

WXPost
Unanimous View on Impeachment
AUG 23 1974

House Judiciary Committee Releases 528-Page Final Report

By Richard L. Lyons
Washington Post Staff Writer

The final 528-page impeachment report of the House Judiciary Committee, published yesterday, states the unanimous view that Richard M. Nixon should have been removed from office for obstructing justice had he not resigned.

The report, which becomes the official document explaining to the future why Mr. Nixon was the first President to resign, contains no new factual material. But it includes a wide-ranging interpretation by the 38 members of the facts surrounding the Watergate cover-up and of the impeachment process.

The majority report covers 228 pages, including appendices such as the eight subpoenas for 147 taped conversations which Mr. Nixon refused to comply with. This formed the basis for one of the three articles of impeachment approved by the committee. The others were for the Watergate obstruction of justice and for misuse of federal agencies to violate citizens' rights.

Another 136 pages present the minority views by 10 Republicans who

voted against impeachment in committee but switched on Aug. 5 to support the Watergate charge after Mr. Nixon admitted his involvement in the cover-up from the start.

Rep. Wiley Mayne (R-Iowa) stated that, as a result of Mr. Nixon's Aug. 5 statement and release of June 23, 1972, tapes showing his involvement six days after the Watergate break-in, he would also have voted for impeachment on Article II, charging misuse of agencies. This made the final committee lineup 38 to 0 on obstruction of justice, 29 to 9 on misuse of agencies and 21 to 17 on defiance of committee subpoenas.

Twenty-four minority, individual, additional or otherwise separate views follow the majority report, which is the controlling view of the committee. Some were signed by as many as 11 members, some were a single paragraph by one member.

The minority views of the 10 Republicans who had stood with Mr. Nixon until his final confession were substantially the same, though slightly toned down in rhetoric, as those prepared last week by the staff of the entire 17-member Republican minority. They

stated their belief that Mr. Nixon had admitted obstruction of justice, which the majority report said included the approval of criminal acts.

The Republicans said that while some may say Mr. Nixon was "hounded from office . . . we feel constrained to point out that it was Richard Nixon who impeded the FBI's investigation of the Watergate affair . . . it was Richard Nixon who created and preserved the evidence of that transgression and . . . concealed its terrible import, even from his own counsel, until he could do so no longer."

"The tragedy that finally engulfed Richard Nixon had many facets," the 10 Republicans wrote. "One was the very self-inflicted nature of the harm. It is striking that such an able, experienced and perceptive man . . . should fail to comprehend the damage that accrued daily to himself, his administration and to the nation, as day after day, month after month he imprisoned the truth about his role in the Watergate cover-up so long and so tightly within the solitude of his Oval Office

See **IMPEACH**, A10, Col. 1

IMPEACH, From A1

that it could not be unleased without destroying his presidency."

The majority report concluded that Mr. Nixon's actions after the Watergate break-in "caused action not only by his subordinates but by agencies of the United States, including the Department of Justice, the FBI and the CIA. It required perjury, destruction of evidence, obstruction of justice, all crimes. But most important, it required deliberate, contrived, and continuing deception of the American people."

The report lists 16 public statements by President Nixon in which it said he lied or misled the American people about his role in Watergate.

Republican members wrote that while all 17 of them would have voted to impeach Mr. Nixon on the Watergate charge, they did not necessarily agree with all the conclusions drawn from the evidence in the majority report.

Rep. Edward Hutchinson (R-Mich.), senior committee Republican, who had said he felt "deceived" and would vote for impeachment for obstructing justice, nevertheless wrote:

"As the Watergate affair moves into the past it may be seen for what a little thing a President was forced to resign from office when compared with the accomplishments of his administration."

While conceding Mr. Nixon's guilt of obstruction of justice, the 10 Republicans noted that "when the President needed sound advice from good men, he was surrounded by advisers who were inclined by the circumstances to give him the worst possible advice."

Haldeman, Ehrlichman, Mitchell, Colson and Dean each had selfish, personal reasons for wanting the full story of Watergate concealed from official investigators, the general public, indeed, in varying degrees, from the President himself." All of these top aides to the former President have ei-

ther pleaded guilty or been indicted on Watergate charges, though charges against Charles W. Colson were dropped when he pleaded guilty to trying to smear Daniel Ellsberg.

