

Excerpts From Transcript of House Judiciary

Following are excerpts from the House Judiciary Committee's proceedings in Washington last night on the impeachment of President Nixon, as recorded by The New York Times:

OPENING STATEMENT

Peter W. Rodino Jr.

Before I begin, I hope you will allow me a personal reference. Throughout all of the painstaking proceedings of this committee, I, as the chairman, have been guided by a simple principle: The principle that the law must deal fairly with every man.

For me, this is the oldest principle of democracy. It is this simple but great principle which enables man to live justly and in decency in a free society.

It is now almost 15 centuries since the Emperor Justinian, from whose name the word justice is derived, established this principle for the free citizens of Rome. Seven centuries have now passed since the English barons proclaimed the same principle by compelling King John, at the point of a sword, to accept the great doctrine of Magna Carta.

The doctrine that the King, like each of his subjects, was under God and law.

Almost two centuries ago, the Founding Fathers of the United States reaffirmed and refined this principle so that he or all men are under the law and it is only the people who are sovereign. So speaks our Constitution.

And it is under our Constitution the Supreme law of our land that we proceed through the sole power of impeachment.

We have reached the moment when we are ready to debate resolutions whether or not the committee on the Judiciary should recommend that the House of Representatives adopt Articles calling for the impeachment of Richard M. Nixon.

Make no mistake about it. This is a turning point whatever we decide.

Our judgment is not concerned with an individual but with a system of constitutional government. It has been the history, and the good fortune, of the United States ever since the Founding Fathers that each generation of citizens and their officials have been, within tolerable limits, faithful custodians of the Constitution and of the rule of law.

Preservation of System

For almost 200 years, every generation of Americans has taken care to preserve our system and the integrity of our institutions against the particular pressures and emergencies to which every time is subject.

This committee must now decide a question of the highest constitutional importance.

For more than two years there have been serious allegations by people of good faith and sound intelligence that the President, Richard M. Nixon, has committed grave and systematic violations of the constitution.

Last October, in the belief that such violations had in fact occurred, a number of impeachment resolutions were introduced by members of the House and referred to our committee by the Speaker.

On February 6, the House of Representatives by a vote of 410 to 4 authorized and directed the committee on the Judiciary to investigate whether sufficient grounds exist to impeach Richard M. Nixon, President of the United States.

The Constitution specifies that the grounds for impeachment shall be, not partisan consideration, but evidence of treason, bribery or other high crimes and misdemeanors.

Since the Constitution vests the sole power of impeachment in the House of Representatives, it falls to the Judiciary Committee to understand even more precisely what high crimes and misdemeanors might mean in terms of the Constitution and the facts before us in our time.

The founding fathers clearly did not mean that a President might be impeached for mistakes—even serious mistakes—which he might commit in the faithful execution of his office. By high crimes and misdemeanors they meant offenses more definitely incompatible with the Constitution.

Presidential Oath Cited

The founding fathers with their recent experience of monarchy and their determination that government be accountable and lawful wrote into the Constitution a special oath that the President and only the President must take at his inauguration, and in that oath the President swears that he will take care that the laws be faithfully executed.

The Judiciary Committee has for seven months investigated whether or not the President has seriously abused this power in violation of that oath and the public trust embodied in it.

We have investigated fully and completely what within our constitution and traditions would be grounds for impeachment. For the past 10 weeks we have listened to the presentation of evidence in documentary form, to tape recordings of 19 Presidential conversations and to the testimony of nine witnesses called before the entire committee.

We have taken care to preserve the integrity of the process in which we are now engaged.

We have deliberated, we have been patient, we have been fair. Now the American people, the House of Representatives and the Constitution and the whole history of our Republic demand that we make up our minds.

As the English statesman Edmund Burke said, during an impeachment trial in 1788, it is by this tribunal that statesmen who abuse their power are accused by statesmen and tried by statesmen. Not upon the niceties of a narrow jurisprudence, but upon the enlarged and solid principles of state morality.

