

IMPEACHMENT:

Campaign Report

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

Now that the holiday lull and Congressional recess are over, the campaign to impeach Richard Nixon will shift into high gear. It should culminate in the impeachment of Mr. Nixon sometime in late spring. If it does not conclude by then, it bodes to become the major issue in the coming Congressional campaign. In either case, between now and spring there is much work to be done.

When the ACLU last September became the first major national organization publicly to commit its resources to impeachment, the decision was significant in two important but dissimilar ways. On the one hand, it automatically attached to the ACLU a certain leadership responsibility, which has been accepted. On the other hand, it merely signified that an organizational entity was acknowledging something that at least one-fourth of the American people, without any organized leadership, were already advocating: namely, redress of a continuing (and still open-ended) series of terrible constitutional grievances.

The number of Americans advocating impeachment has grown steadily since then. This is important because impeachment is at once both a judicial and a political process. In other words, Congress will pay even more than the usual attention to its constituent mail.

Mr. Nixon is aware of this and has therefore tried to fuzz the issues through a series of public relations moves, such as December's "Operation Candor." But the public's compelling desire for nothing less than the full truth about exactly how presidential power was used or abused by Mr. Nixon has foredoomed each would be diversion.

Only Way

At the same time, each White House effort to thwart one of the official investigations of the administration's activities has simply increased the number of people who now realize that the only means to achieve full disclosure of all the facts is through impeachment. There simply is no other way.

Recognizing this, many other organizations are now calling for impeachment. The huge AFL-CIO is carrying full-page impeachment messages in its weekly newspaper, and has distributed over one million pieces of literature. The United Automobile Worker's Washington Report carries impeachment articles every week (one of the first was a long excerpt, entitled "How To Impeach," drawn entirely from

the first ACLU pamphlet on impeachment). A public interest law firm has published a Lawyers Guide, containing 28 charges against Mr. Nixon. Ralph Nader is pressing to unearth still more administration secrets; Common Cause and the NAACP appear likely to move for impeachment early this year.

Likewise, increasing numbers of prestigious newspapers have concluded that impeachment must be enacted. Many if not most of them supported Mr. Nixon in his presidential campaign. The entire Cox chain, for example, which ordered its papers to endorse Mr. Nixon in 1972, has now called for his impeachment. The Salt Lake Tribune, which backed Nixon in all three presidential bids, regretfully called for impeachment with these words: "By defying the courts, by breaking promises and by firing or forcing the resignations of the dedicated men who opposed his violation of accepted legal procedures, President Nixon removed all doubt that he considers himself above the rule of law . . . It is apparent now he surrounded

himself from the beginning with a palace guard contemptuous of the unique system of American democracy under which fair play and the rule of law, not men, dominate."

New Evidence

Besides the work of citizen action groups and the editorial role of the press, a third factor will prevent any fading of the impeachment issue in 1974. That factor is the flow of events themselves.

Indictments initiated by the office of the Special Prosecutor will issue with increasing frequency, leading to trials in which still more disclosures will create still more need to impeach. The Senate Watergate Committee will publish its findings. The House Judiciary Committee's hearings on impeachment will elicit still more new evidence. Republican resistance to impeachment will soften as a GOP vice-president is installed, eliminating the fear of impeachment as a Democratic power play to take over the White House.

For all this, Congressional understanding of the need for impeachment is not the same as a willingness to impeach. In the hearts and minds of far too many members of the Congress, taking a stand on any major public issue is anathema. It is an anathema cured only by constant contact with a large and persistent number of constituents. For pressure to be sustained on the impeachment issue, however, the constituents themselves must be able to channel their opinions in a meaningful way.

This is why the ACLU's campaign is so uniquely important. "Our job is to educate," says Charles Morgan, Jr., director of the ACLU's Washington National Office. "The people have good sense. They are way ahead of their leaders. They are already moving for impeachment on their own. The only assistance they need is in knowing what the law is, and what the process means."

ACLU's Task

This educational need is where ACLU comes in. A major poll soon to be released, for example, will show that while one-third of those polled say they favor impeachment, twice that many say they think Mr. Nixon should be brought to trial before the Senate.

