

Impeachment Vote: 4 Men in the Middle

By Lou Cannon

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"In the last election I supported you . . . and I wish to continue to do so," began the letter to Rep. William Cohen of Maine. "The recent trend of your public statements upsets me in that it seems that you have already decided to be a decided Nixon supporter on the impeachment considerations."

"Much has been said in the news media about the anti-Nixon feeling you found on your last trip home," said another letter. "Both my wife and I voted for Nixon and Cohen in the last election. We would surely vote for Nixon again but are having reservations about Cohen."

IMPEACH, From A1

Railsback, a 41-year-old fourth-term congressman from the western Illinois district of Rock Island and Moline, tells of a recent trip home where he spoke to a farmers' group overwhelmingly opposed to impeachment and even the impeachment inquiry and then to a United Auto Workers gathering where the sentiment favored removal of the President.

Railsback has the support of both of these constituencies. In fact, his backing by the UAW in 1972 convinced the Democrats that they should allow Railsback to run opposed and concentrate on local elections instead. President Nixon carried the district with 62 per cent while the Democrats were sweeping the local races.

Now, under the pressure of impeachment, Railsback sees himself losing support no matter what he does. But he believes that he would be more likely to lose Democratic votes with an anti-impeachment stand than to lose Republicans by voting for impeachment.

"It's going to be more difficult to convince people of the merits of a vote against impeachment because they are going to say with all this smoke, there's got to be fire," Railsback said.

Railsback estimated that 65 per cent of his constituents presently oppose impeachment. He added, however, that he has sometimes voted against the opinions of his constituent majority, notably on the 18-year-old vote and the 1968 Gun Control Act.

"If the people trust you, they'll listen to you," he says. "If they think you voted your conscience, they are going to stick with you."

Cohen is another Republican who talks of conscience. The letters he sends back to impeachment advocates and opponents differ in tone, but nearly always make the point that his vote will not be based on "a head count of the public."

These two letters to Cohen, an articulate 33-year-old congressman from Bangor, demonstrate the political predicament faced by members of the House Judiciary Committee as they begin consideration of the impeachment of President Nixon. The predicament is particularly acute in Cohen's case because he is one of four members of Judiciary who are regarded as probable swing votes in any close decision on impeachment.

The other three men in the middle, in the opinion of many of their colleagues, are Republicans Tom Railsback of Illinois and two Southern Democrats, James

R. Mann of South Carolina and Walter Flowers of Alabama.

Despite disparities in their politics and their perceptions, all four of these lawyer-congressmen share certain common attitudes and problems.

All, for instance, accept the description of themselves as congressmen who could vote either way on impeachment, although Mann adds that he hopes this also is true of most other committee members.

All won their own elections decisively—Railsback was not even opposed—and represent districts carried lopsidedly by Mr. Nixon in the 1972 election.

All share a relatively

broad definition of impeachable conduct.

All view impeachment as a difficult political issue but believe they can survive the 1974 election no matter which way they vote.

The pressures on Cohen and Railsback mirror the deep differences of opinion about President Nixon that now exist within the Republican Party. These divisions have been reflected in the stay-away Republican vote in the Pennsylvania and Michigan special elections, and they are reflected, too, in the nearly equally divided opinions in the mail now pouring into the offices of the two congressmen.

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Typically, a Cohen letter concludes: "I will approach the hearings in an objective, truth-searching fashion, with a firm commitment to you and the rest of the people of Maine and the country, to act in accordance with my constitutional duty and my conscience."

Cohen, a literary-minded lawyer and former Latin scholar, won by 54 per cent in a district where Mr. Nixon received 62 per cent. He is both the hope and despair of his Republican colleagues, some of whom resent the frequency with which he is fashionably quoted in the press.

On Judiciary he is known derisively, perhaps affectionately, as the committee's poet laureate, both for his penchant for quoting poetry and for the tongue-in-cheek definition he once gave of impeachable conduct: "It's like Robert Frost on love. It's indefinable and unmistakable—I know it when I see it."

The actual definition arrived at by most of the committee members, including Cohen and Railsback, probably is closer to this Frost view of love than to any narrow construction that limits

impeachable offenses to actual criminal conduct. Railsback says that impeachment must be for "a serious offense," and is inclined to think that the question of whether this offense must also be a crime is less important than it has been made out to be.

"I think they can find a criminal statute for just about every accusation that's been leveled against the President," Railsback says.

He also regards truthfulness as an important issue, adding that the President would be "gravely hurt if he's caught telling lies about the Watergate cover-up."

