious doubt that the power will be transferred to Vice President Ford—perhaps within days, perhaps weeks.

Three possible courses of possible action now present themselves: outright resignation; qualified resignation under the 25th Amendment, permitting Vice President Ford to become Acting President until the Senate reaches its final judgment on Mr. Nixon; or, finally, the unfolding to its constitutional conclusion of the process of impeachment, with seemingly overwhelming prospect of conviction and the President's involuntary removal from office.

The immediate choice is Mr. Nixon's and Mr. Nixon's alone. Against the now-deafening cries for his resignation, we see considerable merit in the President's attitude as expressed at an urgent Cabinet meeting yesterday, that he intends to "allow the Constitution to be the overriding factor."

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The transfer of power must not only be orderly and in full respect of the Constitution; it must be perceived as such by all factions, all elements of American society. To frustrate or short-circuit the solemn process of impeachment that is now well engaged in the Congress could have two adverse effects. It might leave lingering doubts about the extent of the President's complicity in a broad range of impeachable offenses. It would also deprive the American political system of a conclusive opportunity to define the fundamental principles of Presidential accountability.

Those who advocate immediate resignation do so out of a deep and justified sense of betrayal, coupled with valid concern about the vacuum in the leadership of the nation. They argue that Mr. Nixon has now directly confirmed that a conspiracy to obstruct justice was designed and managed in the Oval Office of the President, and has consequently lost the trust of the American people.

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But, in a legal sense, what is substantially new about Monday's disclosures. They are merely belated corroboration of a case that had already been convincingly established by a duly constituted investigative body. Moreover, Mr. Nixon's statement was most definitely *not* a confession that he was guilty of high crime or misdemeanor, of an impeachable offense within his view of the Constitution. On the contrary, the President insisted that his acknowledged deception and participation in the Watergate cover-up did not justify his removal from office.

Finally, his admissions and the accompanying three transcripts deal only with part of the bill of impeachment that has been prepared against him. To accept this statement as a guilty plea and suggest that resignation would now close the book on Watergate would leave too many loose ends, too many questions unresolved. It would do nothing to inhibit subsequent fostering of the myth of a President hounded out of office by his political enemies. Doubts could be created whether the President would actually have been convicted in an impeachment trial, whether his departure from office was really justified by the facts.

## ...the Constitutional Way

The interim alternative of stepping aside conditionally under the terms of the 25th Amendment would have some practical merit if there were any reason to believe that the rest of the impeachment process, now so far advanced, would be likely to drag on and on.

The fact is that the process of impeachment and conviction can now proceed far more rapidly than had been believed before, as both the Speaker of the House and the Majority Leader of the Senate concluded in separate interviews yesterday. Instead of the hundred hours of debate for which the House of Representatives was bracing itself, the absence of a determined opposition and of deliberate stonewalling tactics now means that the House can move with full responsibility in two or three days of debate, rather than the two weeks previously envisaged.

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Similarly in the Senate, many of the reservations about the quality and availability of evidence, about the existence of direct links between the President and the cover-up conspiracy can now be laid to rest. For the sake of the historical record and the confidence of the people, now and in the future, in the integrity of the constitutional system, the issues on which the President is to be removed must be fully aired in the Senate, acting as a court under the Constitution. Just in the interest of saving a few days, the Congress should not fall into the trap—once considered around the White House—of moving through *pro forma* votes to achieve an outcome that seems inevitable now but may appear intemperate or unfair to future generations. The President's own demolition of any credible foundation on a strong and adamant defense during the period of deliberation provides all the assurances that is needed of fulfilling every requirement of due process without unconscionable foot-dragging.

From now on, in short, the impeachment and conviction of the President need not be a national agony, to be avoided at any cost. The nation has already gone through that agony, or the worst of it.

Resignation at an earlier time—far earlier—could have spared the people of this land much grief, as we then argued. But to frustrate the constitutional machinery now would deprive the Republic of the benefits—the definitions of impeachable offenses, of strict accountability of the President under law, which alone can redeem that agony. That must be the overriding factor.