

# Impeachment: Constitutional Phase

By Roger Wilkins

"Resolved, that the House of Representatives does impeach Richard M. Nixon, of high crimes and misdemeanors in the conduct of his office, as set forth in the following articles, in violation of the sacred obligation of his constitutional oath, faithfully to execute the office of President of the United States. . . ."

When John Doar, special counsel to the House Judiciary Committee, submitted those words to the committee Friday, he signaled the opening of a new phase of the impeachment process. The slack is out of the rope. For members of the committee, there is no longer room or time to posture, to evade or to wish that the cup might pass to others. The hard task of evaluating the evidence and the burden of constitutional duty have been placed before them.

It has been a long road. Just seventeen months ago, the word impeachment was spoken softly in Washington, if at all. It was as if the word symbolized some obscene act rather than the last safeguard of the people's sovereignty. To say the word then, or to consider the prospect might have branded one unsound—a rash despoiler of the public order. Then, as tales of the scandals unfolded and bombshell after bombshell exploded over Pennsylvania Avenue, people were eventually numbed and many hoped that the President would resign. In the White House, there was reliance on short attention spans and hope for large distractions.

Even after committee's inquiry began, there was still hope we might be spared. Some thought that a diminution of public outrage might take Congress off the hook. As the hearings behind closed doors droned on, it was thought that the mass of evidentiary

detail would be too much for the committee to digest—that it would all merge into a large mush, signifying nothing.

But the mountain of evidence continued to rise and last week the committee's senior lawyers put an end to that one last hope. Mr. Doar stitched the evidence together to construct a theory that he said constituted a "subversion of the Constitution" and that "warrants impeachment on one or more articles." Albert E. Jenner Jr., then the Republican counsel, stated the committee's responsibilities clearly when he said it had a duty to determine "whether [the] country and [the] Constitution are to be preserved."

The White House has consistently tried to give the committee easier answers. It has branded the panel a "partisan lynch mob," thus inviting Republicans to participate in a partisan and mindless defense of Mr. Nixon. James D. St. Clair offered the committee another way to fudge. To impeach the President, he argued, one must find him guilty of a specific serious crime. Mr. St. Clair even picked the crime—ordering hush money paid to E. Howard Hunt—and then tried to prove the President innocent.

That defense has come a cropper on two counts. The first is that its adoption would leave the President of the United States with no higher duty to the American people than to avoid getting caught in the commission of a felony. The other is the evidence marshaled by the committee staff in its deliberate and painstaking development of the case. The record is studded with evidence tending to link Mr. Nixon with such serious and specific crimes as destruction of evidence, obstruction of justice, attempting unlawfully to interfere with the equitable administration of the tax laws, tampering with a judge, violating

the civil rights of citizens, misprision of felony, suborning perjury and accepting a bribe.

Beyond that, there is the weight of all of those criminal possibilities taken together and the patterns and practices of abusing power, supervising or overlooking subordinates engaged in criminal behavior and in criminal conspiracies, covering up and deceiving and using public office for private enrichment. Viewed in its entirety the evidence paints an ugly portrait of a Presidency—a portrait that reaches back, in some instances, beyond the Watergate burglary to the first year of the Nixon Administration.

Ineluctably, this mass of evidence washes past the slim defenses offered by Mr. St. Clair to the high constitutional standard of Mr. Nixon's obligation faithfully to execute the office of President of the United States. The test for the committee is to decide whether the Constitution is merely a conglomeration of high-sounding words or a living force in the governance of the American people. In accusing the President, Mr. Doar and Mr. Jenner challenged the members of Congress to live with the force of that document, to abjure politics and to rise to their responsibilities as constitutional representatives of the people of the United States.

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