

# Transcript of Opening Public Session

Following is a transcript of the opening public session of the House Judiciary Committee yesterday in its hearings on the matter of the impeachment of President Nixon, as recorded by *The New York Times*:

**PETER W. RODINO Jr.:** The meeting will come to order.

Three months ago, the House of Representatives considered House Resolution 803, and the resolution read as follows:

Resolved, that the Committee on the Judiciary, acting as a whole or by any subcommittee thereof appointed by the chairman for the purpose hereof and in accordance with the rules of the committee, is authorized and directed to investigate fully and completely whether sufficient grounds exist for the House of Representatives to exercise its constitutional power to impeach Richard M. Nixon, President of the United States of America. The committee shall report to the House of Representatives such resolutions, articles of impeachment or other recommendations as it deems proper.

The House adopted that resolution by a vote of 410 to 4. We are proceeding under the mandate of that resolution.

I don't need to stress again the importance of our undertaking and the wisdom, decency and principle which we must bring to it.

We understand our high constitutional responsibility. We will faithfully live up to it.

For some time, we have known that the real security of this nation lies in the integrity of its institutions and the trust and informed confidence of its people. We conduct our deliberations in that spirit.

We shall begin our hearings by considering materials relevant to the question of Presidential responsibility for the Watergate break-in and its investigation by law enforcement agencies.

### 3 Sessions Weekly Planned

This is one of six areas of our inquiry. We expect to continue our inquiries until each area has been thoroughly examined.

First, we will consider detailed information assembled by the staff. This consists of information already on the public record, information developed in executive session by other Congressional committees, information furnished by the Federal grand jury of the District of Columbia and other information.

After today, the committee will meet regularly three days a week for all-day sessions beginning next Tuesday at 9:30 A.M.

The chairman will, as circumstances dictate, be ready to notice such business meetings as may become necessary. During the initial presentation, special counsel and minority counsel will explain and summarize the material.

Our proceedings are governed by the rules of confidentiality that the committee adopted on Feb. 22, and the rules of procedure adopted May 2. The committee has the power to modify or change these rules during the course of these hearings.

Some of the materials which the committee will consider have been held confidential by the staff, by Mr. Hutchinson and myself. This material includes tape recordings of conversations among

President Nixon and his key associates. We will listen to these recordings during these hearings.

After the Judiciary Committee has had the opportunity to consider this material it will decide if and when, in the national interest, this material should be made public.

The Judiciary Committee has determined that President Nixon should be accorded the opportunity to have his counsel present throughout the proceedings. Mr. James St. Clair is present today.

After the initial proceedings are completed, Mr. St. Clair will be afforded the opportunity to respond to the presentation, orally or in writing, as determined by the committee.

He and his assistants understand the committee's rules of procedure and the committee's rules of confidentiality, and they are bound by those rules.

Our proceedings will be conducted under the rules of the House of Representatives. Technical rules of evidence do not apply. We are governed by the Constitution of the United States, which rests the sole power of impeachment in the House.

A brief report of the day's proceedings will be issued at the end of each day's hearings.

I recognize the gentleman from Michigan, Mr. Hutchinson.

**EDWARD HUTCHINSON:** Thank you, Mr. Chairman. Today the committee starts consideration of the most awesome power constitutionally vested in the House of Representatives. During the past four months this committee's

impeachment inquiry staff has been assembling information under the committee's direction and counsel will now present to the committee the information assembled.

The power of impeachment is one of those great checks and balances written in our Constitution to ameliorate the stark doctrine of the separation of powers. But impeachment of a President is most drastic, for it can bring down an administration of the Government.

The Constitution itself limits the scope of impeachment of a President to treason, bribery or other high crimes and misdemeanors.

A law dictionary published in London

in 1776 defines impeachment as, and I quote, "The accusation and prosecution of a person for treason or other crimes and misdemeanors. Any Member of the House of Commons may not only impeach any of their own body but also any Lord of Parliament. And thereupon articles are exhibited on behalf of the Commons and managers appointed to make good their charge and accusations, which being done in the proper adjudicature, sentence is passed. And it is observed that the same evidence is required in an impeachment in Parliament as in the ordinary court of justice."

That definition of the term clearly exhibits, I believe, the understanding and

of House Panel's Hearings on Impeachment

TIMES, FRIDAY, MAY 10, 1974

meaning of the founders of this Republic when they wrote into our Constitution the sole power of this House to impeach the President of the United States. The standard it imposes is finding criminal culpability on the part of the President himself, measured according to criminal law.

I trust that the members of this committee embark upon their awesome task, each in his own resolve to lay aside ordinary political considerations and to weigh the evidence according to the law. I trust that each of us is resolved that during this inquiry schooled, skilled and practiced in the law as each of us is, to perform as a lawyer in the finest traditions of the profession.

And in view of the enormity of the responsibility cast upon us, I trust that in the days and weeks ahead each of us will, according to the dictates of his own conscience, seek the guidance of that divine power which can be with us all and be everywhere for good and which has so blessed this nation and its people throughout our history.

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

HAROLD D. DONOHUE: Mr. Chairman, as I understand it, the impeachment inquiry staff has received a wide variety of material which has, up until now, been subject to the requirement of confidentiality. Included in this class of confidential material are documents which have been received from the grand jury, as well as material developed by other Congressional committees in executive session.

