

# Excerpts From Transcript of the Proceeding on Impeachment



Debate on impeachment under way yesterday in Room 2141 of the Rayburn House Office Building. The committee has 38 members, including two women, Elizabeth Holtzman of Brooklyn and Barbara Jordan of Texas, both Democrats.

The New York Times/Mike Lien



Following are excerpts from the House Judiciary Committee's proceedings in Washington yesterday on the impeachment of President Nixon, as recorded by The New York Times:

## MORNING SESSION

### Statements

#### Charles E. Wiggins

Mr. Chairman, yesterday evening after we adjourned it was my privilege to listen once again to your remarks which were then being reported on television—the remarks you made opening this historic debate—and I want to commend you for them, Mr. Chairman, because they set the right tone for these proceedings. You emphasized the importance of the law and that it must be in the nature of things the basis upon which this controversy is resolved.

I cannot express adequately the depth of my feelings that this case must be decided according to the law and on no other basis.

The law, you see, establishes a common matrix for judging human behavior. It eliminates irrelevant subjective concern. Under the law we cannot be concerned with alleged Presidential improprieties because that is subjective.

We really cannot be concerned about the judgments of the President at any given moment of time unless that falls below the standards imposed by the law.

If we were, ladies and gentlemen, to decide this case on any other basis than the law and the evidence applicable thereto it occurs to me, my colleagues, that we would be doing a greater violence to the Constitution than any misconduct alleged to Richard Nixon.

We have taken an oath ourselves and as we reflect upon the alleged misdeeds of the President and his constitutional responsibilities let's not for one moment be unmindful of our own constitutional oath, and that is to decide this case according to the law, the evidence and the Constitution as we understand its meaning.

In the context of the law, Mr. Chairman, personalities become irrelevant. I'm sure we all agree with that. Recently I found myself cast in the role of the President's defender. This morning I heard on television that I was his chief defender.

#### Friendship Stands Aside

Frankly I wince when I am characterized thusly because that doesn't reflect at all my conviction. I count myself as a friend of the President's and I'm proud of that friendship and I cherish it. But that friendship is not going to deter me one whit from doing what is right in this case according to the law.

And I would hope that my colleagues share that conviction.

I'm not going to attempt to state the law of this case in any great detail within the time allotted to me now, but I think that it probably can be characterized in one word—fairness. Fairness is the fundamental law of these proceedings.

We would be doing violence to that fundamental principle, it seems to me, if we approach these proceedings with any preconceived notion of the guilt of the President. Of course he's entitled to a presumption of innocence. Of course he is.

It's not too late for me to challenge my colleagues not as a matter of law but as an exercise of your own conscience to question whether you should sit in these deliberations if you have formed a preconceived notion of the guilt of Mr. Nixon.

I don't expect anyone to rise to that challenge but it would certainly gnaw on my conscience if I had a preconceived notion about his impeachability prior to the receipt of evidence in this case.

The law requires that we decide the case on the evidence. Nobody doubts that. On the evidence. It must trouble you, Mr. Doar, I'm sure, as a possible assistant to managers in the Senate, to consider the evidence as distinguished from the material which we have made—been made—available before this committee—38 books of material. My guess, Mr. Doar, you could put all of the admissible evidence in half of one book.

Most of this is just material. It is not evidence and it may never surface in the Senate because it is not admissible evidence. Simple theories, of course, are inadequate. That's not evidence. A supposition, however, persuasive is not evidence; a bare possibility, that something might have happened is not evidence.

We are told that the standard must

be that the evidence is clear and convincing—clear and convincing.

Well I'll accept that for purposes of argument because it must be at least that. It must be clear and not ambiguous. It must be convincing and not confused and jumbled by other facts.

#### John Conyers Jr.

The search for what we individually regard as truth in a matter so momentous as this is always most difficult and so as we proceed here we are in effect expounding the Constitution as one early jurist said, giving it life and meaning and in the process we are also necessarily revealing what kind of leaders we are.

I suppose finally we are determining what kind of government this nation is going to have. Now in all candor I know that it's easier for some of us to discharge this onerous burden presented to us than it is for others. But we should be mindful that as we reach these judgments we, too, must be judged by our fellow citizens today and for all times by history.

Certainly no one can accuse us of having rushed to judgment. This marks the third consecutive year that resolutions of impeachment have been filed against the President of the United States. I suppose that we should admit that we sit here not because we want to but because we have to and we have to because for the first time in the history of this country millions of citizens are genuinely afraid that they may have in office a person who might entertain the notion of taking over the government of this country, a politician who has more effectively employed the politics of fear and division than any other in our time.

It is imperative then that we not only impeach the President but make it as clear to as many of our citizens as we can why this impeachment is so necessary. It is my view the reason we must now consider to vote and to impeach Richard Nixon goes far beyond the scope of the resolution of impeachment before you.

And what I'd like to do here is describe from my view the backdrop against which the complaints against the President now require us to vote out this limited, narrowly drawn bill of impeachment.

#### Casualty of the War

Richard Nixon, like the President before him, is in a real sense a casualty of the Vietnam war, a war which I am ashamed to say was never declared.

Since these hearings began on May 9 we have had a professional staff of some 89 men and women gather in great detail over 42 volumes of information that was considered throughout some 57 sessions.

The study of 42 volumes of carefully compiled documents and papers and testimony reveal clearly the pressures of an Administration so trapped by its own war policy and the desire to stay in office it was forced to enter an almost unending series of plans for spying and burglarly and wiretapping in-

side this country and against its own citizens without precedent in American history.

The President took the power of his office and under the guise of protecting and executing the laws that he swore to uphold he abused them. In so doing he has jeopardized the strength and integrity of the Constitution and laws of the land and the protections that they ought to afford all of the people.

