

Public Opinion, Impeachment and Elections

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*Politics is not a game. Anyone who talks about politics
as a game does not know what they are talking about.
Politics is a business, a profession, or a war, but not game.*

LYN NOFZIGER¹

On Friday, February 12, 1999, the U.S. Senate absolved President Clinton of the two charges in his impeachment trial. On the charge of perjury the vote was 55 to 45;² on obstruction of justice, 50 to 50.³

The political game, the partisan war and media manipulation are day-to-day realities invoked like irrefutable evidence to explain U.S. politics in recent years.

Not only have professional politicians and political analysts always been clear that the efficient exercise of politics requires precise objectives and carefully weighed procedures, that is, a well-defined strategy, but so have the military: just like in war, politics is no game or spectator sport. It is not responsible for coming to conclusions, a task which falls, in any case, to history. Neither does it make judgments, a job left, I suppose, to the courts. What a perusal of political actors does allow us is an understanding of how and why traditional and

new ways of doing politics coexist in the United States.

The victory of the moderate center and the failure of the U.S. radical conservative discourse in the 1990s is no game either, nor is the internal and external deterioration of the image of the presidency and the resignation of the speakers of the House, Newt Gingrich and Robert Livingston, after the mid-term elections of last November 3. Much less the more than U.S.\$70 million that the failed case of Republican independent prosecutor Kenneth Starr, obsessed with damaging President William Clinton, has cost the American people, or the silence of the first lady or their daughter.

Clinton will be remembered for his economic successes, his vocation for service and moderate discourse, and even for the strength and intelligence he has shown by not losing control in extreme situations. But, the opinion polls say he will also be remembered for disregarding the responsibilities of the post with which he was entrusted, that brings together at the very highest level the traditions, customs and dreams of the nation it represents.

The U.S. president owes his victories to an exceptional capacity for political-administrative management. However, Clinton is his own biggest enemy, with his permanent confusion about where public and private matters begin and end.

THE SPECTER OF PUBLIC OPINION

We can say that since the 1960 televised debates between Richard Nixon and John F. Kennedy, technology and the mass media have ushered a new actor onto the political stage in the United States: public opinion. Crystal balls were replaced by surveys and oracles by opinion pollsters.

Gallup polls show that President Clinton's popularity was high even before the Lewinsky scandal broke. His administration averaged 42 percent approval versus 49 percent disapproval in the January 1996 polls. By December 1996, his rating had increased to 58 percent/34 percent; in January 1997, it was 58 percent/35 percent; and by December 1997, 56 percent/36 percent. In early 1998, it had

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risen to 59 percent/32 percent, and after the announcement of a balanced budget and the first lady's defense of the president saying the investigations were an attempt to discredit him, it increased to 67 percent approval/28 percent disapproval.⁴

In early September 1998, Clinton's rating had dropped to 59 percent/34 percent, but by the end of the month, he had recovered, with 63 percent of the public approving his performance.

BEHIND THE SCENES OF THE TRIAL

The charges brought by the prosecutors of the lower house were perjury and obstruction of justice (by bringing pressure to bear on a witness).

Article I, Section 3 of the Constitution stipulates, "Judgment in cases of impeachment shall not extend further than to removal from office, and disqualification to hold and enjoy any office of honor, trust or profit under the United States; but the party convicted shall nevertheless be liable and subject to indictment, trial, judgment and punishment, according to law." Therefore, an official subject to impeachment may be tried under civil or criminal law, regardless of whether he or she is tried by the Senate and has been found guilty or innocent. Even though the Senate has absolved President Clinton, then, he is still liable to criminal prosecution. What is under debate is whether he may be tried while occupying the presidency.

Several questions regarding impeachment intrigue not only the experts but the public at large: Did the House of Representatives' 13 managers make inexcusable technical-legal mistakes in the

brief they presented to the Senate? Or, was the case simply weak, despite its powerful presentation? Let us see.

The House of Representatives' prosecutors began their case with a series of strikes against them: they had to build a case for perjury and obstruction of justice without the benefit of the supposed key charge: perjury during the president's testimony in the Jones case (it had been thrown out by a 229-205 vote in the House). Also, they were not given the opportunity of calling the witnesses they wanted, nor of questioning them before the Senate.



Apologizing.

Photos by Gustavo Giral/Image iHilina

Finally, the dramatization of the entire trial in the media overcharged the case from the outset, when David Shippers, the House chief investigator, wrote a memo imputing more charges against Clinton than the ones Prosecutor Starr had brought in his September 9 report.