That, of course, is all impeachment is--the determination that there is sufficient evidence of wrongdoing to bring a public official to trial. Thus, an enormous percentage of the public does not realize that impeachment is the very action it seeks.

The next most prevalent misconception is the idea that an official must be proved guilty of indictable crimes before he can be impeached and brought to trial. The first problem here is that proof, of course, is a matter for the trial. Impeachment, like indictment, merely requires a showing that there is sufficient evidence of wrongdoing to merit a trial.

While Mr. Nixon is chargeable on criminal grounds, violations of criminal statutes are not required for impeachment. Throughout the entire English and American history of impeachment, dating back to 1388, non-criminal standards for impeachment have been consistently and deliberately kept broad. They include: abuse of the public trust, attempts to subvert fundamental law, and injury to the nation.

Indeed, Rep. Charles Wiggins of California, who is often consulted by his fellow Republican members of the House Judiciary Committee for his constitutional expertise, defines the standard for impeachment as "conduct which, exposed to the light of day, produces moral outrage among the people that causes them to believe [the President] is no longer fit to serve."

Because a President is specifically and legally responsible within reason for the

actions of his subordinates, he may also be impeached for failure to check their excesses.

Representatives

Approximately 100 Representatives have their names on either a resolution to impeach, or a resolution for an inquiry into impeachment.

Others, however, have sent their constituents incorrect information in explaining why they oppose impeachment or, more often, are taking no position (please continue to send copies of your Representative's replies to the ACLU Washington National Office, 410 First St., S.E., Washington, D.C. 20003).

A Virginia Representative, for example, wrote his constituent that "if impeachment proceedings are brought, they must be based on specific violations of the law." No so.

Another Virginia Representative, wrote that "the statements which have been made [about Mr. Nixon] are strictly hearsay." This ignores the fact that all the charges in the ACLU bill of particulars, for example, are based either on Mr. Nixon's own statements, or the undisputed sworn testimony of his top aides. Like others, this Representative was in effect saying that a President must be proven guilty *before* impeachment can be brought—the very reverse of the process.

A California Representative wrote that he cannot "undertake impeachment proceedings." Yet an impeachment resolution may be introduced by any member of the House. For that matter, because it is a so-called privileged resolution, impeachment may actually be brought to a floor vote by any member, regardless of whether his or her resolution was submitted to committee.

Senators

While the impeachment campaign is directed solely to the House because that is where impeachment resolutions must gain a majority vote before they can be tried in the Senate, Senators are nevertheless important molders of public opinion and they should be speaking out.

Most Senators, however, are avoiding the issue by saying they might become jurors and cannot "prejudge" the case. One who did not take this route is Sen. Charles Mathias, a Maryland Republican. Noting that administration roadblocks have at one time or another hampered every official investigation, from the Senate Watergate committee to the special prosecutor to the courts, Mathias said, "The only place where there will be no obstacles is an impeachment proceeding. There is no [executive] privilege in an impeachment proceeding because this is, of course, the ultimate inquiry of the nation."

Another who refused to sidestep the issue is Sen. Floyd Haskell, Colorado Democrat, who told the Senate: "I can only conclude from Mr. Nixon's actions that he considers himself above the law. There is only one procedure left to show that we are a government of laws, not a government of men. That is the course of impeachment. I, therefore, hope that the House of Representatives brings the charges."

Addressing the Senate's role as jury, Haskell continued, "I have not prejudged the President. I say only that he is accountable for his actions and that sufficient prima facie evidence exists to call him to account." Again, impeachment is not a judgment of guilt or innocence.

Non-Partisanship

A final aspect of impeachment which ACLU speakers have found important to their audiences is the vital need to keep impeachment non-partisan. Democrats should not delay it because of the belief that their re-election is assured through the spectacle of a beleaguered President. Republicans should not delay it out of misplaced loyalty.

Indeed, some incumbents from both parties are already discovering a new sense of urgency because reform candidates have announced against them on the ground that failure to impeach will prevent full disclosure by enabling the administration to effect a cover-up. In order to prove that they are not "all alike" and that they do not "all do it," numerous incumbents are likely to come out for impeachment as the way to full disclosure.

