

Tom Braden
Post 4/12/74

Impeachment Without Indictment

No more Ehrlichman, Dean, Wilson, Hallerman,

The President's counsel, James St. Clair, says that Mr. Nixon cannot be impeached for any offense other than indictable crime.

And we are hearing a lot these days about the "plain words" of the Constitution: "Bribery, Treason and other High Crimes and Misdemeanors."

Bribery and treason are indictable crimes. But did the founding fathers intend that "other High Crimes and Misdemeanors" must be indictable? They did not say so.

Let us take a look at some other plain words in the Constitution. Article II, Section 1, provides for paying the President "a Compensation," and says that during his term he shall receive no other "Emolument from the United States or any of them." Suppose a President did take another emolument. It would not be an indictable crime. But since it clearly contravenes the plain words of the Constitution, would it not be cause for impeachment?

And what about other plain words? The Constitution instructs the President "that he shall nominate ambassadors" and "give to the Congress Information on the State of the Union." Suppose a President refused to do

"Cannot a President lose his job for gross neglect of duty just as other citizens do?"

these things. He could not be indicted for not doing them. But couldn't he be impeached?

In other words, cannot a President lose his job for gross neglect of duty just as other citizens do? What, otherwise, would prevent a President from emulating former Rep. Adam Clayton Powell and taking off for the Bahamas to vacation during his term of office?

All this sounds farfetched and ridiculous, but we are reduced to the ridiculous when we hear Mr. Nixon's argument that in order to impeach him we must find him guilty of an indictable crime.

"The Internal Revenue Service rejects any evidence of fraud on the part of the President," said the White

House, immediately after it became public knowledge that Mr. Nixon owed nearly half a million dollars in back taxes and interest. That point is to hold on to Mr. Nixon's line of defense: that in not paying his taxes, he was not guilty of an indictable crime.

If we buy that argument, we buy future trouble. What can we say to a future President guilty of misfeasance or neglect of duty?

Under this President, the following crimes have been proven or admitted by persons in his close employ: burglary (E. Howard Hunt, James McCord et al.); perjury (Herbert Porter, Jeb Magruder); subornation of perjury (Magruder); forgery (Hunt, Donald Segretti); promise of ambassadorship

in return for campaign contributions and violation of Federal Corrupt Practices Act (Kalmback); tax evasion (Spiro Agnew); obstruction of justice (John Dean, Magruder, Frederick LaRue); destruction of evidence (L. Patrick Gray); wiretapping (Hunt, McCord); conspiracy to deprive another of his civil rights (Egil Krogh).

Under this President, the following crimes are alleged to have been committed by persons in his close employ: conspiracy to defraud (John Mitchell, Maurice Stans); perjury (John Ehrlichman, H. R. Haldeman, Dwight Chapin, Mitchell, Stans); conspiracy to obstruct justice (Haldeman, Ehrlichman, Charles Colson, Mitchell, Gordon Strachan, Robert Mardian); conspiracy to deprive another of his civil rights (Ehrlichman, Colson, Hunt, G. Gordon Liddy).

Still other crimes, such as the sale of the price of milk and of antitrust judgments, are under investigation.

The plain words of the Constitution say of the President: "He shall take care that the Laws be faithfully executed."

We can't indict him for not doing so. But if we can't impeach him, we may as well have a king.

© 1974, Los Angeles Times