This is why we must exercise this awesome power of impeachment, not to punish Richard Nixon, because the constitutional remedy is not punitive, but to restore to our government the proper balance of constitutional power and serve notice on all future Presidents that such abusive conduct will not now nor ever again be tolerated.

#### David W. Dennis

All of us are agreed that this is the most important vote any one of us is likely ever to cast as a member of the Congress. Only a vote on a declaration of war, I suppose, might be considered as of equal gravity.

All of us, I think, would like on this vote to be right, to do right, and to be recorded as having been right in the long light of history.

This is an emotional matter we have before us, loaded with political overtones and replete with both individual and national tragedy. Yet I suggest that we will judge it best and most fairly if we approach it dispassionately and analyze it professionally as lawyers who are engaged in the preparation and in the assessment of a case.

In doing this, of course, we cannot approach or decide this important mat-

ter on the basis of whether we like or dislike President Nixon, whether we do or do not in general support his policies.

The question, rather, is whether or not proof exists, convincing proof of adequate weight and evidentiary competence to establish that the President of the United States has been guilty of high crimes and misdemeanors within the meaning of the Constitution, so as to justify the radical action of his impeachment and removal and disgrace from the high office to which he was elected by the American people.

I would like to leave with you a couple of thoughts, the first legal and finally a more general word. First, if we bring this case and carry it through the House and into the Senate, we will have to prove it. We will have to prove it by competent evidence. The managers on the part of the House will have to make the case.

At that point hearsay will not do; inference upon inference will not do; ex-parte affidavits will not do; memoranda will not do; prior recorded testimony and other legal proceedings to which the President was not a party will not serve.

The witnesses never called in our investigation and even never interviewed will have to be called and will have to be relied upon. Someone will have to present this case in the cold light of a judicial day, and unless a legally provable case is clearly there we ought not to attempt it, we ought not to bring on this trauma in justice to the President and in fairness to ourselves, and in consideration of the welfare of the country.

#### Divided Country Feared

Any prosecution is going to divide this country. It will tear asunder the Republican party for many years to come, and this is bad for the country, which demands for its political health a strong two-party system.

And impeachment is radical surgery on the tip of a cancer which needs therapy at the root. I am as shocked as anyone by the misdeeds of Watergate. Richard Nixon has much to answer for and he has even more to answer for to me as a conservative Republican than he has to my liberal-lining friends on



# Figures in the House Inquiry

Special to The New York Times

WASHINGTON, July 25—Following are the names of the members of the House Judiciary Committee and of the committee's major special counsel in its impeachment inquiry. Committee members are listed by party and in the order of their seniority in the House.

## COMMITTEE MEMBERS

Peter W. Rodino Jr., Democrat of New Jersey, chairman.  
Harold D. Donohue, Democrat of Massachusetts.  
Jack Brooks, Democrat of Texas.  
Robert W. Kastenmeier, Democrat of Wisconsin.  
Don Edwards, Democrat of California.  
William L. Hungate, Democrat of Missouri.  
John Conyers Jr., Democrat of Michigan.  
Joshua Eilberg, Democrat of Pennsylvania.  
Jerome R. Waldie, Democrat of California.  
Walter Flowers, Democrat of Alabama.  
James R. Mann, Democrat of South Carolina.  
Paul S. Sarbanes, Democrat of Maryland.  
John F. Seiberling, Democrat of Ohio.  
George E. Danielson, Democrat of California.  
Robert F. Drinan, Democrat of Massachusetts.  
Charles B. Rangel, Democrat of Manhattan.  
Barbara Jordan, Democrat of Texas.  
Ray Thornton, Democrat of Arkansas.  
Elizabeth Holtzman, Democrat of Brooklyn.  
Wayne Owens, Democrat of Utah.  
Edward Mezvinsky, Democrat of Iowa.

Edward Hutchinson, Republican of Michigan.  
Robert McClory, Republican of Illinois.  
Henry P. Smith 3d, Republican of upstate New York.  
Charles W. Sandman Jr., Republican of New Jersey.  
Tom Railsback, Republican of Illinois.  
Charles E. Wiggins, Republican of California.  
David W. Dennis, Republican of Indiana.  
Hamilton Fish Jr., Republican of upstate New York.  
Wiley Mayne, Republican of Iowa.  
Lawrence J. Hogan, Republican of Maryland.  
M. Caldwell Butler, Republican of Virginia.  
William S. Cohen, Republican of Maine.  
Trent Lott, Republican of Mississippi.  
Harold V. Froehlich, Republican of Wisconsin.  
Carlos J. Moorhead, Republican of California.  
Joseph J. Maraziti, Republican of New Jersey.  
Delbert L. Latta, Republican of Ohio.

## COMMITTEE COUNSEL

John M. Doar, special counsel.  
Albert E. Jenner Jr., associate special counsel.  
Samuel A. Garrison 3d, special minority counsel.

the other side of the aisle.

But I join in no political lynching where hard proof fails, as to this President or any other President. And I suggest this: what is needed is moral and political reform in America.

The Nixon Administration is not the first to be guilty of shoddy practices which, if not established as grounds for impeachment are nonetheless inconsistent with the better spirit of America.

Neither the catharsis of impeachment nor the trauma of political trial will cure this illness of the spirit. We're all too likely to pass through this crisis and then forget reform for another 20 years. Our business in the Congress is

basically legislative and not judicial.

Lacking as we do a clear and convincing legal case which all reasonable Americans must and will accept, we would do better to retain the President we in our judgement elected to office for the balance of his term and in the meantime place our energy and spend our time on such pressing matters as real campaign reform, a sound financial policy to control inflation, energy and the environment, war and peace, honesty throughout government, and the personal and economic rights and liberties of the individual citizen as against private agglomerations of power in the monolithic state.

