

TIME

Nancy Pelosi Doesn't Want to Talk About Impeachment. The Democrats May Not Be Able to Resist It

BY **MOLLY BALL**

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There's one person in America with the power to make Donald Trump's impeachment happen, and she keeps insisting she's not interested. "I'm not for impeachment," Speaker Nancy Pelosi said in an interview published March 11. "Unless there's something so compelling and overwhelming and bipartisan," she told the Washington Post, "I don't think we should go down that path."

Pelosi has been giving a version of this answer for more than a year now, but there's a reason she keeps getting the question. Whether Democrats will move to impeach Trump is the biggest political issue of 2019. And despite what Pelosi says, it's likely to happen.

Democrats control the House, and about three-quarters of their voters favor impeachment. A well-funded grassroots movement is mounting an aggressive campaign to pressure wavering lawmakers. Multiple investigations into the President, his business and his Administration are under way. The one led by special counsel Robert Mueller may conclude any day, but no matter what Mueller finds, many Democrats in Congress believe there's already ample evidence that Trump has committed crimes and proven himself unfit to serve. These lawmakers see a moral imperative to seek the remedy prescribed by the Constitution.

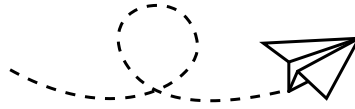
More than a quarter of the 235 Democrats in the House have already expressed support for Trump's impeachment. Virtually everyone else is taking a "wait for Mueller" approach. But no one is ruling it out. And to many, the prospect of opening impeachment proceedings against Trump seems inevitable. "It's not a

matter of whether, it's a matter of when," as Representative John Yarmuth of Kentucky told CNN on March 12.

Democrats see a wide range of potentially impeachable offenses, including obstruction of justice, based on Trump's efforts to impede federal investigations, starting with the firing of FBI Director James Comey; accepting campaign assistance from Russia; violating campaign-finance laws by paying hush money to alleged mistresses; violations of the Constitution's emoluments clause; and abuses of presidential power. While Democrats in Congress expect the Mueller report will bolster the case, many believe they've seen ample evidence. "We have already seen deeply concerning evidence of the President's lack of fitness for office, the degree to which profound conflicts of interest may be guiding his foreign policy, as well as evidence of criminality on the part of the President," Representative Adam Schiff of California told reporters on March 12.

Conventional wisdom in Washington tends to treat impeachment as a fringe crusade, on a par with campaigns by antifuoridation activists or UFO enthusiasts, and views Pelosi as right to resist this momentum. Many believe it would be a political disaster for Democrats, galvanizing Trump's base and alienating moderates. Republicans have taken to goading their opponents to try it, while White House officials say they relish the prospect of the Democratic Party tearing itself apart over the issue. "It would play right into our hands," says a House Republican leadership aide.

But Pelosi is actually playing a deeper game. Her aides note that she's never ruled impeachment out. All she's done, they say, is set a standard: increased popular support and some degree of GOP backing. Behind the scenes, she and her team are working to see that standard is met. "The easy thing to do would be to start down the path of impeachment. That's a trap," a senior Democratic aide tells TIME. "Now that we have the gavel and can expose all of this wrongdoing, I think you will start to see a shift in public opinion and movement of Republicans."



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For the past two years, the Democrats have coordinated their investigations and oversight of the Trump Administration in a regular Friday-morning staff meeting. Following a “culture of corruption” messaging framework set out in a memo by Representative John Sarbanes, they determine issues and people to target, parceling out document and witness requests to various committees. Even without the House majority, the aide notes, this push contributed to the departure of four Cabinet officials accused of misconduct, and the public has heeded their work: according to a March Quinnipiac poll, nearly two-thirds of Americans now believe Trump committed crimes before becoming President.

Pelosi’s two-pronged test aims to avoid what happened with President Bill Clinton’s impeachment, which backfired on Republicans and boosted Clinton’s popularity. When she first became Speaker in 2007, Pelosi quashed Democrats’ zeal to impeach George W. Bush for the Iraq War, believing it was misguided.

She believes her party won the 2018 midterms by focusing on issues like health care, not Trump.

But there are already signs Pelosi's standard could be met. Public support for Trump's impeachment hovers around 45% in recent polls. That's the highest for any President since Richard Nixon, whose impeachment was favored by 43% of Americans in March 1974, five months before he resigned. Large majorities say they would favor Trump's impeachment and removal from office if Mueller finds he authorized coordination with Russia or obstructed justice. To date, congressional Republicans have staunchly defended the President, who has the overwhelming support of the party's voters. But their calculation could change. "Someday, all of a sudden, it's going to be like the Berlin Wall coming down," George Conway, the prominent conservative lawyer and Trump critic who is married to White House counselor Kellyanne Conway, says of Republican support for the President. "You never know what straw is going to break the camel's back. But I firmly believe this is going to happen."

Over the coming months, Pelosi and her lieutenants will use congressional hearings and investigations to paint a picture for the public. This effort will constitute an impeachment drive in all but name. And while some House Democrats would rather use the I word from the start, most privately believe they'll get there when the time is ripe. "There's remarkable consensus about impeachment now," says Representative Jamie Raskin of Maryland, a former constitutional-law professor who serves on the Oversight and Judiciary committees. "The caucus does not want this to be a fetish or a crusade, but the caucus also doesn't want it to be a taboo."