Under the Constitution and under our authorization from the House of Representatives, this inquiry is neither a court of law nor a partisan proceeding. It is an inquiry which must result in a decision, a judgment based on facts which must stand for all time.

Deception Alleged

In his statement of April 30, 1972, President Nixon told the American people that he had been deceived by subordinates into believing that none of the members of his Administration or

his personal campaign committee were implicated in the Watergate break-in and that none had participated in efforts to cover up that illegal activity. A critical question this committee must now decide is whether the President was deceived by his closest political associates or whether they were in fact carrying out his policies and decisions.

This question must be decided one way or the other.

It must be decided whether the President was deceived by his subordinates into believing that his personal agents and key political associates had not been engaged in a systematic cover-up of the illegal political intelligence operation of the identities of those responsible and of the existence and scope of other related activities affecting the rights of citizens of these United States.

Or whether in fact Richard M. Nixon in violation of the sacred obligation of his Constitutional oath has used the power of his high office for two years to cover up and conceal responsibility for the Watergate burglary and other activities of a similar nature. In short, the committee has to decide whether in his statement of April 30 and other public statements the President was telling the truth to the American people, or whether that statement or other statements were part of a pattern of conduct designed not to take care that the laws were faithfully executed but to impede their faithful execution for his political interests and on his behalf.

There are other critical questions that must be decided. We must decide whether the President abused his power in the execution of his office.

Need for Collective Wisdom

The great wisdom of our founders entrusted this process to the collective wisdom of many men.

Each of those chosen to toil for the people at the great forge of democracy, the House of Representatives, has a responsibility to exercise independent judgment.

I pray that we will each act with the wisdom that compels us in the end to be but decent men who seek only the truth.

Panel's Impeachment Proceedings

JULY 25, 1974

Let us be clear about this: No official, no concerned citizen, no representative, no member of this committee welcomes an impeachment proceeding. No one welcomes the day when there has been such a crisis of concern that he must decide whether high crimes and misdemeanors, serious abuses of official power or violations of public trust have in fact occurred.

Let us also be clear. Our own public trust, our own commitments to the Constitution is being put to the test. Such tests historically have come to the awareness of most peoples too late, when their rights and freedoms under law were already so far in jeopardy and eroded that it was no longer in the people's power to restore constitutional government by democratic means.

So let us go forward. Let us go forward into this debate with good will, with honor and decency, and with respect for the views of one another.

Whatever we now decide we must have the integrity and the decency, the will and the courage, to decide right.

Let us leave the Constitution as unimpaired for our children as our predecessors left it for us.

I now recognize the gentleman from Michigan.

Edward Hutchinson

Thank you, Mr. Chairman. I certainly agree with the opening paragraphs of your statement, and I want to compliment you upon a statement in which I am sure you hold strong and firm belief; although I would agree with parts of it, I certainly wanted to say that I certainly compliment you upon its opening several paragraphs.

We now proceed to consider the large mass of evidentiary material which was assembled during many months and presented to us by committee staff and by the testimony of witnesses who appeared before us.

During the next few days we will be weighing the evidence and acting upon it. After a period of general debate we will be discussing amendments and voting upon them. And finally the end product of our deliberations will be manifest: either we shall by majority vote have recommended one or more grounds for impeachment against the President, or all of those proposed for adoption will have been defeated.

In our deliberations, the people will have an unusual glimpse into the discussions of those charged with the de-

cision-making in a unique judicial process. And yet perhaps ours is more of a political than a judicial function after all. The fact is that, of course, judges and juries deliberate behind closed doors, but by the committee's action in opening these discussions, it has in effect determined that our function is more political than judicial.

I think the public should know that until now the only decisions made by this committee have been procedural ones, no substantive matter has yet been resolved. Early in the inquiry, the staff submitted a memorandum on what constitutes an impeachable offense within the meaning of the Constitution. But the committee took no action upon it, it being recognized that no definition could be drawn which would be agreed to probably by most members. Thus, as of this minute, the committee has not resolved just what an impeachable offense is.

As the staff assembled evidence, many of us thought that the committee should decide and give some direction to the staff as to the scope of the inquiry.

