

WASHINGTON REPORT:

Impeach Nixon

This column appears in Civil Liberties regularly. Look to it for information on congressional actions you can influence through communication with your congresspersons, the press and other groups.

By Arlie Schardt

On Sept. 30, meeting in New York, the National Board of the ACLU overwhelmingly passed a resolution calling for the impeachment of President Richard M. Nixon.

Passage of the resolution set off the most vigorous nationwide legislative campaign in ACLU history. The goal, outlined by Charles Morgan, Jr., director of the ACLU Washington National Office, is "to provide the American people with a full understanding of the process of impeachment, and of the leadership duty of each individual member of the House of Representatives to impeach the President. We are facing the quintessential civil liberties issue of our lifetime. The questions are: Are the people willing to excuse their Representatives from the exercise of their constitutional duty? Are citizens to engage in their own rationalizations, their own personal cover-ups? If this happens, then the people and their Representatives will have become partners in the condonation of high crimes against themselves. A people unwilling to defend their own liberty will lose their own liberty."

Cause For Trial

The ACLU campaign stresses the informational aspect of impeachment. It points out that impeachment does not mean guilt, but does mean sufficient evidence exists to cause a trial by the Senate.

Impeachment requires a majority vote of the House. Expulsion from office requires a two-thirds vote of the Senate.

As a political process fully provided for in the Constitution, impeachment is unique. It provides the means for the only non-judicial trial authorized by the Founders.

Impeachment has also emerged as the only remaining means of providing the American people with the full truth behind Mr. Nixon's offensive against our very system of government. It will bring the President out from behind the cloaks of executive privilege and "national

security" and place him before the Senate, to answer the hard questions which the public, as reflected in national polls, is asking.

Known Events

Each of the particulars in the ACLU Board resolution is based on already known events, or on events attested to by Mr. Nixon's aides or by Mr. Nixon himself, in his various public statements and press conferences.

For example, in his May 22 statement, Mr. Nixon confirmed that he personally approved the so-called "Huston plan," even though his own staffers advised him that parts of the plan were "clearly illegal."

Existence of an "enemies" list was made public in the Senate Watergate hearings. Interference with a free press included such acts as the wiretapping of reporters and the FBI investigation of CBS newsman Daniel Schorr.

The Administration simply does not believe in the freedom of assembly, as it proved by using the Secret Service to bar suspected protestors from several Nixon campaign rallies, and in sending men to beat up Daniel Ellsberg when he took part in a small demonstration in Washington.

Plumbers

The President's secret police, the "plumbers," engaged in such crimes as burglarizing the office of Daniel Ellsberg's psychiatrist and illegally wiretapping columnist Joseph Kraft, as well as acts of espionage such as the falsification of official cables on Viet Nam.

The presiding judge in the Ellsberg trial twice, during the trial, discussed with John Ehrlichman the possibility of becoming director of the FBI. Mr. Nixon was present briefly at one of the meetings.

Mr. Nixon and several aides have all admitted efforts to limit the FBI investigation of the Watergate break-in.

Clearly political prosecutions of dissenters took place time after time, as in the Berrigan, Gainesville, Camden and other cases. Such political trials were themselves the result of a distortion of the historic role of grand juries and the prosecutorial function. It was the people—average American citizen-jurors—who turned the Government back.

The role of the Justice Department was

also distorted by using it to provide data to the Nixon campaign. Then there was destruction of evidence by Acting FBI Director Gray. The National Security Council engaged in illegal wiretaps. The Secret Service tapped Donald Nixon. The State Department gave Howard Hunt access to the Viet Nam cables and lied about secret bombing of Cambodia. The Defense Department conducted a secret war and spied on American civilians. The CIA provided disguises and documents to Howard Hunt and helped prepare the psychiatric profile of Daniel Ellsberg. That's just a small part of the story of the trenching of civil liberties by the Nixon presidency.

Policy

All governments tell lies. This time, however, deception and illegality seem to have been elevated to national policy with no concession to the traditional processes of law and the right of the people to govern themselves.

As Executive Director Aryeh Neier pointed out in announcing the ACLU resolution to the public on Oct. 4, "This administration has been more consistent, blatant and serious in violating civil liberties than any other." And, as ACLU Chairman Edward J. Ennis noted, the ACLU's grounds are limited to known violations of civil liberties and carefully avoid mention of matters in which the President's role is still unclear.

Responsibility

President Nixon on Aug. 22 properly took full responsibility for the actions of his subordinates.

In a debate regarding the President's removal power, James Madison spoke of presidential responsibility for the acts of his appointees. Madison told the first

Congress in 1789: "I think it absolutely necessary that the President should have the power of removing from office. It will make him, in a peculiar manner, responsible for their conduct, and subject him to impeachment himself if he suffers them to perpetrate with impunity high crimes and misdemeanors against the United States, or neglects to superintend their conduct so as to check their excesses."

When President Andrew Johnson refused to comply with the Tenure of Office Act, Congress claimed he had no right to remove his own appointees and Johnson was impeached. In his *defense* at the Senate trial, Johnson stated: "It is the President upon whom the Constitution devolves, as head of the executive department, the duty to see that the laws are faithfully executed; but as he cannot execute them in person, he is allowed to select his agents, and is made responsible for their acts within just limits. So complete is this presumed delegation of authority in the relation of a head of a department to the President that the Supreme Court of the United States have decided that an order made by a head of department is presumed to be made by the President himself."

Polls

Can the ACLU move the country to call for impeachment? Polls all last summer consistently showed at least 24 per cent of the American people had independently concluded—without any leadership from anyone or any group—that the President should be impeached. By early October, still without any organized campaign, that figure had climbed to 32 per cent.

Politicians recognize this is a startlingly high percentage. Politicians know this percentage could easily double once leadership and energy emerge and the

process of impeachment becomes more widely understood.

It is for this reason that so few incumbents have taken an open position against impeachment. They know the issue is volatile, and they could be left standing conspicuously outside a wave of demand for a full disclosure.

In a letter sent to every member of the House of Representatives, along with the ACLU resolution, Morgan said, "Poll results indicate that a growing number of Americans feel that their elected officials 'are all alike,' that 'they all do it.' We are certain that is not the case. Mr. Nixon's impeachment provides each member of the House of Representatives an opportunity for leadership, an opportunity to illustrate that men and women in politics are not all alike, that they do not all do it."

Yet it was left to ACLU to insist on resolution of the crisis. To remain silent would demonstrate to future presidents the extent of corruption the American people are willing to tolerate, and the

deprivation of liberty we are willing to accept. Indeed, "they all do it" would be a certain reality.

Pressure

Congress hasn't acted because there has been no real pressure. The ACLU campaign will raise an embarrassing political question and generate pressure for an appropriate answer.

The ACLU's 250,000 members—aware, articulate, active people—represent a tremendous potential for grass-roots lobbying, both as ACLU members and in concert with other concerned citizens.

The campaign has one goal: to persuade members of the House to impeach the President and bring him to trial before the Senate. It represents the greatest opportunity for membership involvement in ACLU history.

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