Now there will be another election in 1976 and we could enter our 200th year better by preserving our rights until that time and not trying to purge our sins by the persecution of an imperfect President who probably represents us both in his strength and his weakness all too well.

## Joshua Eilberg

This committee and its staff have labored steadily for more than six months on the question on the possible impeachment of Richard M. Nixon. During that time, we have reviewed a huge amount of evidence, questioned witnesses, searched for precedents and previous impeachments and for guidance from contemporary legal scholars, previous occupants of the Oval Office and the office of the Constitution.

The evidence is clear and overwhelming. Richard Nixon is guilty beyond any reasonable doubt of numerous acts of impeachable conduct regardless of any standards we apply.

He has violated his oath of office as set down in Article II, Section 1, Paragraph 7 to preserve, protect and defend the Constitution of the United States.

He has also violated Article II, Section 3 to take care that the laws be faithfully executed. Article II, Section 1, Paragraph 6 that the President shall not receive any other emolument from the United States other than the salary and expenses set by law. And it is Article I, Section 2, Paragraph 5 which gives the House of Representatives the sole power of impeachment.

What we are faced with is a gross disregard for the Constitution and the very safeguards in it which the framers hoped would prevent the President from becoming a king or a dictator.

The evidence presented during our hearings portrays a man who believes he is above the law and who was surrounded by advisers who believed they owe their allegiance to him and not to their country or the Constitution.

For this reason they were only too willing to carry out his orders and directions no matter what the cost to other individuals or groups or the nation.

As a result of this atmosphere in the White House, a conspiracy which is still

going on was organized to obstruct justice.

Additionally, Mr. Nixon has ruled that he is the law unto himself by refusing to turn over to this committee all the material it had either requested or demanded by subpoena.

## An 'Arrogant Violation'

This decision by Mr. Nixon is in arrogant violation of the Constitution, which places the sole power of impeachment in the House of Representatives.

Nowhere else in the Constitution or in the thousands of laws passed by the Congress is there any limitation on this power.

Mr. Nixon's claim of executive privilege has no basis in law or historical precedence. No contemporary legal scholar has claimed that executive privilege can be applied in an impeachment investigation.

His own lawyer has filed no brief on this issue. He simply stated Mr. Nixon's claim in a letter to the committee but he has never justified it with legal arguments or precedents.

There is no historical basis for such a claim. In the one previous Presidential impeachment, there was total cooperation by the President and his aides. In fact, President Andrew Johnson even allowed the impeachment committee to look through his personal financial records and bank accounts.

In the past, other Presidents have refused to give Congress information it has requested. But the record is clear and unanimous on impeachment.

All previous Presidents agreed that nothing can be withheld from an impeachment investigation.

It has been argued that Mr. Nixon should not be impeached even if the evidence shows he is guilty if the national interest would not be served by his removal from office.

It is my deep belief that not only is Richard Nixon guilty of bribery, high crimes and misdemeanors, but he must be impeached and convicted by the Senate if we are to remain a free, cou-

rageous and independent people.

## Hamilton Fish Jr.

To appreciate the standard this member will bring to bear I should like to state that my test of an impeachable offense must have three elements: first, that the offense must be extremely serious; second, that it must be an offense against the political process or the constitutional system of our country; third, that it is one that is recognized as such by the broad majority of the citizens of this country.

I think also, that every member has a right to consider what is best for the United States and its people for it is our great institutions and the people that the constitutional provision regarding impeachment is designed to protect.

Yet in applying a test of what is best for our country it would do damage to the Constitution and the law if we through a show of judicious deliberations yet with partisan intent avoid an impeachment being warranted or through partisan anger mask a drive to remove a sitting President from office if such a removal is not warranted by the evidence.

I respect that a member may consider as well the trauma that impeachment will visit on this nation, I also maintain that a member may just as well consider the implications of countenancing Watergate behavior.

The evidence itself certainly must be clear and clear to the ultimate jury and this is simply because it is the President of all the people whose fate we deliberate.

I am a Republican. In these proceedings I have attempted to discipline myself in partisan neutrality. The matter before is clearly larger than party. It is more important than the continuation in office of any member of this committee.

## Old Standards Remain

What is best for America that is within our power to insure has not changed in our 200-year history. It is that the Constitution and the laws be



enforced fairly, justly and impartially. It is that our people know that the rule of law applies equally to those who govern as well as to the governed.

The question is raised by many: "is anyone virtuous enough to decide the weighty issue before us?" It is suggested that we as politicians are all too tainted with corruption or moral imperfection to decide on the sins of Watergate. Carried further, it is suggested that we are all really guilty, that civic unrighteousness is collective.

If I were to accept this thesis, if I, my colleagues can no longer separate our sins from those of others, we are no longer capable of making worthwhile judgments whatsoever.

At the outset of this debate I find my-

self deeply troubled over evidence of Presidential complicity in thwarting justice and in the alleged abuse of power of that great office, particularly the use of the enormous power of the United States Government to invade and impinge upon the private rights of individuals.

Every member of this committee and the Congress must evaluate the facts in the light of adherence to the law, devotion to the Constitution and to the great institutions of our land.

If the evidence is clear then our Constitutional duty is no less clear.

### Jerome R. Waldie

I join, I think, with every member of this committee in the recognition of perhaps the unworthiness of almost everyone confronting this enormous decision in their ability to make a decision that will be perfect in all respects.

But I also want to make it as clear as I possibly can that I accept that responsibility and that I think it is part of the genius of this system that fallible human beings are called upon to exercise a judgment of this enormity on individuals who possess the ultimate and the maximum power of this country.

