

## WASHINGTON REPORT:

# Impeachment, Etc.

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

By Arlie Schardt

The reality of a presidential impeachment is that no President will ever be impeached and brought to trial before the Senate unless the reasons for Congress's action are absolutely clear and proper to a vast majority of the American public.

This is one reason why the ACLU national campaign to educate the public about impeachment has been so important.

Impeachment of Richard Nixon will not destroy the institution of the presidency. His troubles are the troubles of one individual, brought about by overwhelming evidence that the conduct of his administration has been characterized by gross abuse of public trust.

The slowness with which Congress has acted is proof enough that no President will ever be impeached frivolously. It would be the rarest of politicians who could risk the deserved wrath of thousands of fair-minded voters by advocating impeachment and trial without the soundest of reasons.

### Avoidance

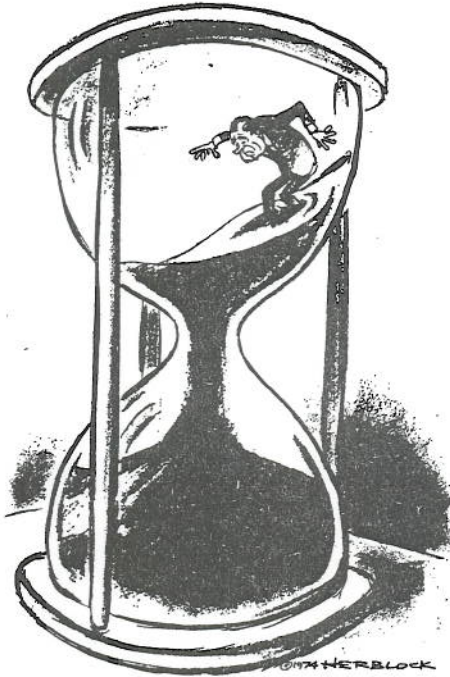
Indeed, as we have seen, even *with* the soundest of reasons—including the administration activities cited in the ACLU bill of particulars—the most universal quality that emerged throughout the Congress was the obvious desire to avoid the issue, to somehow wish it away.

It required persistent grass-roots expression by millions of concerned citizens from all political backgrounds to finally move Congress to action on the issue.

It will be well for ACLU speakers to keep the above in mind as they discuss impeachment in various forums in the months and years ahead (and it will indeed be years, no matter how the issue is resolved this summer, before the discussion fades).

There are other points that bear repeating as well, both in maintaining the work of local impeachment committees until impeachment is finally voted by the House, and in the many post-mortems that are sure to follow.

For example, in answer to the White House argument that impeaching Mr. Nixon endangers any future President



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whose ratings drop in the polls, two points are worth noting: First, many presidents have had periods of extreme disfavor in the polls and in Congress, yet never once was impeachment threatened. Second, the reason was that previous periods of presidential unpopularity were due to controversial policy decisions, whereas today Mr. Nixon's low level of esteem is because of repeated revelations of serious crimes and grave misconduct on the part of high administration officials.

In other words, impeachment is merited not on account of any policy disagreement—that is what elections are for—but because the very integrity of the administration was properly in doubt.

### Executive Power

The stream of revelations indicated a clear pattern of an attempt to institutionalize unlimited executive power, in direct contradiction of the restraints and protections mandated by the Constitution and Bill of Rights.

The office of the presidency, then, far from being weakened by impeaching Mr. Nixon, will be strengthened. Citizens must always remember the clear difference between the President and the presidency. The institution itself would be weakened only if it were demonstrated that the misconduct of the individual who occupies it could go unchecked.

To say that the office, or the people, cannot stand an impeachment and trial is to say we cannot stand the truth.

It was also argued that the presidency would be weakened by establishing a precedent to allow Congress to "paw" through White House files, or engage in a "fishing expedition." Yet far from any random pawing, both the House Judiciary Committee and the Special Prosecutor's office were highly selective in the White House files and documents they sought. Material requested was material pertaining to specific dates, specifically related to known events. No precedent was set that would allow Congress to "back up a U-Haul truck" and cart away everything in the White House.

Through all the twists and turns, through all the efforts to shift responsibility, shed accountability or re-focus the issue, it has been fundamental—and continues to be fundamental—for ACLU speakers, and anyone else discussing impeachment, to stress eight basic points.

#### 8 Points

1) To call for impeachment is not to charge guilt without a trial. Impeachment merely means bringing an official to trial.

This most basic fact is the key to bringing Mr. Nixon to trial, because polls have consistently shown large numbers of persons who at once oppose impeachment

4) The President is accountable, and impeachable, for failure to check the excesses of his subordinates. It is this doctrine of accountability, of "blame," which Mr. Nixon has sought so consistently to avoid.

5) Impeachment is not, as some fear, a process which would be destructive to our system of government. Indeed our government is now in a state of disruption because the chief executive has lost his credibility and cannot govern effectively. Far from being disruptive, impeachment is the least destructive alternative we have.

6) Impeachment is the only way to end the cover-up. To oppose impeachment—in the face of all the evidence already on the public record (much of it placed there by Mr. Nixon himself, as detailed in ACLU pamphlets on impeachment)—is to say that a President is not accountable for the actions of his administrations. Simply put, impeachment is the only way to end the cover-up and bring to the American people all the facts to which we are entitled.

#### Resignation

7) Resignation is not an acceptable alternative to impeachment. It would leave unanswered many of the questions which must be answered. Moreover, most observers believe it could not occur without a grant to Mr. Nixon of immunity from criminal prosecution. The American people cry out for an era of government which might be best termed a "No Deal."

8) Impeachment is a strictly non-partisan issue. Democrats have no right to delay impeachment because they believe Mr. Nixon's presence in office will guarantee Democratic Congressional victories in November. Republicans should not delay impeachment because they think its revelations will hurt the party. Incumbents of both parties should be urged to make their decision only on the merits of the issue, for it transcends political parties and goes to the very roots of our democratic form of government.

The call for impeachment and trial may in fact be seen as basically a conservative movement. It is a conservative, after all, who professes belief in individual accountability, in personal responsibility, and, if you will, in "law and order." And it is the conservative who, above all, opposes government intrusion into citizens' private lives.

Yet when we examine the whole panoply of revelations about White House activity revealed throughout the Watergate discovery, it is clear that if we are talking about nothing else, we are talking about the most massive invasion of privacy in the history of American government.

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and favor bringing Mr. Nixon to trial. They are in favor of impeachment but don't understand the word.

2) Impeachment is the only way to end the crisis in our government. An untried Mr. Nixon will mean nearly three more years of doubt over the motives of every action taken by the chief executive. Impeachment and trial are the only way to settle, one way or the other, the issue of Mr. Nixon's claim to remain as President.

3) It does not require an indictable crime to impeach a President, although evidence of an indictable crime is grounds for impeachment. But impeachment is meant to reach a far broader area, the area of misconduct in office, or breach of public trust. Its purpose is restraint of the executive. In contrast with indictable crimes, which are often perceived as crimes directed against an individual, impeachment reaches governmental crimes, or crimes against the state.

Standards for impeachment include such actions as attempts to subvert the Constitution, abuse of public trust, undermining the integrity of government, or abuse of official power.