Article II charged Mr. Nixon with misuse of agencies such as the Internal Revenue Service to harass political

enemies and with creating the secret leak-plugging "plumbers" to carry out unlawful acts.

The majority report concluded that in this "abuse of powers" Mr. Nixon acted "personally and through his subordinates, for his own political advantage, not for any legitimate governmental purpose and without due consideration for the national good."

Nine Republicans dissented from the majority view on the abuse-of-power article. They agreed that while unlawful acts by presidential aides did occur "with varying degrees of direct personal knowledge or involvement of the President . . . neither singly nor in the aggregate do they impress us as being offenses for which Richard Nixon or any President should be impeached or removed from office." They reiterated, however, that they supported impeachment on the obstruction-of-justice charge. Only one charge is needed to impeach.

Hutchinson added this view in dissenting from the abuse-of-power charge: "What to one man seems an abuse of power appears to another to be strong executive discretion."

The majority report argued that defiance of committee subpoenas should be made grounds for impeachment, or else the impeachment clause of the Constitution would be rendered meaningless for future Presidents; they could simply withhold the evidence.

The minority contended that this action was not sufficiently serious to be considered impeachable and could set a dangerous precedent for impeaching future Presidents who try to withhold sensitive material from legislative inquiries.

Led by Rep. Thomas F. Railsback (R-Ill.), 10 Republicans who voted for the other two articles argued that the committee should not have voted to impeach Mr. Nixon for defying subpoenas without first seeking their enforcement through the courts or asking the House to cite him for contempt.

Rep. Robert McClory (R-Ill.) made the strongest argument in separate views for including defiance of subpoenas as an article of impeachment. Mr. Nixon had contended that he had a

right under the doctrine of separation of powers to assert executive privilege in refusing to turn over material. McClory said:

"The principle that is the subject of this discussion is clear and simple: the Constitution does not give to the House of Representatives, exercising its power to impeach, a power to ask while giving to the President—as President—an equal power to refuse. Our Constitution makes more sense than



Associated Press

Arriving at White House to meet with President Ford are, from left, Judiciary members Thomas F. Railsback (R-Ill.),

William S. Cohen (R-Maine), M. Caldwell Butler (R-Va.), Charles W. Sandman Jr. (R-N.J.), Henry P. Smith III (R-N.Y.)

that. The Constitution does not give to the President a privilege to refuse by virtue of his office when his use or abuse of that office is at issue."

The House Judiciary Committee could not go to court for help in enforcing its subpoenas, McClory said, because the Constitution vests solely in the House the power to decide "whether certain facts constitute impeachable conduct."

Rep. Don Edwards (D-Calif.) wrote

separate views to point up the fact that Mr. Nixon's actions, which he said "constituted a grave threat to the liberties of the American people," were invariably justified in the name of "national security." The Watergate cover-up began with "Mr. Nixon's direction to the FBI through the CIA to suspend its investigation because of 'national security,'" Edwards wrote. The "plumbers," described by Edwards as "the White House secret police," were established for "national security." The FBI was told to lay off the break-in of Ellsberg's psychiatrist's office because of "national security."

"All the American people must be vigilant to the perils of the subversive notion that any public official, the President or a policeman, possesses a kind of inherent power to set aside the Constitution whenever he thinks the public interest, or 'national security' warrants it," Edwards said. "That notion is the essential postulate of tyranny."

Rep. Jerome R. Waldie (D-Calif.) wrote: "Impeachment of a President should be undertaken not to punish a President, but to constitutionally redefine and to constitutionally limit the powers of the presidency when those powers have been dangerously extended and abused. . . . If we do not redefine executive power in this instance and by such redefinition limit that power for future Presidents, we risk all future Presidents claiming immunity from accountability for unlawful conduct in the furtherance of political objectives."

Other members wrote separate views expressing regret that the Judiciary Committee had refused to recommend impeachment of Mr. Nixon for the secret bombing of Cambodia and for tax evasion. Both those proposed articles were rejected, 26 to 12.

A special section of excerpts from the Judiciary Committee report will be published Monday.