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Pivotal Probers

Nixon Could Lose Votes Of Senior Republicans On Impeachment Panel

They All Support Him Now
But Don't Agree the Study
Is a Plot of the Democrats

Importance of the Minority

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WASHINGTON—President Nixon had better not count on solid support from Republican members of the House Judiciary Committee, which now is trying to decide whether to impeach him.

As of now, the committee's senior Republicans are in his corner; if the vote were today, to a man they would vote "nay."

But as the days wear on, as the special prosecutor uncorks his indictments of former Nixon aides and as the Judiciary panel continues to pull together Watergate evidence, those solid Republican ranks could break; some of those "nays" could turn to "yeas."

Evidence for this possibility isn't hard to come by. The committee's seven senior GOP members (along with eight senior Democrats; they make up an "advisory" subcommittee on impeachment) are an independent-minded bunch. The seven Republicans are Edward Hutchinson of Michigan, Robert McClory of Illinois, Henry Smith of New York, Charles Sandman of New Jersey, Tom Railsback of Illinois, Charles Wiggins of California and David Dennis of Indiana. **Full committee: An Unbought Line D, 21; R, 17.**

Although generally conservative and usually Nixon supporters on legislative issues, they aren't buying the White House line that impeachment is simply a Democratic plot to reverse the 1972 elections. Some indications of this:

—All the senior Republicans now express confidence in the ability and fairness of the two men in day-to-day charge of the impeachment inquiry—majority counsel John Doar and minority counsel Albert Jenner. The White House line is that although they are registered Republicans, Messrs. Doar and Jenner are really partisan Democrats out to get Mr. Nixon.

—All the senior Republicans say they currently are satisfied with the pace of the investigation; they agree with Democratic Chairman Peter Rodino that thoroughness rules out rushing ahead. The White House contends that the Democrats want to keep the Watergate issue alive for next fall's elections.

—All the senior Republicans want Mr. Nixon to give the committee whatever relevant information it needs. In his State of the Union address, Mr. Nixon hinted that he might resist any subpoenas he thought would "weaken the presidency."

—Some of the seven senior Republicans say they will vote to impeach Mr. Nixon if they

have only "probable cause" to believe he committed an impeachable offense. They would be willing to leave it to the Senate to decide whether the President was guilty "beyond a reasonable doubt."

—Some of them say they will vote to impeach Mr. Nixon if they think he is guilty of grave offenses short of indictable crimes.

—At least one senior Republican resents what he feels was a White House attempt to influence his vote on impeachment. On the other hand, not all of them resent the campaigns in favor of impeachment by organized labor and other liberal groups; one GOP member asked them to send him their legal briefs.

The Importance of Republicans

Why should the Republicans matter? After all, they are outnumbered on the Judiciary Committee, 21 to 17. If they wanted, the committee's Democrats could vote out a bill of impeachment without a single Republican "yea."

It is unlikely, however, that Republicans or even moderate and conservative Democrats in the House would agree to an impeachment bill that emerged from committee by a party-line vote. A partisan impeachment would look bad; it would tend to confirm the White House charge that the Democrats are trying by impeachment to do what George McGovern couldn't do in 1972—beat Richard Nixon.

"A partisan impeachment wouldn't be viable," Rep. Dennis declares.

A significant number of GOP votes in committee for impeachment (five or six, in the view of a White House aide) would probably move a significant number of Republicans and Democrats on the House floor to vote for impeachment.

Thus, while fewer in number, Republicans on the Judiciary Committee are perhaps greater in influence than the Democrats. United against impeachment, they can probably save Richard Nixon. Divided, they can doom him.

Sketches of the Republicans

Here are the seven senior Republicans:

EDWARD HUTCHINSON of St. Joseph, Mich., the committee's ranking Republican, sounds like Richard Nixon's staunchest friend among the senior GOP members. Mr. Hutchinson, 59, represents a rural and small-town district. By Congressional Quarterly's count, he supported the President's position on legislation 75% of the time last year. He shares Mr. Nixon's gut dislike for the press.

While professing an open mind, Mr. Hutchinson says that "impeachment of a President is something the country can't afford." He doesn't see any need to insulate himself from the White House; if invited there to talk about "impeachment or anything else," he says, "Of course I'd go."

He rejects the idea that the Judiciary Committee or the House itself should apply only a grand jury's standard of "probable cause," leaving to the Senate a trial jury's stricter rule. "We have to give the President the benefit of all reasonable doubt," he declares.

But Mr. Hutchinson feels that, weighed against a subpoena from the committee, any Nixon claim of executive privilege "must fail." And he was one of three Republicans who voted against giving the panel's GOP minority the power to subpoena witnesses and documents over the objections of the Democratic majority.

Like the other senior Republicans, he feels
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that counsels Doar and Jenner are running "a very professional operation" and proceeding "as rapidly as they can in order to do a creditable job."

ROBERT MCCLORY of Lake Bluff, Ill., a Chicago suburb, came to Congress the same year as Mr. Hutchinson (1963). Mr. McClory, 66, supported the President 67% of the time in 1973. On impeachment, however, he takes an independent line.