Under the circumstances, Mr. Chairman, it is my opinion we should not make all of this material public today. Therefore, I move you that during this initial phase of the presentation the committee go into executive session, pursuant to Rule 11, Clause 27 of our House rules. That rule provides that if evidence of testimony at an investigative hearing may tend to defame, degrade or incriminate any person the committee shall receive such evidence or testimony in executive session.

ROBERT MCCLORY: I second the motion.

MR. RODINO: The motion has been made and seconded to—the motion, I might advise the gentleman from Michigan, is not a debatable motion. The question is not one that is debatable and the chair will put the question to the committee. All those in favor of...

JOHN CONYERS Jr.: Mr. Chairman, a point of order. Is the chair suggesting that a motion of this importance and magnitude with no more than being stated and seconded, cannot be considered by the members of this committee gathered here for the purpose of an impeachment hearing?

#### Motion Is Not Debatable

MR. RODINO: Is the gentleman stating a point of order or is he inquiring of the chair? The chair has already ruled that this motion is not a debatable one and in accordance with the rules of the House, Rule 11, 27M. And therefore, unless the gentleman is ready to state that he has an argument toward his point of order, the chair is ready to present the question on the motion.

MR. CONYERS: Ask for a roll-call vote, Mr. Chairman.

MR. RODINO: The lady will state a parliamentary inquiry.

BARBARA JORDAN: I understand the gentleman's motion to be that the committee should go into executive session for the first phase or only this meeting?

MR. RODINO: The initial phase of the hearing.

JOHN F. SEIBERLING Jr.: Mr. Chairman, a point of order. As I understand the House rules we must vote at each session of the committee whether that committee shall be open or closed. Is that correct? Therefore we are really only voting on this day's session.

MR. RODINO: As the chair will again state, the session that would be closed, of course, would relate to today and at any subsequent time the chair could entertain another motion. The motion that is put to the chair at this time is a motion to close this hearing in order that we hear this initial presentation in accordance with Rule 11, 27M, which suggests that where there is the possibility that any information may tend to

degrade or defame that the session be an executive session.

Therefore...

MR. SEIBERLING: Well, Mr. Chairman, if I may pursue this inquiry just a little bit, it's my intention to support the motion. However, it's my understanding of the rules that at the next session of this committee, which is to be a closed session, a similar motion will have to be made and approved and at each subsequent session which is desired to be closed.

MR. RODINO: The question that the gentleman is propounding suggests that we will be continuing and we are going to be continuing this hearing. We will be recessing from time to time.

MR. SEIBERLING: I mean at each day's session, at the start of each day, a similar motion must be approved, as I understand the rules.

MR. MCCLORY: May I make a parliamentary inquiry?

MR. RODINO: The gentleman will state it.

MR. MCCLORY: Is it not the rule of the the House that you don't need any motion or you don't need any action by this committee. All we have to do is comply with the rules of the House, which is what the chairman is suggesting in the action taken at the present time?

MR. RODINO: The gentleman is absolutely correct. We'll recognize the gentleman from New York for a parliamentary inquiry.

CHARLES B. RANGEL: Mr. Chairman, under this motion of the requirement of confidentiality does the staff of the President of the United States who are now present, are they governed by these rules?

MR. RODINO: The chair has already stated that the counsel for the President and his assistant are governed by the rules of confidentiality and the rules of procedure.

JEROME R. WALDIE: Mr. Chairman, a parliamentary inquiry.

MR. RODINO: The gentleman will state his parliamentary inquiry.

MR. WALDIE: Mr. Chairman, do I understand since there's no access on the part of the committee to the material, do I understand that the chair is representing to the committee that these materials do, in fact, tend to degrade and defame?

MR. RODINO: The chair is stating that in accordance with the rules, all that has been suggested in the motion is that they may tend to defame or degrade, and not that there is a finding fact.

MR. WALDIE: May I suggest that the chair is suggesting that these materials may tend to degrade.

MR. RODINO: The chair is merely acting on the motion of the gentleman from Massachusetts.

MR. WALDIE: May I make a parliamentary inquiry to the gentleman from Massachusetts?

MR. RODINO: The parliamentary inquiry will not be directed to anyone else but the chair and the gentleman recognizes that. However, I would state to the gentleman that the gentleman has already been told that this is the rule and that there is no need that there be a finding of fact. Therefore, the gentleman's inquiry is out of order. And the chair now puts the question. The roll-call vote is demanded. However, in accordance with the rules of the House, one-fifth of the members would have to support a request for a roll-call. All those in favor of asking for a roll-call by record vote please raise their hand.

One fifth of the members—a sufficient number—voted in the affirmative and a roll-call is demanded and the clerk will call the roll.

All those in favor of closing the hearings please say aye, all those opposed, no.

The clerk then called the roll.

CLERK: Mr. Chairman, 31 members have voted aye; six have voted no.

MR. RODINO: And the motion is agreed to. And the chair will now announce that the committee will go into recess until the television cameras and other equipment, which is not allowed during the—and press is not permitted during the course of confidential hearings, will be removed from the room.