

Impeachment Procedures, Precedents Reviewed

By DR. PAUL P. VAN RIPER

A great deal of information and considerable misinformation has been bandied about recently on the subject of impeachment. A brief rundown of the constitutional provisions and the few available precedents on this and related matters of possible in-

dictment or subpoena of the President or Vice President are of interest.

The Constitution provides that the House of Representatives must first approve charges of impeachment by a majority vote. This is called "impeachment" and is the equivalent of a grand jury indictment—that

is, that there is enough evidence the person should be tried by the Senate, over which the Chief Justice of the Supreme Court presides if the President is the defendant (otherwise, the Vice President or the President Pro Tem of the Senate presides). The person is not convicted until the Senate concurs by two thirds of the members present.

In our history, the House has voted impeachment 12 times. The Senate has convicted four times. The four convicted were all judges, three of U. S. District Courts, and the fourth judge of the U. S. Commerce Court, a special court.

Of the other cases, the first, involving Sen. Blount of Tennessee, established that impeachment applied only to civil members of the executive branch and not to senators and representatives. This case effectively interprets the phrase "civil officers" in the constitutional provision: "The President, Vice President, and all civil officers of the United States, shall be removed from office on impeachment for and conviction of treason, bribery, or other high crimes and misdemeanors." If impeached, the person may be tried later for any crimes uncovered.

The seventh case, that of Grant's Secretary of War William Belknap, established that a civil officer who had resigned and was not in office could not be convicted via impeachment.

Only two other impeachment efforts are

relevant today. One is the 1868 impeachment of Andrew Johnson, who escaped conviction in the Senate by one vote. Unquestionably, Johnson was not guilty of either treason or bribery. The House relied on the phrase "high crimes and misdemeanor," for which there is no clear definition, out of legal precedent, history, or anything else.

The effort to impeach Johnson can only be described as almost entirely over-political power, not legal "crimes." That is the Radical Republicans in the House and Senate wanted him out of the way so they could enforce a harsh peace on the South, which Johnson opposed. This case only establishes that the President (or any other member of the executive branch) can be impeached on reasonable or unreasonable grounds.

The related question is: can the President or the Vice President be reached through ordinary court procedures (for the tapes, for example) or only through impeachment? The Constitution is totally silent in formal language on this question. The only case in point has to do with the treason trial of Aaron Burr in 1807, at which Chief Justice John Marshall presided.

In this case Marshall issued a subpoena on President Thomas Jefferson ordering him to appear in court (Richmond, Va.) with some relevant documents. While Jefferson refused, Marshall also relented and said it would be enough if he sent the papers.

Jefferson sent some, but not all of what he argued that he did not have to do. Jefferson argued, as does Nixon, that the President is to function he must be free from harassment via ordinary court processes. They have a point. But, the President or the Vice President totally reachable by the courts while in office.

Here the only precedent again involves Burr, this time when he was Vice President (1801-1805). Vice President Burr and Alexander Hamilton in a duel and died the next day. Burr fled South and indicted for murder in both New York (site of the duel) and in New York (both he and Hamilton resided). At no point so far as I can find out, were the indictments challenged in the courts, by Burr or anyone else.

But the best is yet to come!

Burr returned to Washington, was received well by Jefferson and took his job as presiding officer of the Senate. Between Feb. 4 and March 1, 1805, Burr presided with great dignity and effectiveness, and said—over the Senate impeachment trial, the only Associate Justice of the Supreme Court to be so tried, Samuel Chase, who was acquitted. The Vice President, still an indictment, then retired from the Vice Presidency with the unanimous thanks of the Senate for his services. The indictments were never pushed, and Burr was tried for treason, of which he was acquitted.

The situation today is murky indeed, so far as precise constitutional verbiage, judicial or other precedents are concerned. What will happen in the present case? I am not a lawyer and I do not know. But I will argue that the founding fathers (if there is some evidence of their views) do not intend either the Vice President or the President (except in the most unusual situations), to be exempt from the normal processes of law. This seems to me to be a principal issue now before the courts in present cases involving President Nixon and Vice President Agnew.

Dr. Van Riper has been professor and head of the A&M Political Science Dept. since 1970 after teaching at Northwestern and Cornell Universities. He holds his M.A. from DePauw University and Ph.D. from the University of Chicago.