The question of whether to impeach Trump isn't just a Washington parlor game. Attempting to undo the will of the voters and remove a duly elected President is one of the most consequential powers entrusted to the Legislative Branch. The next presidential election could hinge on how such an effort plays out. Yet much as Pelosi may not want to say it now, even her reticent Democratic allies in the House admit the push for impeachment is likely coming. "It gets more difficult to avoid every day," says a House Democrat who has voted against every impeachment resolution presented so far.

On a Chilly recent morning in Washington, Rita Fox descended an escalator to the bowels of a Marriott conference center. The vivacious 63-year-old Army veteran wore a navy blue impeach trump T-shirt featuring a peach with a swoosh of presidential hair. Around her neck, a laminated badge listed 10 of Trump's Impeachable Offenses, from "conspiring with foreign actors to steal the 2016 election" to attacking the press. "I'm retired, but when anyone asks me what my job is, I say I'm a resister," Fox says. "I am part of an army fighting to save this country. What the hell is wrong with our elected officials? Why haven't they done something about this man? They are allowing the greatest threat to democracy and the world to continue."

Fox had traveled to D.C. from St. Petersburg, Fla., to join 300 like-minded souls at a summit convened by Need to Impeach, the \$90 million pressure group funded by the liberal billionaire Tom Steyer. Many Democrats view Steyer as an annoyance; Republicans cast him as a shadowy bogeyman. But it's not just a one-man crusade. More than 7 million people have signed his online impeachment petition. Last year, 78,668 Need to Impeach activists wrote 1,645,805 personalized get-out-the-vote postcards to infrequent midterm voters in key House districts. Helping Democrats win the House wasn't the end of Steyer's crusade—it was just the beginning. Now he wants Democrats to follow through and impeach Trump. "God bless Robert Mueller, but we can't wait for him," says Steyer, a stern, impatient 61-year-old whose pale blond hair falls across his forehead. "We already have more than enough information."

More may be on the way. Political observers expect Mueller to wrap up his two-year investigation into Russian interference in the 2016 election soon. If he implicates Trump in his final report, Mueller is expected to follow internal Department of Justice guidelines that say a sitting President can't be indicted. (This is a matter of DOJ policy, not law, and some scholars dispute it.) He'll also likely follow rules that require him to deliver his report only to the Attorney General, William Barr. It is up to Barr to decide what information to release to Congress. On March 14, the House is expected to pass a resolution calling for the report to be made public to the fullest extent possible.

That information, and whatever emerges from the Democratic investigations, will fuel a debate over what constitutes an impeachable offense. Article II of the Constitution states that federal officers, including the President, can be impeached for “treason, bribery, or other high crimes and misdemeanors.” Over the centuries, that’s been interpreted as not necessarily criminal conduct but overall unfitness for office; the charges against the 19 officials who’ve been impeached since 1789, of whom eight were removed, range from drunkenness to violating the public trust.

So far, the investigations of Trump have produced smoke but no fire, says George Washington University legal scholar Jonathan Turley, who testified in favor of Clinton’s impeachment and represented Louisiana judge Thomas Porteous, the last federal official to be impeached and removed, in his 2010 Senate trial. “The framers viewed it as applying only to crimes committed in office, and only crimes that were sufficiently serious to warrant removal,” Turley says.

Trump crossed that line some time ago, according to Representative Al Green, a solemn, ponytailed African American from Houston who has already introduced impeachment resolutions twice since January 2017. Both went nowhere under Republican leadership, but he is undeterred and plans to try again. “I’m standing on the grounds that the Constitution has put into place, on the foundation that the country rests upon,” Green told TIME on March 12, in an interview in his office, where a framed copy of his 2018 impeachment resolution adorns one wall. That resolution garnered 66 Democratic votes. Green expects to win fewer this time, because of Pelosi’s stance. “There are some people who say this will be a hard vote,” he says. “We come here to take hard votes. That’s what being in Congress is about.”

Among Democrats, impeachment is hugely popular, with about as much support in polls as legal abortion (68%) or single-payer health care (70%). Even many Democrats who don’t yet publicly support impeachment think Trump is a threat to American democracy, and feel they were elected in part to fight back, even if it costs them politically. An effort that tries to oust Trump but fails,

some Democrats recognize, could actually help him win a second term. “But there’s also a moral question,” says one Democratic member of Congress.

Democrats are looking to Pelosi for guidance to navigate those hazards. In interviews with more than a dozen House Democrats, most praised the Speaker’s impeachment remarks for sending the right message to the public and buying them time and space. “No one should be thinking we are chomping at the bit to start the impeachment process,” says Representative Jim Langevin of Rhode Island. But many Democrats see the crush of investigations headed inexorably in that direction—there are at least 17 probing Trump, not including Mueller’s. “At some point it’s like, if this guy did this bad stuff, he needs to be impeached,” says a different House Democrat who spoke on condition of anonymity. “And we need to do it, even if there’s a political cost to it.”

