

# High Court Lets Ban Stand On Transit 'Impeach' Signs

A court ruling that the Chicago Transit Authority must accept paid "Impeach Nixon" advertisements on city subway cars and buses was blocked yesterday by the Supreme Court.

By a 5-to-4 margin, the court refused to set aside a May 2 order by Chief Justice Warren E. Burger that stayed the lower court decision until the high court takes further action.

Burger, who would preside at a Senate trial if the House of Representatives should impeach President Nixon, was supported yesterday by Justices William O. Douglas, Byron R. White, Harry A. Blackmun and William H. Rehnquist.

Voting to set aside the stay and let the decision of the Seventh U.S. Circuit Court of Appeals take effect were Justices William J. Brennan Jr.,

Potter Stewart, Thurgood Marshall and Lewis F. Powell Jr.

The transit authority said it would seek high court review of the court of appeals ruling that it must accept an ad reading: "To Impeach Nixon Call 475-5466" and naming a Chicago-based "Impeach Nixon Committee."

According to the lower court, the transit body violated the Constitution's equal protection guarantee by accepting ads about candidates and referendum issues while rejecting a message about impeachment.

Currently pending before the Supreme Court is a case from Shaker Heights, Ohio, raising similar issues. In that case the authority says it rejects all political messages and wants to accept only commercial ads.

Attorneys for the American

Civil Liberties Union, representing the Illinois impeachment group, contend that their case is stronger because the authority allows political advertising but is choosing among them arbitrarily.

The ACLU lawyers contended that they should not have to wait several months to know the outcome of the case, since delay blocks their impeachment efforts.

Although the ACLU did not move to disqualify the chief justice, it criticized him for acting on his own on May 2.

"Given the current climate of political debate and public concern, this court must be particularly sensitive to avoid any appearance of impropriety," the ACLU said. "Yet the very same justice who will ultimately preside in the Senate over the impeachment of the President—should that come to pass—has here acted alone."