And after having sat through these hearings for these long hours and days and weeks that we have each participated in, I think there is no one on the committee that is not aware of how enormously fragile the liberties of this country are, and how deeply subjected to abuse they are by those who exercise great power indiscriminately.

And it is with that recognition that I find myself quite willing to accept this responsibility, and indeed anxious to perform this responsibility in the manner that I deem it must be performed in that manner is to state my conclusion prior to my case by the impeachment of the President of the United States and by his removal from office.

The last time this nation had an opportunity to be exposed to the condition of the Presidency was last summer during the Ervin committee hearings of the Senate and at that time I think the general perception of the country was that the executive branch of this country and the President in particular was in deep, deep trouble; that there was something seriously wrong with the highest levels of our government, and that there was something seriously lacking in the moral make-up of those who occupied those positions.

And the question that plagued most of the people in the country was posed constantly, persistently and simply but eloquently by Senator Baker when he said: What does the President know and when did he know it? And at the conclusion of that hearing that question was still left greatly unresolved, though the doubts and the frustrations and the anxieties that resulted from not resolving that question persisted.

And the reason it was left unresolved was because of the failure of the Presi-

dent of the United States to provide the answers to those basic questions: What does the President know and when did he know it?

### 'The President Knew'

Well, we now know what the President knew and when he knew it because of events that have occurred subsequent to the Ervin committee hearings with which the nation had great familiarity.

And those events were: Contrary to the President's desire he was finally forced by law and by the anger and the wrath, literally, of the American people, to relinquish the most vital evidence that had been withheld, the tapes of his conversations, the best evidence of what the President knew and when he knew it.

But in the process of obtaining that evidence there was almost a Constitutional crisis, you recall, because the President in his consistent and persistent efforts to obstruct the pursuit of truth in the answering of those questions, fired Archibald Cox, the special prosecutor, caused the dismissal of the Attorney General of the United States and the Deputy Attorney General of the United States because they, too, persisted in following the remedies available to them under the Constitution of finding the answers to that question. The country rejected that attitude on the President's part and he conceded, and he did relinquish the tapes. But did he?

He relinquished some of the tapes. We later learned the vital information on those tapes—the most vital, most

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instructive as to the answer to the question what did the President know and when did he know it?—the June 20th conversation, two days after the June 17th break-in of the Democratic National Committee, the conversation between the President and Haldeman, his top advisor, was non-existent.

Well, that tape was in the President's custody and that 18½ minutes was erased by human erasure, and the inference is inescapable that the President had that erased because it was so devastatingly incriminating.

### Wiley Mayne

The lot of those members of this committee who did not prejudge the case against the President long ago has not been an easy one.

The possibility of being a party to the second impeachment of a President in the nation's history just has to be extremely distasteful to any but the most partisan members of this committee.

Extreme partisans, who have always opposed the President bitterly may indeed feel that they now have the best of both worlds; free to go all-out in their accusations in condemnation of the President, they can demand the penalty of impeachment, trial and removal from office with a vengeance.

But for most members of the committee, the sobering prospect of impeachment brings no joy whatsoever. And I must say that it is especially repugnant to those of us who have been political allies of the President in happier days and for whom a pro-impeachment vote may be construed by some as an abandonment not only of the President of the United States but of the Republican party as well.

This is, of course, an erroneous concept because the regular Republican organizations were systematically excluded from the Committee for the Re-election of the President and had no part whatsoever in the Watergate debacle or the cover-up.

No vote by any member against any

one or more of the proposed Articles of Impeachment should be interpreted as an endorsement or approval of what went on at the White House. And whether they vote for impeachment or not, I think that most members of the committee will strongly condemn the many unwise, improper and in some cases downright illegal acts which were committed or directed by officials at the Committee for the Re-election of the President, or at the White House.

But, in any event, I want to emphasize that as members of the House of Representatives our duty transcends all partisan political considerations. We must reach our decision fairly and squarely on the relevant evidence, and insofar as we humanly can, without regard to partisan politics.

### Walter Flowers

And now to the problem at hand, and make no mistake, my friends, here and out there it is a terrible problem. The alternatives are clear: to vote to impeach the President of the United States on one or more of the proposed Articles of impeachment, or to vote against impeachment.

And there is no good solution among these alternatives. We do not have a choice that, to me, represents anything desirable. I wake up nights—at least on those nights I've been able to go to sleep lately—wondering if this could not be some sordid dream.

Impeach the President of the United States, the Chief Executive of our country, our Commander in Chief, in this cruel and volatile world that we live in in 1974.

The people that I represent, just as I do, and most Americans, I think, really want to support the President. Surely we want to support the Constitution and the best interests of the country. But in so doing we also hope that we can support the office of the Presidency and that citizen among us who occupies it at any given time.

But unfortunately, this is no bad dream, it is the terrible truth that will be upon us here in this committee in the next few days.

And then there is the other side of the issue that I speak of, what if we fail to impeach? Do we ingrain forever in the very fabric of our Constitution a standard of conduct in our highest office that in the least is deplorable and at worst is impeachable? This is indeed a terrible choice we have to make.

Some of the things that bother me most are troubling to all people who fear that big government can encroach on the freedom of the people. The institutions of this country have been set up by the people to serve them; to carry out those functions that are necessary to a people and a free society.

They're not created to serve the interests of one man or one group of men or the political gain of anyone. Such institutions as the F.B.I., the Department of Justice, the C.I.A., and surely the Internal Revenue Service are given great power because the people, through Congress, have needed those institutions to guard and protect them and their liberty.

Yet there has been evidence before us that the White House had an organized effort to get the I.R.S. to audit and harass enemies of the Administration. The Government, in its role as tax collector, must be above any political use. It cannot be an instrument of power, of punishment, and of political advantage. The power of the I.R.S. reaches into every life, and it's a chilling thought that it might be a political instrument to get the enemies of the Government.

