

Impeachment Then, and Now

by Nancy Spannaus

Aug. 9—By now the story is well-known. When Richard Nixon resigned and left the Presidency 40 years ago today, he did it with the knowledge, conveyed to him by three powerful Republican lawmakers on Aug. 7, that he would inevitably be impeached, and convicted, if he did not leave office. He chose not to conduct the fight.

To some today, especially cowardly Republicans, this reality means that they should not launch impeachment proceedings against President Barack Obama until they can promise the same kind of surety. That argument is a dangerous fraud, which keeps us on the pathway to World War III.

When the impeachment proceedings were initiated against Nixon, seven months before his resignation, no such certainty existed. In fact, there were the very same charges of “partisan attack” from the Republican Party against the effort, charges which the Democratic Party mouths today. But over the ensuing months, new evidence, unearthed by the impeachment investigation, changed the minds of a lot of people, including in the American political establishment. Many such figures became alarmed about the reality they saw emerging: that Nixon was attempting to consolidate an FBI/CIA police state in these United States. They decided that Nixon had to go.

In short order, some of the most egregious of those fascist police-state measures were exposed, and at least nominally halted, with the Church Committee hearings and ensuing legislation, the most important of which were the establishment of an oversight procedure through the creation of the House and Senate Select Committees on Intelligence, and the passage of the Foreign Intelligence Surveillance Act (FISA) to eliminate warrantless wiretapping.

‘Small Potatoes’

Yet today, in light of the process initiated by the British Empire-instigated 9/11 atrocity, and carried out

by Presidents George W. Bush and Barack Obama, the violations of Constitutional liberties by the Nixon Administration have to be characterized as “small potatoes” in comparison.

In his remarks on the Aug. 9 web-radio LaRouche Show, LaRouche movement political leader Tony Papert stressed this point. Yes, Obama—even more than Bush—is violating the Constitution by spying on Americans, usurping the prerogatives of Congress, and conducting illegal wars. Even Nixon, for all his virulent anti-communism, did not have the criminal insanity to put the U.S. on the course for war against a thermonuclear power, the Soviet Union. By contrast, Obama has put the U.S. on a course for thermonuclear war against Russia—a war which could result in the extinction of the human race at virtually any point ahead.

As LaRouche Show host Harley Schlanger noted, Obama is openly doing today what Nixon had to do covertly.

Attorney Douglas Caddy, who was involved in Watergate as an attorney for E. Howard Hunt and G. Gordon Liddy, and appeared as a guest on The LaRouche Show, agreed that the “imperial Presidency,” which was a widespread charge against Nixon then, is an actuality today. The difference, he said, was that there was actually a democratic process in 1972-74, which is why Members of Congress were able to deliberate, and convince Nixon to voluntarily resign.

Today, the institutions of government appear paralyzed, and unable to do what is necessary to save the nation from destruction.

Voices of Reason

While the LaRouche movement has been fighting for Obama’s impeachment for at least five years (see “The Case for Impeachment of President Barack Obama,” *EIR*, Jan. 15, 2010), Congress has been extremely slow to move on it. Both the Democratic and Republican leaderships in the House and the Senate have done their utmost to stymie any action, and to try to turn the discussion into a political game. This was on display during the recent House debate on Speaker John Boehner’s proposed lawsuit against Obama, when the Republicans refused to give time to supporters of impeachment, and the Democratic leadership spent its allotted time telling Boehner to “take impeachment off the table” the way Nancy Pelosi had done for Bush and Cheney.

If the Democrats had had the guts to go ahead with

the well-justified impeachment against Bush and Cheney at that time, the world would not be in the kind of imminent danger of conflagration it is today.

Among the Congressmen now coming forward strongly for impeachment is Rep. Walter Jones (R-N.C.), who has collaborated with Democrats during both the Bush and Obama administrations, to try to stop the train of senseless wars.

Jones gave an interview on impeachment to the North Carolina “Talk of the Town” program on Aug. 4, in which he laid out his reasoning. Jones said that Alexander Hamilton had given us the remedy of impeachment; that Speaker Boehner’s lawsuit would cost taxpayers \$2-3 million; and that he’s seen from his involvement in two lawsuits against Presidents that they do not work.

“I am one that believes sincerely that the Constitution says that when a President, be it a Republican or a Democrat, exceeds his authority, and you can’t stop the President from exceeding his authority, then we do have what’s called impeachment,” Jones stated. “Thank Alexander Hamilton. He felt that the Congress needed to use this process to get the attention of a President. And if the President had lost the public trust, then move forward in that area. We recently had a vote to go to Federal courts. I did not vote for that. I was one of five [Republicans that did not].”