For all that, most people in Washington still insist it won’t happen. Mueller could exonerate the President or present little new information. Given the feverish expectations among liberals—resistance websites do brisk business in mueller time T-shirts and the like—even a relatively damning report could be seen, or spun, as a disappointment, draining political momentum for ousting Trump. Barr could choose to share nothing with Congress and tie up Democratic attempts to gain access to Mueller’s findings in court. And time is short. There’s less than a year before primary voting begins for the 2020 election. Democrats, skeptics say, are likely to try to damage Trump with investigations, then hope the public rejects him at the polls.

The House could pass impeachment on a party-line vote, but it would then go to the Republican-controlled Senate for a trial that would require 67 votes to convict Trump and remove him from office. At least 20 Republicans would have to do so, an unimaginable number given GOP legislators’ loyalty to Trump thus far. “The only thing worse than putting the country through the trauma of an impeachment is putting the country through the trauma of a failed impeachment,” says Schiff.

The left argues that such a view hands Republicans a veto over the decision regardless of the merits. The impeachment process itself, advocates argue,

could swing public opinion. In February 1974, they point out, just 38% of Americans supported impeaching Nixon. The House began an impeachment investigation nonetheless—and by April of that year, 52% of the public supported impeachment. By August 1974, Nixon saw the writing on the wall and resigned rather than allow the House to vote.

In fact, no President has been removed from office by Congress. Andrew Johnson was impeached in 1868, as was Clinton in 1998, but both times the Senate failed to convict. It's the Clinton drama that Washington remembers most vividly as a lesson in the perils of the process. Many of today's lawmakers were already in office at the time, and they remember how senior Republicans tried and failed to put the brakes on their colleagues in House. Clinton and his allies decried the investigation as a "witch hunt," and after his Senate acquittal, he claimed vindication and left office with high approval ratings.

The White House is convinced the same would happen now. Trump aides view Pelosi's protestations as an attempt to put down her rebellious left flank, but they don't think she'd allow impeachment to move forward. The White House counsel's office hasn't taken specific steps to prepare for impeachment, like standing up a war room or lining up outside lawyers. But if it does go forward, Republicans believe it only helps them make the case that Trump is being targeted by vengeful elites who look down on regular American voters. "For the center of the electorate, the prospect of impeachment is an incredibly unpopular thing," says GOP strategist Josh Holmes. "It's disruptive, it's seen as fanatical, it's aggressively partisan."

But the Nixon impeachment offers a different model, and it's one many of today's Democrats are following. "You had 18 months of suspicion, concern and inquiries about Richard Nixon's re-election campaign before any Democratic leader talked about impeachment," says historian Timothy Naftali, co-author of *Impeachment: An American History*, who last summer read the diaries of the Republicans and Southern Democrats in Congress whose buy-in was crucial. Impeachment moved forward only "when a bipartisan group determined that there was a pattern of misconduct by Richard Nixon, based on an ocean of

material which raised the question of what the consequences would be for our Constitution if we allowed that man to get a pass.”

Right now, there's strong and stable public support for Mueller and his investigation, despite months of the President and his allies painting the probes as “presidential harassment.” Democratic pollsters say support for Mueller goes up when people are told about the number of charges the probe has already produced. Nearly 90% believe the Mueller report should be public, according to a February CNN poll. Despite entrenched partisanship, Americans profess to be open to accepting Mueller's conclusions. In a February, Washington Post/George Mason University poll, 61% said they would support impeaching Trump and removing him from office if Mueller concludes he authorized his campaign to coordinate with Russia, and 65% would support removal if he is found to have obstructed justice.

Soon, it will fall to Pelosi to try to bring Mueller's findings to light. “If you're ever going to get to impeachment, you need to get all that data,” says Representative Mark Pocan of Wisconsin. Pocan once gave Pelosi a pair of oven mitts emblazoned with one of her favorite phrases: too hot to handle. It's shorthand for her strategy of leveraging public opinion to pressure Republicans to do things they oppose, like ending family separations at the border or reopening the government. The idea is that no matter where your opponents start out, or how committed to the President they profess to be, when the politics changes, they'll change with it.

If the politics of impeachment do change, and Democrats initiate impeachment proceedings, the process would get under way with a vote in the Judiciary Committee, chaired by Representative Jerrold Nadler, a no-nonsense New Yorker with a night-school law degree and a photographic memory for the various strands of the Mueller probe. Though Nadler nominally shares Pelosi's stance against impeachment, the standard he has set isn't quite the same as the Speaker's. Already he has said publicly that he believes Trump obstructed justice. Separately, he has said he sees attacks on Democratic institutions and the rule of law as impeachable offenses. And unlike Pelosi, Nadler believes Republican support isn't a prerequisite for opening an impeachment inquiry.

“We are not going to rule it out or in,” Nadler tells TIME. “If our duty is to do it, we will do it. If it’s not, we won’t. Impeachment is not a punishment. It is not a political act to say we think it’s a good idea to get rid of the President. Impeachment is a defense of the Constitution, a defense of liberty. It’s a very blunt sword that should only be drawn if absolutely necessary. But it may be.”

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