I shall listen to these debates, and only then shall I cast my vote. And I can only vote as I am convinced in my heart and mind, based on the Constitu-



tion and on the evidence.

## AFTERNOON SESSION

Lawrence J. Hogan

The magnitude of our mission is awesome. There's no way to understate its importance nor to mistake its meaning.

We have unsheathed the strongest weapon in the arsenal of Congressional power. We personally—members of this



The New York Times

**Walter Flowers, Alabama Democrat**  
*"I shall listen to these debates, and only then shall I cast my vote."*

committee—have felt its weight, and have perceived its dangers.

The framers of the Constitution, fearing an executive too strong to be contained and constrained from injustice or subject to reproof, arrayed the Congress with the power to bring the executive into account and into peril of removal for acts of treason, bribery or other crimes of high—or in misdemeanors.

Now, the first responsibility facing members of this committee was to define what an impeachable offense is. The Constitution doesn't define it. The precedents, which are sparse, do not give us any real guidance as to what constitutes an impeachable offense.

So each of us in our own conscience and in our own mind and our own hearts, after much study, had to decide for ourselves what constitutes an impeachable offense.

Obviously, it must be something so grievous that it warrants the removal of the President of the United States from office.

I don't agree with those that say an impeachable offense is anything that Congress wants it to be. And I don't agree with those who say that it must be an indictable criminal offense.

But somewhere in between is the standard against which we must measure the President's conduct.

### Test of Personal Wrongdoing

There are some who say that he should be impeached for the wrongdoing of his aides and associates. I don't concur in that. I think we must find personal wrongdoing on his part if we're going to justify his impeachment.

Now some have said that we're analogous to a grand jury. And a grand juror only need find probable cause that a criminal defendant had committed an offense in order to send the matter to trial. But because of the vast ramifications of this impeachment, I think we need to insist on a much higher standard.

Our counsel recommended clear and convincing proof. That's really the standard for civil liability—that or preponderance of the evidence. And I think we need a higher standard than that when the question is removing the President of the United States from office.

So I came down myself to the position that we can have no less a standard

of proof than we insist on when a criminal trial is involved; where to deny an individual of his liberty, we insist that the case against him be proved beyond a reasonable doubt.

And I say that we can insist on no less when the matter is of such overriding import as this impeachment proceeding.

A few days ago, after having heard and read all the evidence and all the witnesses and the arguments by our own staff and the President's lawyer, I came to a conclusion. And I felt that the debates which we began last night were more or less pro forma, and I think they've so far indicated that.

I feel that most of my colleagues before this debate began had made up their minds on the evidence, and I did. So I saw no reason to wait before announcing the way I felt and how I was going to vote.

I read and re-read and sifted and tested the mass of information and then I came to my conclusion: that Richard Nixon has beyond a reasonable doubt committed impeachable offenses which in my judgment are of sufficient magnitude that he should be removed from office.

### James R. Mann

In this era of power that our governmental system has brought us to in the world, where our involvement in foreign trade and foreign affairs puts the President out front as the symbol of our national pride and as the bearer of our flag. And here we have in the House of Representatives 435 voices speaking on behalf of different constituencies with no public relations man employed by the House of Representatives. And I wonder if the people still do want their elected Representatives to fulfill their oath to preserve, protect and defend the Constitution of the United States.

Do you want us to exercise the duty and responsibility of the power of impeachment, whether that means conviction or exculpation?

You know, some of the things that cause me to wonder are the phrase that keeps coming back to me, "Oh, it's just politics" or, "Let him who is without sin cast the first stone."

Are we so morally bankrupt that we would accept a past course of wrongdoing or that we would decide that the system that we have is incapable of sustaining a system of law because we are perfect?

There has been One perfect to whom one of those statements is attributed.

### Devotion to System

But our country has grown strong because men have died for the system. You hear the system used by each of us, but we have built our country on the Constitution. And that system contemplates and that system has resulted in men putting that system above their own political careers. That system has been defended on battlefields, and statesmen have ended their careers on behalf of a system, and have either passed into oblivion or into immortality.

We've all read of the role of Edmund G. Roth in the Johnson impeachment and how he voted his conscience. Did we also know that about 20 years later he said that he would hope that his

vote would not be construed as being in derogation of that constitutional power of impeachment, and that at a proper time, on some future day, some Congress would have the courage to fulfill its duty.

### M. Caldwell Butler

For years we Republicans have campaigned against corruption and misconduct in the Administration of the Government of the United States by the other party.

And somehow or other we have found the circumstances to bring that issue before the American people in every succeeding national campaign.

But Watergate is our shame. Those things happened in the Republican Administration while we had a Republican in the White House and every single person convicted to date has one way or the other owed allegiance to the Republican party.

We cannot indulge ourselves the luxury of patronizing or excusing the misconduct of our own people. These things have happened in our house. And it our responsibility to do what we can to clear it up.

It is we, not the Democrats, who must demonstrate that we are capable of enforcing the high standards we would set for them.

The gentleman from California, Mr. Wiggins, in his remarks of this morning reminds us once more that we must measure the conduct of the President against the standards imposed by law.

I would like to share with you for a moment some observations I have with reference to these standards.

The conduct which the American people are reasonably entitled to expect of the President is spelled out in part in our Constitution and part in our statutes. And we are particularly grateful to our colleague from New York, Congressman Fish, for his exposition on the duties imposed upon the President by our Constitution.

It is my judgment also that the standard of conduct which the American people are reasonably entitled to expect of their President is established in part by experience and precedent. And this is one reason why I am so convinced about what has been revealed to us by our investigation.