Hamilton’s Argument

Hamilton laid out his thinking on impeachment in *Federalist Paper* no. 65:

“A well constituted court for the trial of impeachments, is an object not more to be desired than difficult to be obtained in a government wholly elective. The subjects of its jurisdiction are those offenses which proceed from the misconduct of public men, or in other words from the abuse or violation of some public trust. They are of a nature which may with peculiar propriety be denominated POLITICAL, as they relate chiefly to injuries done immediately to the society itself. The prosecution of them, for this reason, will seldom fail to agitate the passions of the whole community, and to divide it into parties, more or less friendly or inimical, to the accused. In many cases, it will connect itself with the pre-existing factions, and will inlist all their animosities, partialities, influence and interest on one side,



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In August 1974, Nixon was told by GOP leaders that his impeachment was nigh, and convinced him to resign. Will members Congress follow their example today, and convince Obama to follow Nixon’s example? Here, the co-chairs of the Senate Watergate Committee, Howard Baker (R-Tenn., center), and Sam Ervin (D-N.C.), hold hearings in May-June 1973.

or on the other; and in such cases there will always be the greatest danger, that the decision will be regulated more by the comparative strength of parties than by the real demonstrations of innocence or guilt.”

To deal with the dangers of impeachment, Hamilton thus argued for the model of the charges being brought forward in the lower House, and the trial being conducted by the Senate—rather than some other body. The Senate, one should recall, had been explicitly constituted so as to minimize being buffeted by transitory public opinion, and thus be more conducive to rational debate.

The debate as to whether the Chief Executive should be subject to impeachment was considerable, and went hand-in-glove with Hamilton’s additional argument that there should be a single executive, not a government council. Having a single executive, subject to impeachment for abusing his authority, would prevent the concealing of faults and responsibility, Hamilton said, which is necessary to clearly discover the “misconduct of the persons [in the public] trust, in order either to their removal from office, or to their actual punishment in cases which admit of it.”

In other words, the intent was that the Executive not be able to hide from his accountability. In his usual ironical style, Benjamin Franklin said that the Executive should look at the impeachment clause favorably, because where it were not available and the chief mag-

istrate had “rendered himself obnoxious,” recourse was had to assassination.

Obama has certainly “rendered himself obnoxious,” as well as endangered the very existence of the Republic. It’s time for him to go.

Documentation

House Judiciary Examines Impeachment

Aug. 12—An official report was prepared by the Committee on the Judiciary of the House of Representatives (93rd Congress) in February 1974, titled “Constitutional Grounds for Presidential Impeachment,” in the context of the impeachment inquiry against President Richard Nixon. Relevant excerpts follow.

“The debates on impeachment at the Constitutional Convention in Philadelphia focus principally on its applicability to the President. The framers sought to create a responsible though strong executive: they hoped, in the words of Elbridge Gerry of Massachusetts, that the maxim would never be adopted here that the chief Magistrate could do [no] wrong. Impeachment was to be one of the central elements of executive responsibility in the framework of the new government as they conceived it. . . .

“The framers intended impeachment to be a constitutional safeguard of the public trust, the powers of government conferred upon the President and other civil officers, and the division of powers among the legislative, judicial and executive departments.”

Under a subsection called “The Purpose of the Impeachment Remedy” the report declares:

“One of the first decisions of the delegates was that their new plan should include a separate executive, judiciary, and legislature. However, the framers sought to avoid the creation of a too-powerful executive. The Revolution had been fought against the tyranny of a king and his council, and the framers sought to build in safeguards against executive abuse and usurpation of power.”

The Congressional report concluded:

“Impeachment is a constitutional remedy addressed to serious offenses against the system of government, . . . constitutional wrongs that subvert the structure of

government, or undermine the integrity of the office and even the Constitution itself, and thus are high offenses. . . . The framers understood quite clearly that the constitutional system they were creating must include some ultimate check on the conduct of the executive. While insistent that balance between the executive and legislative branches be maintained so that the executive would not become the creature of the legislature, dismissible at its will, the framers also recognized that some means would be needed to deal with excesses by the executive. Impeachment was familiar to them. They understood its essential constitutional functions and perceived its adaptability to the American context. . . .

“The emphasis has been on the significant effects of the conduct—undermining the integrity of office, disregard of constitutional duties and oath of office, arrogation of power, abuse of the governmental process, adverse impact on the system on government. Clearly, these effects can be brought about in ways not anticipated by the criminal law. Criminal standards and criminal courts were established to control individual conduct. *Impeachment was evolved by Parliament to cope with both the inadequacy of criminal standards and the impotence of courts to deal with the conduct of great public figures* (emphasis added). . . .

“...[T]he crucial factor is not the intrinsic quality of behavior but the significance of its effect upon our constitutional system or the functioning of our government.

“...The duty of a president to ‘preserve, protect, and defend the Constitution’ to the best of his ability includes the duty not to abuse his powers or transgress their limits, nor violate the rights of citizens, such as those guaranteed by the Bill of Rights, and not to act in derogation of powers vested elsewhere by the Constitution.

“...The facts must be considered as a whole in the context of the office, not in terms of separate or isolated events. Because impeachment of a President is a grave step for the nation, it is to be predicated only upon conduct seriously incompatible with either the constitutional form and principles of our government or the proper performance of constitutional duties of the presidential office.”

The findings of this Congressional report ultimately informed the articles of impeachment that were drawn up against President Richard Nixon, which charged him with acting “in a manner contrary to his trust as President and subversive of constitutional government, to the great prejudice of the cause of law and justice and to the manifest injury of the people of the United States.”