

Impeachment Reaction Cool

By Spencer Rich

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"If you ask me whether I feel in my gut that President Nixon is guilty of covering up the Watergate scandal, I'd say yes. I feel in my gut that he is," a northern Democratic senator said last week.

"But what I feel in my gut is one thing. Hard evidence is another," continued the senator, a man of impeccable "liberal" credentials who dislikes the President intensely and has violently opposed him on most issues.

"So far, all they have is John Dean as involving the President in the cover-up. I couldn't vote for impeachment on the basis of that alone, especially if you used the standard that he must be guilty beyond a reasonable doubt."

"Public opinion is the key," said a Republican who is generally accepted as having superb political judgment on which way the Senate will jump on a particular issue. "When it comes to any question of impeachment, or possibly a vote to merely 'censure' the President, these guys are going to be guided solely by their constituency."

"If you impeach, you get Agnew," said another senator. "If you get Agnew, you're going to get the reelection of Agnew in 1976 because he's in. You think Democrats are going to want to do that? I'm not so sure Democrats want to throw that election away."

These three statements help explain why—despite widespread belief on Capitol Hill that President Nixon is deeply involved in the Watergate cover-up—Congress is not ready to start impeachment proceedings or even take some weaker move like a resolution of censure.

Periodic interviews indicate that upwards of three-quarters of the Senate's 57 Democrats and at least half the 43 Republicans feel in their hearts that the President participated in the cover-up.

But whether it can be proved, and what could then be done about it, isn't clear yet. Barring some unforeseen development, impeachment certainly isn't in the cards at present or in the foreseeable future.

The reason isn't primarily "lack of guts" on the part of senators, as suggested by some shrill critics. It lies, rather, in a complex of interrelated factors. These include the President's right to an essentially fair hearing and the benefit of the doubt—as any man is en-

titled to in an American court; the traumatic effect of an impeachment trial on the nation and the world; the potential political impact; and the need for substantial national agreement on his guilt before doing anything so cataclysmic.

Senators—who spoke freely in private but asked that their names not be used because the situation is so full of pitfalls and political landmines—gave this description of the situation at present:

• Impeachment of a President, attempted only once in history, and requiring a two-thirds Senate vote for conviction, would create "such traumatic divisiveness in the country, regardless of outcome" that it couldn't be attempted in the present case unless public sentiment had turned overwhelmingly and permanently against the President.

So far, senators have repeatedly told reporters, there isn't any such overwhelming tide of public opinion. The President's credibility has plummeted, both on Capitol Hill and throughout the country, and he will never regain the standing in Congress that he once had, though he may eventually recoup some of his lost prestige and respect. But senators, in their mail and in personal contacts with constituents, aren't getting the signal that esteem for Mr. Nixon has fallen so low that removal is the only possible course. "The farther you get away from Washington, the less interest there is," is the stock phrase.

• A crucial factor in the whole equation is the question of whether there is "hard evidence" of the President's guilt. Such evidence—clear, understandable to the average citizen, absolutely convincing and unchallengeable—would have to exist before the impeachment could be seriously contemplated.

As the statement from the northern Democratic liberal quoted at the beginning of this report suggests, many in the Senate are very dubious that sufficient "hard evidence" yet exists.

"You're not going to see them going in to impeach the President until public opinion is very strong—and it isn't, primarily because hard evidence isn't there yet," said another Democrat.

"I don't believe as yet the proof is so clear that impeachment is called for," said a Republican generally considered one of the finest lawyers in the Senate.

This senator, who frequently challenges the President on major policy issues, added, "Respect for the office is so great that the overwhelming sentiment here is not even to discuss impeachment until he's had a chance to defend himself and the whole case is in. If he refuses to respond and be interrogated in some way, it could weigh against him, certainly with public opinion. If we find out that he knew about the cover-up only a little bit before he revealed it, that wouldn't be so damaging. He was entitled to a little time to turn around once he discovered it, a few days or weeks to decide what to do. But if he really knew for months and months before..."

Virtually everyone asserted that the Watergate committee hearings must run their entire course, with all sides heard, before any Senate decision can be made.

Senators repeatedly warned, however, that public opinion could swiftly shift if some new piece of evidence came up.

One said, "If the tapes show he lied—if he said something about paying \$1 million to the Watergate defendants (to keep them silent, as alleged by John Dean)—that's bribery, an offense specifically mentioned in the impeachment clause of the Constitution. That would be very damaging."

A large number of senators said the public tide could turn against the weakened President for some reason unrelated to Watergate.

"If our people get the idea that the government can't deal with the economy and we have a crisis, then you're going to see public opinion swing hard," said one Democrat.

• Still another factor militating against impeachment—in addition to insufficient pressure from public opinion, fear of devastating rift in American life, and lack of "hard evidence"—is the Democrats' fear that it would hand Vice President Agnew the 1976 election. Any vice president coming into office after an impeachment, with a clean record, would get the benefit both of the sympathy vote and of public exposure.

"You don't reward the party that pulled the Watergate deal by handing it the Presidency for the next four years," said a Democrat.

Moreover, partisan divisiveness in an impeachment trial would probably be massive.

All these factors, then, plus the difficulty of getting a two-thirds vote for conviction in the Senate, make it unlikely for the foreseeable future that impeachment will be seriously attempted or that it would succeed.

What then might happen, short of impeachment? Will Congress take no steps whatever to signal its determination that corruption by Watergate tactics will never happen again?

The most frequently mentioned specific alternative is a congressional motion of censure or condemnation of the President. This would require only a majority vote, and, depending on the ultimate findings of the Ervin committee, could cover a variety of subjects and be worded to meet its findings.

For example, if the committee concluded that the President is innocent of deliberate cover-up, but had been almost criminally negligent in not knowing what his subordinates were doing, it could draft a resolution so stating and censuring the President. Or it might simply issue a statement of "findings" laying out whatever case it had and then ask the Senate to vote an endorsement of the statement. This wouldn't remove the President from office, but could—for example—brand him as negligent for failing to live up to the high standards of his office and his public trust.

While decisions on all this are still far down the road, Watergate is already having substantial impact on Congress.

The revelations have given a big push to legislation reforming election campaigns, and an equally big push to the drive to reassert powers which had accreted to the Presidency by congressional disuse.

Even if there is no censure of Mr. Nixon himself, the Watergate affair may ultimately be responsible for restoring a measure of congressional control over war and peace, the federal budget and the federal bureaucracy which many believe have slipped out of the lawmakers' hands in the past two generations.