The House of Representatives managers made the charges appear as though they were of historic importance. Suffice it to recall that the president of the House

Judiciary Committee, Henry Hyde, compared the case with the battles fought by U.S. GIs in World War II. Nothing makes a jury more distrustful than evidence being bandied about.

With regard to the role of opinion polls in the impeachment proceedings, after the president's mid-August 1998 apology to the nation, 68 percent of citizens thought Clinton should remain in office, while only 28 percent were opposed. At the end of September, the *Washington Post* cited 61 percent for versus 37 percent against his remaining in office and by October the ratio was 61 percent/35 percent. At the beginning of October, 66 percent of those surveyed thought censure an appropriate measure, while 29 percent were against.

By January 1999, opinion polls showed that even after the House of Representatives prosecutors presented their case before the Senate, which was seeking a way to finish up the trial, two-thirds of Americans opposed the president being ousted from office. The *Time* magazine January 23, 24 and 25, 1999, survey is significant in that it showed that 62 percent of those polled did not want Clinton to be stripped of office; 81 percent said that even if more evidence were presented against the president, their opinion would not change; 58 percent wanted the case to be over; 66 percent supported Clinton; but 50 percent said they did not respect him as a person, while 48 percent said they did. Seventy-two percent of those polled said that Clinton will be remembered for the scandals during his term, and only 18 percent said that he would be remembered for his achievements.

Finally, the *New York Times* and CBS News did a poll in February 1999 that



During the February 14 visit to Mérida.

dispelled all doubts about the opinion of the American public: two-thirds said they had not heard or read new information about the Senate trial. Fifty-six percent did not approve of the way the Senate was conducting the trial, while 37 percent approved. Given the approaching presidential race and the fact that electoral matters are on the agenda ahead of time, it is important to note that 56 percent of Americans had a favorable opinion of the Democratic Party, while 37 percent did not. The Republicans' rating was 41 percent favorable/52 percent unfavorable.

The history of constitutional debates offers no clear definition about what kind of high crime or misdemeanor should lead to a formal accusation or trial. Penal codes render a good number of actions criminal which are not serious enough to warrant impeachment. Herein lies the problem that not all possible crimes or misdemeanors are sufficient grounds for impeachment.

Given the insufficient grounds for the bills of impeachment, a group of senators sought a decorous way out of the mire by reprehending President Clinton through a motion called a "finding of fact."⁵ This

would only have required 51 votes to pass, compared to the 67 votes needed to convict the president of the two charges brought against him. The difference between censure and finding of fact is that the vote on the second would actually take place during impeachment proceedings.⁶ Senators Olympia Snowe (Maine) and Pete Domenici (New Mexico) proposed this way out. However, their proposal was not very well received among Democrats. On Friday, February 12, the Senate absolved President Clinton of both charges, neither of which received even a simple majority vote.

PAYING UP

The political relationship between the White House and Congress changed drastically after the Republicans achieved a congressional majority. That is why it is important to note the political price paid by the Republican Party for its involvement in impeaching President Clinton.⁷ We will mention only two items on the bill: the first was the loss of 5 Republican seats and the November 6, 1998, resigna-

tion of Newt Gingrich (Georgia) as speaker of the House. Robert Livingston (Louisiana), with 21 years in the House, became speaker on November 18, but resigned after leaks of compromising information about his private life, leaving the post to Dennis Hastert (Illinois), majority whip and liaison between moderate and conservative Republicans. It should be remembered that the speaker of the House is the third in line for the presidency.

The second item on the bill was the California governor's seat. Dan Lungreen, Republican gubernatorial candidate in the most important state in the union from the point of view of the economy and electoral college votes,⁸ was one of the few candidates who openly supported the president's impeachment. After 16 years of Republican control, Californians voted Democrat Gray Davis into the governor's mansion.

After the mid-term elections, the House was divided as follows: 228 Republicans, after losing 5 seats; 210 Democrats, having gained 4 seats; and one independent. The Senate remained the same with 55 Republicans and 45 Democrats. The Republicans lost one of the 32 governorships they had held; the Democrats maintained their 17; and there are now two governors who ran on independent tickets.

CLINTON'S VISIT TO MEXICO

On February 14, 1999, President William Clinton and his wife arrived in Mérida, Yucatán, accompanied by 12 members of his cabinet. The central topics on the agenda were the fight against drug trafficking, illegal immigration and pollution on the border.

The real underlying issue at the meetings was U.S. certification policy, given the report that pointed to Mexico as a stop-off on the illicit drug route to the United States. According to U.S. figures, two-thirds of Colombian cocaine crosses into the United States through Mexico.

