

Byron Reluctant To Reopen

A News Commentary
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Now that Richard M. Nixon is gone from the White House and the dust is beginning to settle, what are the lessons to be left to history?

Clearly, the most obvious lesson is that a president can't expect to remain in power if he commits criminally indictable offenses. It remains to be seen whether the prestige of his former office will shield Nixon from prosecution as an ordinary citizen.

But, the important questions go deeper than indictable misdeeds. These questions concern the precedents Congress has set against future offenses only presidents can commit, offenses the founding fathers had in mind when they charged the chief executive to take care that the laws be faithfully executed.

Are there adequate safeguards against future attempts to abuse, for example, federal tax power to harass citizens with political views the president dislikes?

Suppose a future president is tempted to try some of the things Nixon might have gotten away with if he'd had the sense to tape his conversations. Would this future president feel safe in the expectation that he could pass off any discovered misdeeds on overzealous aides?

What does the congressional record on Nixon's unfinished impeachment say, for instance, about James Madison's statement that a president should be impeached for failing to check constitutional abuses by his aides?

Will Congress have to produce the kind of evidence only tapes and films can provide in order to impeach a future president?

Congressman Goodloe E. Byron isn't concerned with these questions. Like most of us, he's simply thankful Nixon had the decency to resign and spare the country the trauma of a prolonged House impeachment and Senate trial.

But for future generations, it behooves Congress to do more

than simply accept the House Judiciary Committee's impeachment report. Although Congress has a number of other pressing questions to resolve, a few days to debate, amend, and adopt articles of impeachment would be well spent. History would have a record broader than the judgments of 38 men.

But, for Byron, it is enough that Nixon left office under the cloud of criminality. "The point has been made," he said; the point is that Nixon had to go "because he admitted he had known of the coverup" — not necessarily because he had abused his presidential powers.

Perhaps, it's too much to expect any Congressman to re-open such a shabby record of high contempt for the Constitution. But, such a review would have to be especially

difficult for Byron; he was one of the last Congressional holdouts, saying he would "wait until all the evidence is in" before deciding his impeachment vote.

Byron didn't say he'd vote for impeachment until 24 hours before the president resigned. Up to then, he had been careful to say nothing.

But, if the Congressman had been brought to vote for the president's impeachment, it wouldn't have been for lack of sympathy with his politics.

Of the legislative issues on which the White House took a stand in 1973, Byron, a Democrat, supported Nixon 57 per cent of the time — five percentage points behind the average for the whole Republican party, and a point behind the average for eastern House Republicans. These are the findings of Congressional Quarterly, a non-partisan political journal that keeps records of every Congressman's vote.

Byron backed Nixon 22 per cent more often than the House average for his own party, and 13 per cent more often than Southern Democrats, generally considered the party's most pro-Nixon group. He fell one percentage point shy of making

Congressional Quarterly's list of Nixon's 13 most supportive Democrats.

Byron also supported the President's party last November when the House ran into a partisan hassle over funding for the Judiciary Committee's impeachment inquiry.

When Republicans attacked the measure, he voted with them to keep open debate and delay final approval. When they tried to restrict the impeachment investigation before allowing it to begin, he voted for that too. Only after both efforts had failed did he vote with his fellow Democrats to pass the appropriation.

According to a transcript of that day's debate in the Congressional Record, the funding resolution had just been reported from the Administration Committee for a vote on the House floor when several Judiciary Committee Republicans demanded written assurances to reserve enough money for them to hire a staff to contend with the Democrat's.

Rep. Charles Wiggins (R., Cal.) from Nixon's former home district, also called the funding resolution "grossly premature" because the Judiciary Committee should first have decided what an impeachable offense is before hiring a staff to gather evidence.

After a lengthy exchange, Administration Committee Chairman Wayne Hays (D., Ohio) moved to end the debate and bring the question to a vote. The motion passed 233 to 186, with 219 Democrats voting for, 171 Republicans voting against. Byron was one of 15 Democrats voting to prolong the debate.

Undaunted, the Republicans tried to amend the resolution

before the final vote. William Dickinson (R., Ala.) proposed that the funding resolution be sent back to the Administration Committee for redrafting with instructions to reserve at least a third of the \$1 million appropriation to the Republicans.

Dickinson's amendment also would have prevented the Committee from hiring any staff or spending any of the funds until it "defined the nature and scope" of its investigation.

This was a clear attempt to force the Committee to limit the area it could investigate. Had the Alabama Republican's amendment been approved, the Committee would have been bound to ignore all evidence not within its definition of impeachable offenses.

Even if the nature and scope of the inquiry were broadly defined, shrewd trial lawyers like Wiggins could have challenged major pieces of evidence as irrelevant, provoking long and stubborn partisan wrangling. This would have been just what the President wanted: an inquiry that could easily be portrayed as a partisan Kangaroo court.

Bear in mind, too, that the Committee hadn't seen any of the subpoenaed White House tapes and documents at this point. The possibilities for delay and debate over the pertinence of new evidence would have been virtually endless.

As it was, the Committee did try on its own to define impeachable offenses, and couldn't without reference to the evidence.

If the Committee had been required to come up with such a definition before the inquiry could begin, the day of decision for the full House could have been postponed into November — getting Congressmen with pro-Nixon records off the hook.

Byron voted with 15 other Democrats and 174 Republicans to sustain the amendment, but it was defeated. The rest of his party, 216 in all, joined 11 Republicans to kill the motion 227 to 190.

Byron refused to discuss the reasons for his vote. The day after he was asked through an aide — a week before the president resigned — Byron sent a letter to the News-Post stating that "it is inappropriate for members of the media to poll me on how I will vote on the articles of impeachment."

He argued that the House of Representatives is similar to a grand jury on the impeachment question, and bound to silence.

"Due process can only be hindered if I were to state a position now without the benefit of seeing and debating all the evidence compiled by the Judiciary Committee," he wrote.

Yet, he voted ten months ago to make the Judiciary Committee declare at least some of this evidence in effect irrelevant.

Byron also dodged another question with the same response. As a member of the House Commerce Committee, he had voted in 1971 to hold CBS News in contempt of Congress for failing to submit film and tapes used in

the making of the controversial special, "Selling of the Pentagon."

Did he see the same contempt in the President's refusal to submit White House tapes and documents to the Judiciary Committee?

"I believe it would be unethical for me to pre-judge this matter and I will not do so," he wrote in his blanket vow of silence.

But his own votes suggest that

he had already made a little pre-judgment of his own: that strings should be attached to the money for the impeachment inquiry because the inquiry itself would be unfairly partisan toward the man he had so consistently supported.