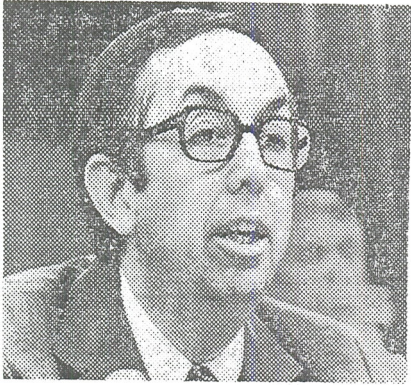
It will be remembered that only a few hours ago the gentleman from Iowa, Mr. Mayne, has argued that we should not impeach because of comparable misconduct in previous Administrations.

### 'Frightening Implications'

There are frightening implications for the future of our country if we do not impeach the President, because we will by this proceeding establish as a matter of record a standard of conduct for the President which will be for all time a matter of public record.

If we fail to impeach, we have condoned and left unpunished a course of conduct totally inconsistent with the reasonable expectations of the American people. We will have condoned and left unpunished a Presidential course of conduct designed to interfere with and obstruct the very process he has sworn to uphold. And we will have





The New York Times

**M. Caldwell Butler, Virginia Republican**  
*"It is a sad chapter in American history . . . I cannot and will not stand still for it."*

condoned and left unpunished an abuse of power totally without justification.

And we will have said to the American people these misdeeds are inconsequential and unimportant.

The people of the United States are entitled to assume that their President is telling the truth. The pattern of misrepresentation and half-truths that emerges from our investigation reveals a Presidential quality cynically based on the premise that the truth itself is negotiable.

Consider the case of Richard Kleindienst, nominee for the Attorney General of the United States. The President had told him in unmistakable terms that he was not to appeal the I.T.T. case. But before the Senate of the United States, Mr. Kleindienst explicitly denied any effort by the President to influence him in this regard. And the President who had knowledge of this affirmed to the people of the United States his continuing confidence in this man.

The record is replete with official Presidential misrepresentations of non-involvement, and representations of investigations and reports never made if indeed undertaken at all. There are two references to a Dean report which we have not seen.

Consider the case of Daniel Schorr. In a moment of euphoria on Air Force I, Presidential aides called upon the F.B.I. to investigate this Administration critic. Upon revelation, Presidential aides fabricated and the President affirmed that Schorr was being investigated for possible Federal appointment.

Nothing could be further from the truth.

Let me also observe that throughout the extensive transcripts made available to us of intimate Presidential conversation and discussions there is no real evidence of regret for what has occurred or remorse or resolutions to change and precious little reference to or concern for constitutional responsibility, or reflection upon the basic obligations of the office of the President.

In short, a power appears to have corrupted. It is a sad chapter in American history but I cannot condone what I have heard, I cannot excuse it and I cannot and will not stand still for it.

### Paul S. Sarbanes

We are gathered here to perform a

very solemn constitutional responsibility, and that's to apply this document, the Constitution of the United States, to the facts that were placed before us in the course of our inquiry.

This document is probably the world's best written exposition of free government. It is the document under which this country and its people have prospered from the founding of this Republic. This is the document which guarantees to each American his right to participate in the making of public decisions and his right to determine his own destiny. It has guarded the free-

doms and the liberties of the American people for almost 200 years and it is precious—precious to every man, woman and child in the land.

Let us look at what it says. There's only one oath that's set out in the Constitution explicitly for any officer of our Government and that's the oath which the President of the United States is required to take and it provides in the Constitution that before the President enters on the execution of his office he shall take an oath or affirmation solemnly swearing that he will faithfully execute the office of President of the United States and will to the best of his ability preserve, protect and defend the Constitution of the United States.

### Duty to Take Care

And it goes on further in another section dealing with the executive power which is vested by the Constitution in the President. It goes on to say that the President shall take care that the laws be faithfully executed.

This duty to take care is affirmative. So is the duty faithfully to execute the office. The President must carry out the obligations of his office diligently and in good faith. He has a responsibility for the over-all conduct of the executive branch which the Constitution places in him alone and he has a duty to preserve and protect and defend the Constitution, a duty not to abuse his powers or to transgress their limits, not to violate the rights of the citizens of this country given to them by the Bill of Rights, and not to act in derogation of powers vested elsewhere by this fundamental document.

Let us pause for a moment and look at some of the activities that we're considering and let us think of the President as he relates to the other institutions of our Government and to the people.

The President clearly has a responsibility to the courts and the criminal justice system, responsibility to see that the duty is carried out in that area.

### 'What Have We Here?'

And what have we here? Between April 15 and April 30 the President met seven times with Henry Petersen, talked with him on the telephone 20 times in a two-week period. Petersen was then acting in effect as the Attorney General of the United States with respect to the Watergate investigation and was in contact with prosecutors pursuing that matter.

In a series of conversations Petersen told the President of the information he was discovering. On April 16 Petersen and the President met from 1:39 to 3:25 P.M. and he told the President of the allegations against John Ehrlichman with respect to the destroying of evidence.

This was the conversation in which the President said to Mr. Petersen, "You are talking only to me." And yet according to the White House log, two minutes after Henry Petersen left the President's office at 3:27 on that day the President met with John Ehrlichman and told him what Henry Petersen had related to the President. John Ehrlichman subsequently left that meeting and began to call other members of the White House staff to establish his alibi with respect to the allegations being made.

We are here to make this Constitution a vital document for all of our people and to end the abuse of power and obstruction of justice that has gone on to the detriment of constitutional government.