He says Mr. Nixon could be impeached for offenses other than indictable crimes—for example, "breaches of trust or usurpation of authority." He recalls that he and several other GOP members were invited to the White House before Christmas and asked about the impeachment inquiry by a presidential aide whom he won't identify. He would probably decline a similar invitation now. "It was just beginning to make me uncomfortable," he tells a reporter.

To remain "as detached as possible," while the impeachment investigation goes on, Mr. McClory says he will refrain from seeking any White House help on federal aid projects in his congressional district.

The McClory Christmas card was a color photograph of the Congressman and his wife, Doris, with Vice President Ford and his wife Betty. "That card says a lot," he declares. "Jerry Ford characterizes for me the best in our Republican Party."

HENRY SMITH of North Tonawanda, N.Y., represents, among other places, Niagara Falls. A former judge, the tall, white-haired Mr. Smith is the Judiciary Committee's most judicial-looking member. He supported the President on 68% of the votes last year.

Mr. Smith takes a "liberal view" of what constitutes an offense worthy of impeachment. Besides indictable crimes, he includes offenses that "outrage the sensibility of reasonable persons and which reasonable persons feel would threaten the welfare of the United States."

He would be willing to go to the White House to discuss impeachment but says he wouldn't be a pushover. "If Nixon called us down and said, 'Look, boys, I'm clean, we'd probably say, 'Good, come up and prove it.'"

CHARLES SANDMAN of Erma Park, N.J., is a very conservative Congressman whose support for Mr. Nixon (44%) last year was cut by a race for governor that caused him to miss many House votes and to take some uncharacteristically liberal positions.

Mr. Sandman, 52, blames his defeat in the governor's race on Watergate ("Jesus Christ, it was like running into a brick wall with your hands down") but doesn't hold a grudge against Mr. Nixon.

He strictly construes the words "impeachable offense." He doubts that Mr. Nixon should be removed from office if he should be found, for example, to have committed tax fraud or obstructed justice in connection with a burglary by subordinates. "It's got to be not just a crime but a very serious crime," Mr. Sandman says.

He vows not to be influenced by the "warped brand of thinking" of liberal groups out to impeach. But he also favors the "broadest possible" subpoena power and thinks that "probable cause" is a sufficient standard for action in the House. He and William Cohen of Maine, a junior member, broke with their GOP colleagues and opposed a requirement that the committee be limited to subpoenaing only "relevant" material.

TOM RAILSBACK of Moline, Ill., is the youngest (42) and least conservative of the committee's senior Republicans. He supported Mr. Nixon 51% last year. He and Lawrence Hogan of Maryland were the only two Judiciary Committee Republicans to report campaign contributions from organized labor in 1972.

Mr. Railsback says that Bryce Harlow, a Nixon aide, called him several weeks ago to inquire how the impeachment business was going. But he doesn't regard that as White House pressure. "They aren't in a position to pressure," he says. "The President's the one that has to respond to the charges."

Mr. Railsback says he has received mail favoring impeachment from the United Auto Workers union, which is strong in his district. Labor strategists, he says, probably figure that he, Mr. Cohen of Maine and Hamilton Fish of New York are the best bets among the commit-

tee's Republicans to vote for impeachment.

"But the UAW knows I'm in a difficult spot," he adds. "They're good friends and supporters of mine, so they haven't twisted my arm." Mr. Railsback's right arm now is in a sling—but from a tennis accident.

CHARLES WIGGINS of West Covina, Calif., represents President Nixon's old congressional district, east of Los Angeles. He supported Mr. Nixon 64% in 1973.

One of the best and most influential legal minds on the committee, Mr. Wiggins takes a narrow view of the grounds for impeachment. "The only issue Nixon can possibly be impeached on is the whole cover-up area," Mr. Wiggins says. "If he erased the tapes, for example, people won't tolerate that for a minute."

Even if the committee found, he continues, that Mr. Nixon ordered the "plumbers" to break into the office of Daniel Ellsberg's psychiatrist, the President could probably convince the public that the burglary was necessary to protect national-security secrets. And if a "decisive" majority of the people don't believe that an act is grounds for impeachment, Mr. Wiggins says, the President shouldn't be impeached for that act.

On the other hand, Mr. Wiggins says he would like to counsel Mr. Nixon "not to get his

back up" when the Judiciary Committee comes calling for information. And Mr. Wiggins, along with M. Caldwell Butler of Virginia, opposed an attempt by fellow Republicans to set an April 30 deadline for the inquiry.

DAVID DENNIS, 61, of Richmond, Ind., is a former criminal defense lawyer who loves the law. His small, gloomy office is lined with law books, and there are more all over his desk. "I'm researching the law of impeachment," he explains modestly, peering at a visitor through rimless glasses.

Mr. Dennis supported Mr. Nixon on 76% of last year's votes. But far from resenting the efforts of various groups to impeach the President, he has sent out for their legal briefs.

He thinks that "probable cause" is a proper standard for the committee and the House. "Probable cause means you think a guy's probably guilty and you can probably prove it," he says. "Properly interpreted, that's a pretty stiff standard."

Mr. Dennis, a feisty little man, also regards as moot the frequently drawn distinction between indictable crimes and other offenses. "In most cases, impeachable offenses will be indictable," he says, "even if you intellectually accept the idea of some grave subversion of the Constitution which hasn't been made a crime."