

William Rusher

SFChronicle
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The

APR 14 1974

Only Case Against Nixon

New York

TO ANYONE TRAINED in the law and sufficiently far from Ground Zero to be reasonably objective, the year-long effort to find some basis for the impeachment of President Nixon has borne an unmistakable resemblance to the Theatre of the Absurd. Innuendoes, dark suspicions, flights of fancy — just about anything, it seemed, would do. Of hard evidence, however, there has been next to none.



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As long as the battle was waged largely at cocktail parties, evidence may not have mattered. But today, as presidential counsel St. Clair settles into his job and the Democratic bravos on the House Judiciary Committee finally start getting down to theirs, the acute shortage of that commodity is becoming glaringly apparent.

Who can have forgotten the halcyon days of June and July 1973, when the wobble of Sam Ervin's

eyebrows was interpreted by a fascinated nation as implying that his committee was about to expose wrongdoing in the Oval Office itself? Bella Abzug, that Phyllis Diller of liberalism, didn't even wait for the end of the hearings. She introduced an impeachment resolution then and there.

But the other day in Cleveland, Mistah Sam finally admitted in public that his Watergate committee had found no evidence to justify the impeachment of Richard Nixon. (Did you ever see that story, by the way? No New York paper carried it on page one; neither the "Times" nor the "Post" carried it at all.)

But, as I say, we are finally getting down to the nitty-gritty and for anyone interested in following the game from here on in I offer the following more or less lawyerly observations.

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FIRST, YOU CAN FORGET 99 per cent of all the issues, allegations and whatnot that have been proposed in the last 12 months as bases for the impeachment of Richard Nixon.

Most of them, as legal propositions, never amounted to a hill of beans anyway; as for the rest, Mr. Nixon may conceivably be guilty of one or more specific acts of wrongdoing, but if so the proof is spectacularly lacking.

At this writing there are two, and only two, episodes known to the public on which an advocate of impeachment might conceivably hang his hat — and neither of them looks, at this point, terribly promising.

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THE FIRST involves the state of Mr. Nixon's mind on March 21, 1973, when he conferred with Haldeman and Dean while his tape recorder was running. Dean, who of course was up to his ears in the coverup he was supposed to be investigating, apparently made a reference to payments that were then being made to the convicted Watergate defendants. In the case of Howard Hunt especially, Dean seems to have hinted that the payments Hunt was requesting tended to go beyond his legal expenses and support for his family and verged on demands for "hush money."

Dean also apparently alluded to the possibility of executive clemency for Hunt.

Now, if Dean's remarks and Mr. Nixon's responses show clearly that Mr. Nixon was, at that time, aware that "hush money" was being paid, and either approved of it or did nothing about it, a ground for impeachment might exist.

We cannot judge the implications of the conversation precisely, however, until a transcript of the tape is made public — as inevitably it will be. But meanwhile it is worth noting that both Mr. Nixon and Haldeman insist that Nixon rejected any idea of hush money and refused to consider offering clemency. Probably the conversation is subject to varying interpretations — if so, the Senate will almost surely not vote to convict.

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THE IMPEACHMENT LOBBY'S only other serious hope is that the document consigning Mr. Nixon's vice presidential papers to the National Archives (and thus entitling him to a fat tax deduction) can be shown to have been fraudulently back-dated by his tax aides to take advantage of the deduction provision — and that Mr. Nixon was provably a party to the fraud.

That will involve, at a minimum, persuading some complicitous underling to talk — and nobody has volunteered yet.

So, despite all the hullabaloo, my guess is that Mr. Nixon is still very likely to serve out the term to which he was elected.

Universal Press