If Mexico did not get certification,⁹ U.S. economic aid for the fight against drug trafficking would be suspended and serious economic sanctions applied, among them, blockage of international credit.

Although relations with Mexico are a matter of national security for the United States, economic issues are also fundamental points on the bilateral agenda, particularly since 1994, when NAFTA went into effect. Trade between Mexico and the United States reached U.S.\$200 billion in 1998, significantly higher than 1994's U.S.\$80 billion. The United States exports U.S.\$79 billion to Mexico every year, twice as much as before NAFTA.

In recent years, Mexican foreign policy, has had to struggle between developing new channels of communication and negotiation with the United States and the public's particular sensitivity to any issue involving sovereignty. It is curious to watch the efforts of the Foreign Ministry, condemned to play a double game that ties up efficient negotiations both domestically and abroad at the same time that it must avoid injuring feelings that usually involve ideologues' snap judgments under the guise of expert political analysts.

Actually, this is one of the consequences of globalization: liberalizing emerging economies and at the same time submitting them to the pendular movement produced by international finance capital. This can be seen in the move from a fundamentally local dynamic in society to

one which universalizes the concrete sphere of action of professional politicians and—naturally—their mistakes.

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Today, politicians must set objectives that are both possible and responsible. Their behavior must adjust rationally and instrumentally to a process of give and take that includes the costs and benefits of all individual acts in the public sphere. If they do not, first, they will feel the crunch at the ballot box and, second, they will see the end of a career or, in the case of a bilateral agenda, the failure of negotiations.

Therefore, the practical aspects of politics force a consideration of the benefits of efficient public management, above and beyond the media discourse which considers only the defense of national sovereignty. If we understand this, perhaps our politics will begin to mature once and for all. **MM**

NOTES

¹ Lyn Nofziger, "Presidents and Politicians I Have Known," *Governance VIII. The Presidency and Foreign Policy*, ed. Kenneth W. Thompson (Lanham, Maryland: University Press of America, 1997), p. 26.

² Ten Republicans voted with the Democrats: John Chafee, Susan Collins, Slade Gorton, James Jeffords, Richard Shelby, Olympia Snowe, Arlen Specter, Ted Stevens, Fred Thompson and John Warner.

³ Five Republicans voted against conviction on this charge, along with the Democrats: John Chafee, Susan Collins, James Jeffords, Olympia Snowe and Arlen Specter.

⁴ Gallup polls for 1996, 1997 and January 1998, with a sampling of 864 adults interviewed by phone.

⁵ "Finding of fact" could be considered unconstitutional given that the U.S. Constitution does not include it as part of the impeachment trial, even as punishment. See Article I, Section 3, paragraph 7, quoted above, which limits penalties in impeachment trials to removal from and disqualification for office.

⁶ According to constitutional expert Kirk Spitzer, "Basically, it's a resolution passed by Congress that expresses disapproval of someone or something. It carries no specific penalties and can compel no particular action. It's drafted the same way as any House or Senate bill, but has no force of law. It resides forever in the public records, but doesn't do anything." *USA Today* (13 January 1999).

⁷ Gallup polls taken during the week of October 29 to November 1, 1998, with a sampling of 2,084, indicating that 49 percent of voters supported Democratic congressional candidates, while 45 percent supported Republicans, contrasted with the previous week's poll (October 23 to 25) that gave the Republicans a two point lead. A Pew Research/Princeton survey among 1,714 registered voters done the day before the November 3 elections gave the lead to the Republicans. Two out of three voters (64 percent) said that they would like to reelect their representatives, but when asked about the impeachment trial, 54 percent said they would not support members of the House of Representatives who voted to impeach Clinton. If we recall that in early October 1998, 40 percent of those polled said they would support House members who voted to impeach, the cost of the defamation campaign is clear.

⁸ It is significant that the Davis administration has sought to create links with Mexico on two fronts: Governor Davis' visit to Mexico was scheduled two weeks before President Clinton's; and during his meeting with President Zedillo, the participants were very aware of the increase in Texan exports to Mexico, even though Texas is just a point on the route the products take, and what this means in terms of political capital—6.6 million Latino registered voters—for the Republican front-runner in the race for the nomination for the 2000 campaign, Governor George Bush Jr.

⁹ Certification is based on a law passed by the U.S. Congress in 1986. Since then, Mexico has always been certified by the U.S. government. During his visit, Clinton confirmed his intention of presenting a favorable report on Mexico. The Congress can overturn the president's report by a two-thirds vote of the House. Significantly, last February 18, the Republican Party introduced an amendment that was approved by a partisan vote of 212 to 205 postponing 90 days the last day for a possible decertification, initially set for March 1.