Alternatives Rejected

We thought the committee should direct the staff into those areas of inquiry in which the committee itself determined that there might be merit so its time and effort would not be consumed in frivolous or otherwise non-meritorious allegations. But such a

course of action would have required the committee to make decisions of substance and no decisions were made.

The articles of impeachment which are to be exhibited tonight are, like any legislative bill, merely a vehicle upon which the committee may work its will. They will be open to additions, to deletions, amendments and substitutions.

Each member of this committee individually weighing the evidence against his own concept of what warrants impeachment will come to his own conclusions on how he votes on the articles in their final form. Each of us is struck by the enormity of the decisions that we are called upon to make.

As I see it, and I state only my personal views, the vote for an article of impeachment means that a member is convinced that the article states an offense for which the President should be removed from office.

And that there is evidence which supports the charge beyond a reasonable doubt.

Unlike criminal jurisprudence where there is discretion in the court make the sentence fit the crime, the Constitution mandates that conviction on impeachment shall carry with it removal from office, nothing less.

It seems to me, then, that in determining in my own mind whether a specific charge faced an impeachable offense. I would have to decide whether I thought the offense charged is of sufficient gravity to warrant removal of the President from office because of it.

In other words, some offenses may be charged for which there is convincing evidence and still such offenses may not, in the judgment of a member, be so serious as to justify impeachment and the removal of a President of the

United States from office.

Earlier today the Supreme Court announced that the President of the United States is required by law to comply with a certain subpoena duces tecum served upon him in the case of the United States v. Mitchell and others by a submission of the subpoenaed material to the trial judge for his private examination; and that the judge shall deliver to the prosecutor only those portions which are relevant to the case, returning the balance of the documentation to the President without disclosing its contents.

Since this committee has requested the tapes of the same conversations from the President, and then subpoenaed them, the question arises whether our committee should proceed further until the availability of the additional evidence to the committee is determined.

Delay Is Suggested

Many members on this side, Mr. Chairman, feel strongly that we should not. We believe the American people will expect us to examine and weigh all available evidence before we decide the momentous and most difficult issue before us.

Even now, Mr. Chairman, we hope that the chair will consider whether in view of the events of today the committee ought not first to determine or postpone consideration of Articles of Impeachment until the evidence, now become available through the courts,

can be made available to this committee.

RODINO: I recognize the gentleman from Massachusetts, Mr. Donohue.

Harold D. Donohue

Thank you, Mr. Chairman. Pursuant to the procedural resolutions which this committee adopted yesterday I move that the committee report to the House a resolution together with Articles of Impeachment impeaching Richard M. Nixon, President of the United States.

Now a copy of this resolution is at the clerk's desk and I understand a copy is also before each member.

RODINO: I've recognized the gentleman from Massachusetts for the purpose of general debate on his resolution for not to exceed 15 minutes and every other member of the committee will be recognized for purposes of debate not to exceed 15 minutes, following Mr. Donohue's presentation. Mr. Donohue.

DONOHUE: Thank you again, Mr. Chairman. This historic debate and the motion I have just offered to this committee have their roots in the most fundamental precept of free men—that no individual is above the law.

On July 20, 1787, the Constitutional Convention had before it the great question: "Shall the executive be removable on impeachment?"

Mr. Gouverneur Morris, a delegate to that convention, spoke unforcibly in opposition. He wanted no impeachment clause in the draft of our Constitution.

But he listened intently as first Benjamin Franklin and then James Madison argued on behalf of such a clause and finally just before the question was voted, Mr. Gouverneur Morris announced that his opinion had been changed by the arguments presented in debate.

The impeachment clause was adopted by the Convention and became Section 4 of Article II of the Constitution of the United States.

And the sole power of impeachment was vested in the House of Representatives under Article I, Section 2 of the Constitution.

Now pursuant to that constitutional power, House resolution 803 as stated by our distinguished chairman was adopted by the House of Representatives on Feb. 6 by a vote of 410 to 4. That resolution directed this committee to investigate fully and completely whether sufficient grounds exist for the House of Representatives to exercise its constitutional authority to impeach the President of the United States.