Side Effects Unnecessary

Before the TAMU System Board of Directors gives its approval to the Academic Council's recommended change in the status of required physical education course, a serious examination of the resulting repercussions is in order.

As the courses now stand, only males are required to take them and the Council has moved to insure that women are given an equal opportunity to enroll in the required courses. With this we have no quarrel.

A conflict occurs because students will no longer get the "bonus" grade points awarded in the course since no hours of credit have been given. The Council changed this in its recommendations to the Board in its last meeting to "reward" students for their academic endeavors in the courses.

To date, students taking these courses actually have false grade point ratios and this has caused problems for some, particularly those wanting to enroll in law school and other professional schools. We admit, this could foul up a student's plans if he isn't careful, but students of this caliber should look after themselves anyway.

In addition, A&M has been able to boast the largest enrollment in Phi Eta Sigma, the freshman honor society, because of the present setup. The number could drop significantly were these free grade points removed. This could hamper the availability of tutors in the society because of a reduction in members. Then again, students could be assured of the highest quality tutors for help if changes are made.

Also, these free grade points may be keeping some students enrolled here—hard-working students who may deserve a break. There are many of this type student here, desperately trying to stay enrolled with a 2.0 GPR.

Although for most colleges it is a point of small consequence, the total number of hours required for graduation would be boosted by four by the change. At least this would make the A&M grading system consistent with those of other universities across the state.

It's not a tough decision to make, but we hope the Board will strike down the Council's recommendation and let "a sleeping dog lie" for a minority's sake.

Listen Up—

Batt Columnist Proclaimed Victim of Brainwashing

Editor: Re: An article in "Listen Up" on Oct. 4 by Rick Brown on the adoption of new textbooks for the Texas public school system.

Mr. Brown is justified in making light of any attempts to please everyone, while still pointing out some of the problems that do exist. Yet he reveals himself a victim of the brainwashing possible through public school textbooks and articles of the Time-Life mentality. In simply dismissing opposition to the teaching of evolution as a dogma as comparable to believing in a flat earth, he has sacrificed his reason to worship at the sacred cow of science. Would he listen to experts in the various fields rather than professors whose messianic mission is the destruction of all non-humanistic beliefs, he would soon realize how tenuously supported and open to dozens of interpretations this grand hypothesis is.

This belief is clung to despite the fact that the spontaneous origin of life has never been observed and in the light of probability and the laws of thermodynamics more because of the need to believe in evolution than the evidence for it. Without this natural miracle there must be a supernatural miracle that implies a creator—God. This God must die in the face of His divine laws man's transcendent freedom becomes nonexistent. Evolution gives us an alternative to God and is clung to that He might be shut out. If we are appalled that anyone would force his religious dogma upon children, we must be appalled also at this pseudo-scientific dogma being fostered upon us to escape the implications of a non-evolutionary origin to life.

Jeff Harwell

Editor: "I don't care what the peace queers think, I just want to kill some chinks." Could you imagine these words being shouted at an educational facility of the caliber of A&M? If you have never heard atrocities like these, it is apparent that you have never heard a Corps "crap out."

1. Is this another great tradition at A&M?
2. Is not the Corps supposed to build mind and spirit?
3. What kind of mind runs around saying these things?
4. Is not the Corps supposed to build leaders or are they all just followers?
5. If they really believe what they are saying, why are there still Oriental Aggies on campus?
6. Why does the Corps even have a chaplain if this is its attitude?
7. Does the fifth commandment only apply to White Anglo-Saxon Protestants?

Josten Ma
K. H. Puah
Bill Fisher
Steve Schoenhart
Keith Steward
Jay Alkire
Randy Mitchell
John Luscombe
Jim Shiner

★ ★ ★

Editor: Re: the article, "Coed Undergoes Abortion," in The Battalion, Sept. 19, 1973.

The psychological trauma and physical damage of an abortion lasts much longer than the brief period involved and does irreparable damage to the mother, not to speak of killing an innocent infant. Morally, it would seem like it would be worse to kill an innocent child, than the premeditated murder of an adult.