Nothing will do more to melt away partisan motives against impeachment than such challenges from citizens insisting on a clean-up.

Incumbents seeking to stress their non-partisan motives may also emulate the example of national figures like Chesterfield Smith, president of the American Bar Association, who urged, as an individual citizen, that the House Judiciary Committee proceed with its investigation. "It is my personal position," said Smith, "that there can be no matter more important to us on the domestic scene, nor more detrimental to our foreign relations, than a continuation of this political never-never land where a majority of our citizens do not believe the President and suspect his motives and every move he makes."

In the House itself, Rep. Don Clausen, a California Republican, summarized the situation clearly while responding, in his December newsletter, to hundreds of requests for information on just what impeachment means. "Many in the Congress," wrote Clausen, "supporters and nonsupporters of the President alike, are coming to the conclusion that the best hope for a clarifying position by the Congress can only come from a complete and clearcut impeachment investigation and conclusion."

Columnists

The non-partisan character of impeachment is also underlined by increasing calls for impeachment from such conservative notables as columnist James J. Kilpatrick, and columnist George F. Will, Washington editor for William Buckley's *National Review*.

In a recent column, Will wrote that "since April 30 Congress, like the nation, has had no reason to consider Mr. Nixon innocent. Since late July Congress has had sufficient reason to use impeachment proceedings to force Mr. Nixon to make full disclosure on his own behalf."

As the only means to effect full disclosure, as the one means to a full and fair trial, what better way than impeachment to re-establish a sense of responsibility and responsiveness in our government, and what better way to guide future leaders as to the limits of Americans' tolerance and their desired restraints upon our leaders?

The evidence indicates clearly that once citizens are aware of the basic facts about the impeachment process, most favor it. But they must be given the facts.

Affiliate Activity

Many ACLU affiliates have been making the dissemination of these facts their primary activity. The ideal mechanism is a full-time volunteer impeachment committee—including ACLU members and all other interested citizens—in every congressional district in every state. This has already been accomplished in New York, where 39 such committees are meeting on a regular basis to coordinate repeat letter writing campaigns, speakers bureaus, door to door canvassing, rallies, and meetings with the Representative.

Other affiliates have produced a host of effective programs. Space permits only a few examples to illustrate what can be done.

In the state of Washington, an ACLU representative is giving a speech somewhere every night of the week, while volunteers are conducting a door to door canvass of one entire congressional district. In Missoula, Mont. 500 people turned out to hear an ACLU speaker (who told them that the President "is entitled to equal protection of the law, not protection from the law"). In Portland, Ore. impeachment was explained at a benefit performance of "Inherit the Wind," volunteers distributed 10,000 reprints of an ACLU ad to downtown shoppers, and at least two Representatives agreed to meet and discuss impeachment with ACLU constituents.

In Wisconsin, the state legislature held a public hearing on impeachment which was dominated by pro-impeachment witnesses (state legislatures may bring impeachment resolutions before the Congress). In Virginia, citizens paid \$3 to \$5 each to sign ACLU "streetcorner

petitions, enough to run ads in four newspapers. In Illinois, ads in at least a dozen college newspapers were financed with funds raised from the faculties.

Virtually every affiliate has generated some sort of letter-writing campaign to its Representatives. At least half the affiliates have run newspaper ads, many of which netted thousands of dollars, volunteers and new members. Virtually all of them have held impeachment meetings and provided speakers for other groups. Several have distributed speakers kits, complete with letter-writing pledge cards for each audience. Virtually all of them have received as much or more press and TV coverage on impeachment than on any other issue. Many are forming coalitions with other citizen groups.

In assessing the tremendous amount of activity already effectively carried out by so many ACLU affiliates, and knowing of

the expanded plans for 1974, one thing becomes clear: Every member, lawyer or not, has an active and important role to play in achieving ACLU's legislative and lobbying goals. The improved organizational techniques and new membership participation flowing from the impeachment campaign will build a structure for future campaigns on other civil liberties issues.

For the present, however, the issue central to all civil liberties concerns—because it affects all of them—is the impeachment of Richard Nixon. This will happen when the American people make their demands known to their Representatives, which they will do once they know the facts.

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