### William S. Cohen

We've heard a great deal of debate and you will hear more devoted to the question of the construction to be given to that phrase "high crimes and mis-

demeanors." It's been suggested the phrase is limited to violations of statutory crimes. Well that's an interpretation that I can't accept because the purpose of that constitutional provision was to prevent the chief executive from engaging in the gross abuse of that tremendous power invested in that office, to protect the people against the subversion of the rule of law and of fundamental liberties, no matter how silent or how subtle that subversion may be.

One constitutional scholar very recently in his book pointed out that if the President were to refuse to appoint any member of the Catholic faith to a governmental position there would be no violation of our criminal laws, but surely there would be a violation of the Constitution which says there shall be no religious test for office.

### 'At the Very Core'

It's an exaggerated example, perhaps, but I think it makes rather clear that the impeachment process involves a determination as to those acts which strike at the very core of our constitutional and political system that must be judged.

We've had more than 50 allegations leveled against the President and upon examination, investigation, reflection on my part I found many of them to be simply without any factual support.

Others have been very serious and they've been mentioned before—the secret bombing of Cambodia, the impoundment of funds appropriated by Congress, expenditure of tax dollars for the personal benefit of the President's home in California.

But in each of these cases and areas, after giving full consideration to all the factors involved, I concluded they would not support the President's removal.

There are two major allegations with

Continued on Following Page



which I am concerned, and these involve the area of obstructing of justice and the use and abuse of governmental agencies to harass and intimidate private citizens for expressing their political preferences and views.

The most serious and dangerous threat to our very society and liberties occurs when those in positions of power undertake to turn neutral instruments of government into agents of vengeance and retribution against private citizens who engage in the exercise of their constitutionally protected freedoms.

If we're to have confidence in the concept of even-handed treatment under the law, then we simply cannot condone this type of conduct.

A great many thoughts have passed through my mind in the past six to seven months and I've wondered so many times to myself—last night in preparing what I might say to you, I was reading through the Federalist Papers and I thought, "How in the world did we ever get from the Federalist Papers to the edited transcripts?"

#### 'Arrogance and Abuse'

I've been faced with the terrible responsibility of assessing the conduct of a President that I voted for, believed to be the best man to lead this country, who has made significant and lasting contributions toward securing peace in this country and throughout the world. But a President who, in the process, by acts or acquiescence, allowed the rule of law and the Constitution to slip under the boot of indifference and arrogance and abuse.

I've been very impressed with these thousands of letters that I've received—from my constituents, from all over the country, from the people who are outside these halls right now holding up banners saying, "Support the President."

And I've asked myself this question: How many men have fallen victim to this plea of loyalty to the President? Mr. Kleindienst, Mr. Kalmbach, Mr. Magruder, Mr. Chapin, Mr. Porter, Mr. Krogh, Mr. Ehrlichman, Mr. Colson—all indicted and adjudged guilty of crimes.

In remarks that were submitted to this committee, Mr. Colson, I thought, spoke rather eloquently to this point. He said, and I'm quoting, "If I have come to know one truth out of the morass known as Watergate, it is that in our free society when the rights of any one individual are threatened, the liberties of all of us are threatened. What is done unto any one may be done unto everyone."

#### George E. Danielson

Mr. Chairman, throughout the long inquiry which we have conducted the question most often asked of me by the public and by the media has been "just what is an impeachable offense?"

I submit that there probably can be no one answer which is suitable for all occasions and for all times. But the minimum standard of conduct which must be required of all civil officers of the United States must be defined in the context of the events and of the times in which the controversy has arisen.

The failure to meet that standard of conduct is in my judgment impeachable conduct. I am convinced, however, that impeachable conduct need not be criminal conduct. It need not be a crime. It need not be an indictable offense. It is enough to support impeachment if the conduct complained of be conduct which is grossly incompatible with the office held and which is subversive of that office and of our constitutional system of government.

With respect to a President of the United States it is clear in my mind

that conduct which constitutes a substantial breach of his oath of office is impeachable conduct.

Every President takes a solemn oath to support and defend the Constitution of the United States and the Constitution imposes upon him an affirmative duty to take care that the laws be faithfully executed.

Surely no one can argue that a substantial breach of the President's oath of office is not impeachable conduct. It has been argued here that there is no question that within the totality of the events into which we have been inquiring many wrongs, many offenses, have been committed. There is no doubt about that. But it has also been argued that there is no evidence that President Richard Nixon had anything to do with those offenses and that there is no evidence to connect him directly with those offenses.

I do not accept that statement. I do not accept the premise that direct evidence, as opposed to circumstantial evidence, is necessary to prove such a connection, but I submit that in the case of Richard Nixon there is ample direct evidence to prove the connection.

#### Trent Lott

First let me go back and put our present situation into the proper perspective.

We're now in the final stages of review of some 15 months of the most intensive investigation of any President of the United States, perhaps of any man.

The Senate Select Committee or Watergate committee spent some 18 months and over \$2-million in its investigation. The grand juries in Washington have spent over \$225,000 in their proceedings since June of 1972.

The special prosecutors have been at their tasks since May, 1973, at a cost of over \$2.8-million. And the House Judiciary Committee staff of some 100 have been working since January at a cost of over \$1.17-million.

There are reams of papers, thousands of pages, volumes of material, grand jury evidence, other Congressional committee investigation papers, transcripts, tapes, logs, handwritten memos and on and on and on.

The sheer weight in pounds is overwhelming.

Could any man withstand such scrutiny? Could any man go through all of this without some evidence of a questionable statement under pressure or while frustrated or even without revealing some mistakes? I submit no.

And where was a similar counterbalancing presentation of the other side of the story? Was the whole picture revealed properly? Was it in the Senate Watergate committee? No. Was it in the grand jury or even in this committee?

In this committee, the state was non-partisan and I must give credit where credit is due for a fair presentation until, of course, very recently and that's understandable.

