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Impeachment Ground Rules

Washington

Members of the House Judiciary committee are prepared, by a substantial majority, to recommend the impeachment of President Nixon if they find evidence of serious misconduct even if such misconduct falls short of criminal wrongdoing.

The Judiciary committee will not get into the thick of its impeachment inquiry before next February, and it is not likely to reach a determination on Mr. Nixon's conduct in office before next spring.

But a New York Times check conducted last week among the 21 Democrats and 17 Republicans who serve on the committee produced a surprising consensus on the question that will be central to the outcome of the inquiry: What constitutes an impeachable offense under the Constitution?

Of 32 Judiciary committee members who were interviewed separately — six others could not be reached — all were agreed that the President would be subject to impeachment by the House, trial by the Senate and removal from office if he were found to have violated criminal law.

More significant, perhaps, two-thirds of the committee's members — 25 — said that they believed the President could be impeached for conduct that was not necessarily criminal but constituted a severe breach of public trust.

The key question that the committee will face, accord-

ing to Representative Peter W. Rodino Jr. of New Jersey, the Democratic chairman, is, "Does this act or conduct bring the office into great scandal and disrepute?"

Representative Charles E. Wiggins of California, a constitutional scholar whose views are often sought by fellow Republicans on the Judiciary committee, stated a similarly broad standard.

He said the President would be subject to impeachment for "conduct which, exposed to the light of day, produces moral outrage among the people that causes them to believe he is no longer fit to serve."

The distinction is important because of the nature of some of the charges lodged against Mr. Nixon in the 16 resolutions of impeachment filed after his dismissal in October of Archibald Cox as Watergate special prosecutor. Among the grounds cited for removing Mr. Nixon from office were the secret bombing of Cambodia, the President's refusal to spend funds appropriated by Congress, ultimate Presidential responsibility for illegal acts of subordinates and the dismissal of Cox.

Historians, constitutional lawyers and members of Congress have varying — and sometimes conflicting — views on the standard contained in Article II of the Constitution. It provides for impeachment for "treason, bribery, or other high crimes and misdemeanors."

Nowhere in the Constitution is the phrase, "high crimes and misdemeanors."

spelled out. Scholars have found precedent in the debates of the Constitutional Convention and in the 12 impeachment efforts undertaken by Congress since 1798 for either a rigidly narrow or a broadly unrestricted interpretation of the standard.

The prevailing view among members of both parties was that, while they were reluctant to suggest the outer limits of impeachable misconduct, it must be, as Representative David W. Dennis of Indiana stated it, "something serious, a major perversion of laws and Constitution."

Several members said, as did Representative Walter Flowers (Dem-Ala.), that Congress could not impeach out of "distaste for what the executive has done" or as a consequence of "a lot of small things" to which Congress might object. But he said there was "great latitude" in deciding what impeachable offenses were.

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