For those unfortunate girls who do become pregnant, the Birth Right Organization provides a solution by helping them to carry their babies to full term, and a healthy birth of a new individual, help mankind.

Any girl seeking assistance, can call the Birth Right Organization collect, Houston 713/529-7273, or Austin 512/434-7288.

Joseph P. Mueller
Petroleum Engineer

★ ★ ★

Editor: A&M finally has a long overdue asset: a student operated radio station. Many major colleges and universities throughout the country have radio stations, and I am glad to see A&M acquire these facilities.

I urge all interested students to get involved with Student Government Radio and urge all students and faculty members to listen to and support it. I hope that in the future a course in radio broadcasting will be implemented, and credit given.

I would also like to publicly thank Midwest Video Corporation for donating the studios, equipment, utilities, etc. Without their help the task of organizing and broadcasting would have been much harder.

John Herndon '74
Manager-Program Director

★ ★ ★

Editor: Julia Jones' sensitive, front-page Dobie Grey article Oct 2, 1973 entertains and informs—a rarity in these days of redundant new journalism.

The piece although no "La Campanella" of journalism, nevertheless harmonizes in prose what so many rock singers can't convey in sterile music.

Emerson Rutherford

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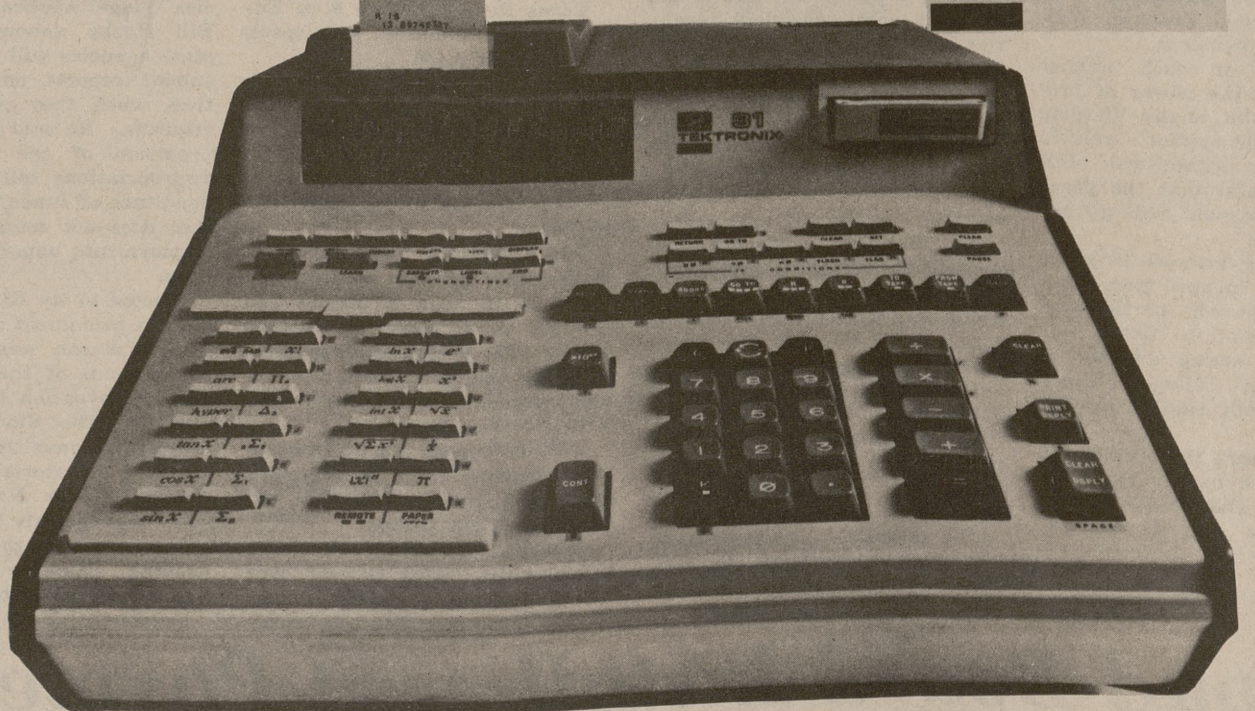
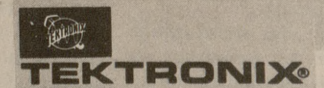
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