
Iran-Contra

First arrogance, then the fall?

by Herbert Quinde

Is the President of the United States really above the law? Assuming that the remaining Irangate defendant Adm. John Poindexter goes to trial as scheduled in late February, that question may yet be answered.

On Jan. 9, lawyers for Poindexter urged a federal judge to reject legal arguments by former President Ronald Reagan that he should be excused from appearing as a witness in Poindexter's upcoming Iran-Contra trial. "Mr. Reagan and Mr. Reagan alone possesses evidence which is pertinent to the central issues of the case," Poindexter's lawyers said. The lawyers said it was "ludicrous" to hesitate to force Reagan to testify. "In his quest to avoid his responsibility to take the witness stand and formally acknowledge under oath his role in the Iran-Contra affair, Mr. Reagan has suggested that the court follow a procedure amounting to 'heads I win, tails you lose,'" the lawyers said.

A week earlier, attorneys for Reagan filed papers seeking to stall attempts by Adm. John Poindexter to subpoena him as a witness at the trial of Reagan's former national security adviser on charges that arose from illegally selling arms to Khomeini's Iran, and illegally funneling the proceeds to the Nicaraguan "Contra" rebels. The attorneys asked the court to delay at least until the prosecutors complete their case.

Reagan's attorneys try to stall

Citing "substantial constitutional questions" about the unprecedented subpoena for the testimony of a former President, the lawyers said President Reagan might invoke executive privilege and refuse to answer certain questions. "Relations and discussions with foreign governments are apparently at the heart of many of the issues presented in the case," Reagan's attorneys argued, adding:

"Answers required by the unforeseeable questions of counsel might deal with the United States' contacts with foreign governments and other entities abroad. The spectacle of a former President being subjected to peremptory judicial process may chill foreign governments in the way they deal with the Presidents now and in the future. . . .

"A former President must ensure that there is no disclosure of classified or classifiable information or information that would potentially inflict injury to foreign relations or national defense. Such determinations cannot be made in-

stantaneously and without the participation of the incumbent President."

In a separate filing, the U.S. Justice Department, headed by President Bush's "bodyguard of lies," Attorney General Richard Thornburgh, highlighted these same points. It said that Admiral Poindexter's attempt to call President Reagan as a witness "is contrary to the constitutional principles that protect the presidency." The Justice Department also asked U.S. District Judge Harold Greene to put off a decision until after the prosecution had rested.

In the trial of Lt. Col. Oliver North, a federal judge delayed his ruling until prosecutors had completed their case, before denying North's subpoena of President Reagan. However, Poindexter had almost daily contact with Reagan, and argues he was following the President's orders in saying what he did to Congress.

The case might become even more explosive, because if subpoenaed, President Reagan's attorneys say he might wish to confer during testimony with President Bush before giving his answers to questions. Sources say that Reagan hopes to "squeeze" President Bush into getting the case dismissed. During the Watergate scandal, the Supreme Court upheld executive privilege, but said that President Nixon could not withhold evidence essential for a criminal trial.

These legal maneuvers come at a time of increasing anger and fear within the Washington political establishment over the Panama invasion, added to the disgust at the continuing whitewash of the Iran-Contra debacle. The result is the re-opening of a political wound that could be fatal for the presidency in 1990.

Just before the year-end holidays, Independent Counsel Lawrence E. Walsh issued his Second Interim Report to Congress on Dec. 11, strongly criticizing the administration and the President for their year-long sabotage of his office's prosecution of Iran-Contra principals. The report effectively called on the legislative branch to launch a "jihad" against the Office of the President for its coverup of crimes and violations of the Constitution. Sources say the report has struck a responsive chord in Congress. The dismissal of the case against CIA official Joseph Fernandez, provoked by the Attorney General's ostensible concern to protect "national security secrets" was the last straw. Walsh charged the President with permitting the creation of "an enclave of high public officers free from the rule of law."

Summarizing the arrogance reflected by the Bush administration, a former CIA official boasted: "Any idea that there is a world morality is utopian; power is power. We all pretend that we are all part of this great moral community of nations, but any guy that ran his country on that basis deserves to be kicked out . . . personal morality is no basis to carry out international affairs or business. . . The reason Henry Kissinger's *realpolitik* has never had a popular following in the U.S. . . . is that the population still thinks morality has something to do with affairs of state."