Cohen repairs to the impeachment definition offered by Rep. Benjamin Butler of Massachusetts in the impeachment of President Andrew Johnson. Butler gave this definition:

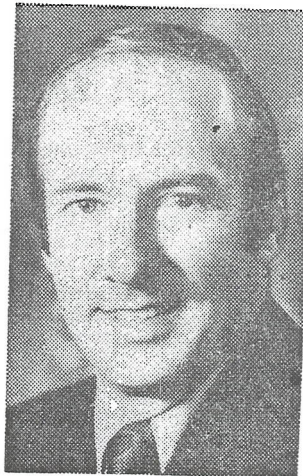


REP. WILLIAM COHEN



REP. JAMES R. MANN

... two probable swing votes, Republican and Democrat



REP. TOM RAILSBACK



REP. WALTER FLOWERS

... two other probables, also Republican and Democrat

"We define . . . an impeachable high crime or misdemeanor to be one in its nature or consequences subversive of some fundamental or essential principle of government or highly prejudicial to the public interest, and this may consist of a violation of the Constitution, of law, of an official oath, or of duty, by an act committed or omitted, or, without violating a positive law, by the abuse of discretionary powers from improper motives or for any improper purpose."

be a significant offense, not an accumulation of small things."

Both Flowers and Mann are getting more than their share of letters urging a quick decision on impeachment. Mann says these letters are inspired both by deliberate political pressure and by ignorance of the committee's responsibility.

"The 'let's get it over with' appeal is always combined with a demand to 'get off back,' said Mann. 'I don't quite read into the request for expedition a plea to 'let's hurry up and convict him.' This is food for the pro-Nixon emotionalism. . . . It takes advantage of the public ignorance about the fact that the Senate Watergate committee was not performing a constitutional function under the impeachment provision. . . . The reaction should be, now it's in the hands of the official body. Let us begin."

What worries the politically vulnerable committee members is that this appeal for a quick decision will be combined with White House deals in furnishing requested tapes and documents. In differing degrees all four congressmen share a common concern that the White House lawyers may be reluctant to provide the material needed to make an adequate judgment.

"I don't think this would be grounds for impeachment," says Railsback, "unless the President were unsuccessful in getting the matter into court or defied a court order. It just sounds ridiculous to send over a sergeant of arms to arrest the President and put him in a common jail. I would guess there will be some kind of confrontation between the two branches of government that will have to be resolved by the judiciary."

If this happens, say both Railsback and Cohen, it is possible that increasing political pressure will lead to the postponement of any vote until after the November elections. Railsback does not think that this would necessarily be helpful to the President.

"This is different than a traditional criminal case," says Railsback. "Time is not on the President's side. The best thing for the President if he is innocent is to get this thing over so people really would get off his back. . . . One other hand, if he's guilty, maybe it's a different situation."

All four congressmen say their vote will be based squarely on the evidence produced before the committee. But in their interviews each congressman also expressed some particular deep resentment or concern that is indictative of the heavy burden the President carries into the impeachment proceedings.

Railsback, for instance, is outraged by the gaps on the Watergate tapes.

"The unexplained tape erasures are so blatant and offensive to a lawyer," he says, "The material was under subpoena. Somebody defied a court order, and that is most serious."

Cohen recalls that the night the tape gap was reported on the evening news his 10-year-old son said, "Dad, I wish we were living in the days of Washington."

His father made no response. "I didn't want to add anything to the cynicism that was already building at such an early age," he says.

Flowers, considered by Republicans to be the likeliest Democrat to vote against impeachment, has strong feelings, both about Watergate and the White House "plumbers."

"Skullduggery like the plumbers performed doesn't have any place in American political life," he says. "Perhaps it's important for us to show by our procedures that Watergate was something which happened only once and mustn't be allowed to happen again."

Mann, along with many other Democrats on the committee, is upset by the cries of partisanship that have arisen in the White House and been taken up by various Republicans in Congress. These accusations in themselves are partisanship of the "grossest, rawest, sorriest nature" in Mann's view.

The Democrats hold a 21-to-17 majority on the committee and it would, of course, be possible for them to pass an impeachment resolution without any Republican votes.

No one in either party expects this to happen, mainly because it would add to the political problems of members on both sides of the aisle by appearing to confirm the White House view that impeachment is a partisan process. In the long run, say many committee members privately, it would be far better for everyone in Congress if the impeachment vote crosses party lines.

Perhaps the most ominous sign for Mr. Nixon that the basis for this bipartisan impeachment support already exists is the readiness of the men in the middle to say that the country can afford an impeachment without any substantial damage to its political institutions.

"I have confidence that our system of government will survive an impeachment without damage or a diminution of freedom," says Mann.

His words are echoed by Railsback.

"This country could survive having the President in office for the balance of his term," says Railsback. "It also could very well survive his removal."