The human means through which we must try to make the right of measurement of conduct that is required in this historical task exists only in the individual minds and consciences of each of the committee members.

These are the basic resources by which each determines the substance and the culpability of and in the evidence related to the several allegations that in the course of the official con-

duct of his office President Richard M. Nixon engaged in certain activities designed to obstruct justice; to unlawfully invade the constitutional rights of a private citizen; to refuse compliance with the duly authorized and properly served subpoenas of a committee of the Congress; to refuse executive agencies for personal and political benefit.

And that President Richard M. Nixon in other and diverse ways failed to fulfill his constitutional obligations to insure the faithful execution of our laws.

Now the awesome constitutional duty of each member of this committee is to make an impartial determination as to whether or not the evidence before us warrants a reasonable judgment that Richard M. Nixon, as President, has seriously, gravely, purposefully and persistently abused and misused the power intrusted in him by the people of these United States.

Mr. Chairman, in my conviction the hour for this decision has arrived. To this end I believe the time has come to report to the House such resolutions, Articles of Impeachment or other recommendations as we deem proper.

On these enormous matters I have carefully observed the witnesses who appeared before this committee, heard their testimony, listened to the summations of counsel on both sides and I am most willing to listen to any further debate that may develop on the impeachment articles.

Figures in the House Inquiry

Special to The New York Times

WASHINGTON, July 24—Following are the names of the members of the House Judiciary Committee and of the committee's major special counsel in its impeachment inquiry. Committee members are listed by party and in the order of their seniority in the House.

COMMITTEE MEMBERS

Peter W. Rodino Jr., Democrat of New Jersey, chairman.
Harold D. Donohue, Democrat of Massachusetts.
Jack Brooks, Democrat of Texas.
Robert W. Kastenmeier, Democrat of Wisconsin.
Don Edwards, Democrat of California.
William L. Hungate, Democrat of Missouri.
John Conyers Jr., Democrat of Michigan.
Joshua Eilberg, Democrat of Pennsylvania.
Jerome R. Waldie, Democrat of California.
Walter Flowers, Democrat of Alabama.
James R. Mann, Democrat of South Carolina.
Paul S. Sarbanes, Democrat of Maryland.
John F. Seiberling, Democrat of Ohio.
George E. Danielson, Democrat of California.
Robert F. Drinan, Democrat of Massachusetts.
Charles B. Rangel, Democrat of Manhattan.
Barbara Jordan, Democrat of Texas.
Ray Thornton, Democrat of Arkansas.
Elizabeth Holtzman, Democrat of Brooklyn.
Wayne Owens, Democrat of Utah.
Edward Mezvinsky, Democrat of Iowa.

Edward Hutchinson, Republican of Michigan.

Robert McClory, Republican of Illinois.

Henry P. Smith 3d, Republican of upstate New York.

Charles W. Sandman Jr., Republican of New Jersey.

Tom Railsback, Republican of Illinois.

Charles E. Wiggins, Republican of California.

David W. Dennis, Republican of Indiana.

Hamilton Fish Jr., Republican of upstate New York.

Wiley Mayne, Republican of Iowa.

Lawrence J. Hogan, Republican of Maryland.

M. Caldwell Butler, Republican of Virginia.

William S. Cohen, Republican of Maine.

Trent Lott, Republican of Mississippi.

Harold V. Froehlich, Republican of Wisconsin.

Carlos J. Moorhead, Republican of California.

Joseph J. Maraziti, Republican of New Jersey.

Delbert L. Latta, Republican of Ohio.

COMMITTEE COUNSEL

John M. Doar, special counsel.

Albert E. Jenner Jr., special counsel to the minority.

Samuel A. Garrison 3d, deputy minority counsel.

Joseph A. Woods Jr., senior associate special counsel.

Richard Cates, senior associate special counsel.

Bernard W. Nussbaum, senior associate special counsel.

Robert D. Sack, senior associate special counsel.

Robert A. Shelton, associate special counsel.