

LEGISLATIVE

ACLU has major concerns despite Nixon resignation

Editor's Note: Two days after Richard Nixon resigned as President of the United States, Edward Ennis, the Chairman of the Board of National ACLU, issued the following statement.

.. Actually, the portion of the statement arguing for the impeachment process to proceed is seemingly moot. The House Judiciary Committee completed its final report and forwarded it to the full House with a recommendation that no action be taken in light of the resignation. That report and the recommendation were accepted by the House by a vote of 431 to 3.

While this vote ends impeachment, it is significant nevertheless. The Judiciary Committee unanimously found that Richard Nixon had been guilty of obstruction of justice and abuse of power while it split on whether he was guilty of withholding evidence from Congress. This report is now in the public record and will be an important precedent for any future impeachments.

.. Also, the Committee established grounds for impeachment which resemble remarkably those drafted and endorsed by the ACLU. Their report makes it clear that a President can be impeached for other than indictable crimes and chief among these are the civil liberty violations which caused ACLU to call for Nixon's impeachment in the first place.

.. The issue of whether or not Nixon should be criminally prosecuted is still in question. The National ACLU board will attempt to take a position on that matter at its meeting this month. Primarily, they will be considering whether or not to ask the membership to support a letter-writing effort to Special Prosecutor Leon Jaworski.

IMPEACHMENT STATEMENT

By Edward Ennis, Chairman of the Board

On September 30, 1973 the ACLU announced that it would launch a campaign to impeach President Richard M. Nixon and bring him to trial before the Senate for his provocative abuse of power, which in our judgement constituted high crimes and misdemeanors. From the

beginning of our campaign, we have not believed that the purpose of impeachment was to "get" Richard Nixon. For us, he was never the issue. The issue was, and remains, the constitution and the Bill of Rights.

I. IMPEACHMENT

We were, and remain, in favor of impeachment because it is the sole constitutional remedy for the abuse of official power, and because we believe that Mr. Nixon's abuse of power had become so excessive as to threaten fundamentally the rule of law, the existence of constitutional government and the effectiveness of the Bill of Rights. Impeachment is the only constitutional way to resolve those issues.

Mr. Nixon's resignation from the Presidency leaves unresolved grave constitutional and civil liberties questions. The solemn constitutional procedure of impeachment of an officer of the U.S. should never be automatically and abruptly mooted by resignation of the individual under investigation, particularly when it appears clear, as here, that the house will impeach and the Senate convict and remove the individual from office.

We therefore, believe it is important for the Congress to continue the procedure begun by the House Judiciary Committee in order to restore the integrity of the Constitution and the Bill of Rights.

There is legal precedent for the impeachment process to continue even after resignation. Although the Senate acquitted William W. Belknap, former Secretary of War, in 1876, it rejected his argument that impeachment lay only against present office holders and ruled his resignation did not bar further impeachment proceedings. This precedent has strong roots in English and Colonial impeachment theory. Impeachment of past officials served the end of barring them from future office. John Adams thought himself impeachable for past misbehavior in public office "so long as I have a breath of life in my body."

Accordingly, the ACLU urges the

House of Representatives to consider and vote approval of the recommended grounds of impeachment so that there will remain no question whatever that Mr. Nixon's departure from the Presidency is constitutionally justified.

II. EQUAL JUSTICE

Although the ACLU has no position on immunity in general, it views with great concern suggestions that the Congress should express the view that Mr. Nixon should be granted immunity from prosecution for criminal offences. The Constitution provides that an individual convicted in any important proceeding "Shall nevertheless be liable and subject to Indictment, Trial, Judgement and Punishment according to the Law." This expressly contemplates that impeachment should not interfere with the fair administration of criminal law in respect to all persons equally, including those who have held high public office and been removed or resigned under impeachment proceedings. The ordinary citizen cannot be expected to respect the law if it is not administered with scrupulous equality for the powerful and the powerless alike.

III. FULL DISCLOSURE

The American public needs to know the truth about the government abuse of power in recent years, including the evidence underlining the Articles of Impeachment voted by the House Judiciary Committee. Accordingly, full disclosure of that evidence must be made.

The impeachment process in the House of Representatives is the appropriate constitutional way to do it.