

Impeachment: The Case in Favor

by ELIZABETH HOLTZMAN, from the 12 February 2007 issue of The Nation.

Approximately a year ago, I wrote in this magazine that President George W. Bush had committed high crimes and misdemeanors and should be impeached and removed from office. His impeachable offenses include using lies and deceptions to drive the country into war in Iraq, deliberately and repeatedly violating the Foreign Intelligence Surveillance Act (FISA) on wiretapping in the United States, and facilitating the mistreatment of US detainees in violation of the Geneva Conventions and the War Crimes Act of 1996.

Since then, the case against President Bush has, if anything, been strengthened by reports that he personally authorized CIA abuse of detainees. In addition, courts have rejected some of his extreme assertions of executive power. The Supreme Court ruled that the Geneva Conventions apply to the treatment of detainees, and a federal judge ruled that the President could not legally ignore FISA. Even Attorney General Alberto Gonzales's recent announcement that the wiretapping program would from now on operate under FISA court supervision strongly suggests that Bush's prior claims that it could not were untrue.

Despite scant attention from the mainstream media, since last year impeachment has won a wide audience. Amid a flurry of blogs, books and articles, a national grassroots movement has sprung up. In early December seventy-five pro-impeachment rallies were held around the country and pro-impeachment efforts are planned for Congressional districts across America. A Newsweek poll, conducted just before election day, showed 51 percent of Americans believed that impeachment of President Bush should be either a high or lower priority; 44 percent opposed it entirely. (Compare these results with the 63 percent of the public who in the fall of 1998 opposed President Clinton's impeachment.) Most Americans understand the gravity of President Bush's constitutional misconduct.

Public anger at Bush is mounting. On November 7th voters swept away Republican control of the House and Senate. The President's poll numbers continue to drop.

These facts should signal a propitious moment for impeachment proceedings to start. Yet House Speaker Nancy Pelosi has taken impeachment "off the table." (Impeachment proceedings must commence in the House of Representatives.) Her position doesn't mean impeachment is dead; it simply means a different route to it has to be pursued. Congressional investigations must start, and public pressure must build to make the House act.

This is no different from what took place during Watergate. In 1973 impeachment was not "on the table" for many months while President Nixon's cover-up unraveled, even though Democrats controlled the House and Senate. But when Nixon fired the special prosecutor to avoid making his White House tapes public, the American people were outraged and put impeachment on the table, demanding that Congress act. That can happen again.

Congressional and other investigations that previously found serious misconduct in the Nixon White House made the public's angry reaction to the firing of the special

prosecutor — and the House response with impeachment proceedings — virtually inevitable. Early in 1973, once it appeared that the cover-up might involve the White House, the Senate created a select committee to investigate. The committee held hearings and uncovered critical evidence, including the existence of a White House taping system that could resolve the issue of presidential complicity. The Senate also forced the Attorney General to appoint a special prosecutor to investigate Watergate. Other committees looked into related matters. None of the investigations were prompted by the idea of impeachment. Still, they laid the groundwork for it — and the evidence they turned up was used by the House impeachment panel to prepare articles of impeachment against Nixon.

The same approach can govern now. Senate and House committees must commence serious investigations that could uncover more evidence to support impeachment. The investigations should ascertain the full extent of the President's deceptions, exaggerations and lies that drove us into the Iraq War. (They can simply in effect resurrect Republican Senator Howard Baker's famous questions about Richard Nixon: "What did the President know and when did he know it?") Congress should also explore the wiretapping that has violated the FISA law, the President's role in mistreatment of detainees and his gross indifference to the catastrophe facing the residents of New Orleans from Katrina.

Investigations should also be conducted into Vice President Cheney's meetings with oil company executives at the outset of the Administration. If divvying up oil contracts in Iraq were discussed, as some suggest, this would help prove that the Iraq War had been contemplated well before 9/11, and that a key motivation was oil. Inquiries into Halliburton's multibillion-dollar no-bid contracts should also be conducted, particularly given Cheney's ties to the company.

White House documents about Katrina that have not already been turned over to Congress should be sought to document further the President's failure to discharge his constitutional duty to help the people of New Orleans.

Our country's Founders provided the power of impeachment to prevent the subversion of the Constitution. President Bush has subverted and defied the Constitution in many ways. His defiance and his subversion continue.

Failure to impeach Bush would condone his actions. It would allow him to assume he can simply continue to violate the laws on wiretapping and torture and violate other laws as well without fear of punishment. He could keep the Iraq War going or expand it even further than he just has on the basis of more lies, deceptions and exaggerations. Remember, as recently as October 26, Bush said, "Absolutely, we are winning" the war in Iraq — a blatant falsehood. Worse still, if Congress fails to act, Bush might be emboldened to believe he may start another war, perhaps against Iran, again on the basis of lies, deceptions and exaggerations.

There is no remedy short of impeachment to protect us from this President, whose ability to cause damage in the next two years is enormous. If we do not act against Bush, we send a terrible message of impunity to him and to future Presidents and mark a clear path to despotism and tyranny. Succeeding generations of Americans will never forgive us for lacking the nerve to protect our democracy.