

In the end even all the members of his own party voted to impeach Nixon. His staunchest bitter-enders were without choice. Their survival required it despite all they had refused to see, pretended they did not understand and even alleged did not exist. One Republican who was, while compromised by being a Republican and who took his stand on the Constitution, is Hamilton Fish, Jr. He is the son of one of the most conservative of modern legislators, the Republican Congressman who was FDR's representative and enemy, the man who could not have been more unlike FDR.

The younger Fish, like many members of the House Judiciary Committee, filed personal views in addition to those on which all agreed in their unanimous impeachment report. His beliefs were based on Section 3 or Article 2 of the Constitution, which includes the requirement that the President "shall take care that the laws are faithfully executed." Fish's opinion includes:

"The 'take care' clause imposes a personal obligation faithfully to honor, respect, obey and execute the laws. At the very least he is bound not to violate the law; not to order others to violate the law; and not to ~~conceal~~ participate in the concealment of evidence respecting violations of law of which he is made aware. This is scarcely novel; the same could be said of any citizen, whether or not bound by the oath of office."

Fish also quoted an historic early interpretation of the President's obligations, ¹⁸²³ the opinion of Attorney General William Wirt to President John Quincy Adams, "The President is not to perform the duty but to see that the officer assigned by law to perform ~~his~~ his duty faithfully- that is, honestly...!"

Fish concluded that "If a President has knowledge that the laws are being violated or improperly executed, he is under a duty to take appropriate steps to remedy these wrongs. Among other things he must bring the matter to the attention of authorized law enforcement officials."

These formulations are as kind to Nixon as any can be. He has the obligation of all citizens not to violate the law. He has the obligation of all citizens to report violation of the law to proper authority. When he fails to, as with ordinary citizens,

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in itself that is a crime known as "misprison of a Felony." He has a legal obligation in addition, to see to it that all his appointees enforce the law. He is not the Director of the Federal Bureau of Investigation and he is not the Attorney General of the United States. He appoints executive-branch officials. They serve at his grace. He can fire any one at any time for any cause. They investigate, they enforce the laws, not the President. The President who knows of any crime and does not ~~bring the matter to the attention of law enforcement officials~~ "bring the matter to the attention of law enforcement officials" immediately thereby breaks the law himself and himself becomes a criminal.

Simultaneous, "At the very least he is bound not to violate the law; not to order others to violate the law; and not to participate in the concealment of evidence respecting violations of the law of which he is made aware."

These are the absolute minimum of presidential responsibilities.

The president is not a dictator. The laws apply to him, too.

Each of Fish's specifications of presidential duty is a crime of the president does not perform it, as it is a crime for him as for ordinary citizens to do what the law says he may not do.

With each of these specifications Nixon committed crimes.

He was simultaneously President of the United States and criminal.