#### 'Not a Fair Structure'

But except for a last-minute shift in the minority counsel the arguments against impeachment—the crimes, the other side of the story, would not have been presented.

Yes, the President's counsel, James St. Clair, was properly allowed to sit in this presentation of evidence and eventually to participate on a limited basis. His was the only argument on behalf of the President until the last presentation by Mr. Garrison.

However, he was the President's counsel, not the committee's counsel, not my counsel.

There was not a fair structure for a balanced presentation, in my opinion, and perhaps I share the blame for that.

An interesting aside is the fact—and I get into procedures—is that last night at 7:30 we received the proposed Articles of Impeachment, the night the debate began—being hit at the last minute with what we were fixing to vote on. But regardless of that, we're preparing to vote on Articles of Impeachment.

I tried to maintain a restrained position because I think it's been incumbent upon every member to listen and keep his mouth shut until he had enough to make his decision.

But I must also be frank in saying that I've approached this task from the standpoint that the President was innocent; like any man should be presumed innocent until there was clear and convincing evidence to the contrary.

You cannot impeach a President because you don't like his philosophy or on the basis of innuendo or contradicted evidence. In my opinion you cannot impeach a President for half a case on the basis of parts of several cases put together.

#### John F. Seiberling

As we approach a decision, it's well to remind ourselves that those who founded our country 200 years ago foresaw the possibility of the very situation that confronts us today, and made provision for it.

The power to impeach the President is expressly granted by the Constitution of the United States. The power was given to the Congress by the Founding Fathers for one purpose: to protect the republic against the possible abuse of the powers of the Presidency by a person who had been elected to serve in that office for a fixed term of four years.

Other countries, including Great Britain, our parent country, have a different system. There the Chief Executive can be turned out of office at the will of the legislature. Having rejected that system in favor of a powerful chief executive, elected for a fixed term, the authors of our Constitution adopted the impeachment process as the necessary and only constitutional procedure for removal of a President prior to the end of his term.

If the Founding Fathers were concerned with the abuse of power by a Chief Executive in a small, fledgling country how much more would they be concerned today when the President presides over an executive branch with employees numbering in the millions, is responsible for annually collecting and spending hundreds of billions of dollars, and holds the power of life and death over the people of this country and indeed the entire world.

The authors of the Constitution wisely refrained from specifying the precise actions which would justify impeachment except to indicate that they were high crimes and high misdemeanors such as treason and bribery. Clearly the Founding Fathers were saying that impeachable conduct is conduct that strikes at the very existence of the constitutional system or the integrity of the Government itself.

The nature of their concern becomes even more apparent when we consider the oath which the Constitution requires the President to take before entering on the execution of his office, an oath to preserve, protect and defend the Constitution of the United States.

#### Oath of Congressmen

Each of us, of course, as members of Congress, have taken a similar oath. And although each of us may honestly draw different conclusions from the evidence before us, I am sure that we are united in our desire to carry out that sacred commitment.

We are not only charged with protecting the Constitution, but in this proceeding we are interpreting and applying the Constitution. Our regard or lack



of regard for Richard Nixon as a person, our agreement or disagreement with his public policies, our affiliation with his political party or the opposition party should have no bearing on our decision.

We are here to consider not what laws or public policies he has proposed or opposed, but whether he has faithfully executed the laws that exist.

The President's counsel, Mr. St. Clair, suggested that we ask ourselves what we would do if we'd been in the shoes of President Nixon. I agree, I think we should ask ourselves that question. The President's oath of office is not a mandate for perfection, but a requirement that he preserve, protect and defend the Constitution to the best of his ability.

We cannot forget that we are all fallible human beings. We must approach with a charitable attitude the problems of any person who bears the awesome responsibilities of the Presidency. But while we should adopt an attitude of charity and humility, the standard which we must follow in weighing the evidence before us must be an objective standard, not a subjective standard.

In my view, the fundamental test in an impeachment proceeding is whether the person occupying the office of the President has so violated or ignored the limits of the law and the Constitution, or has been so derelict in discharging his responsibilities thereunder, that to continue him in office would be to undermine the Presidency and thus the Constitution.

### Harold V. Froehlich

I've been told by some constituents that Mr. Nixon is without morals and that on that basis alone he should be impeached.

Let me assure you that I am discouraged by the moral tone that shines through tape after tape and transcript after transcript, but that is not an impeachable offense.

Mr. Hungate told us in one of his Missouri parables that because Mr. Nixon's net worth tripled while he was in the White House he should be impeached. Should Mr. Johnson have been impeached because his net worth increased from \$50,000 to \$33-million while he was President of the United States—while he was in public service over his lifetime? I think not. I think that is not a basis for impeachment.

What is an impeachable offense? Are all crimes an impeachable offense? I think not. Are all impeachable offenses crimes? I think not.

It is, to my mind, inconceivable for the Congress to impeach a President for anything less than grave offenses, and in most instances these offenses will contain an element of criminality, when the evidence of misconduct must be very strong.

The mandate that a President receives from the American people should not be overturned except for the most extraordinary and compelling considerations.

I agree with both Mr. Doar and Mr. St. Clair that the charges must be proved in clear and convincing terms.

But past misconduct cannot logically justify more of the same. A Congress interested in preserving and protecting the rights of our people must recognize and condemn misconduct in office wherever it occurs.

### 'I Am Deeply Pained'

And so I am brought, to the evidence that troubles me. I shall not discuss it here in all its detail, but I must confess that I am deeply pained and troubled by some of the things I see.

I am concerned about obstruction of justice. A cover-up plan that began on June 17, 1972, or soon thereafter and

continued to April 30, 1973. A plan alleged to involve the participation and knowledge of the President, a plan whose purpose was to save an Administration from embarrassment, from losing votes in the November, 1973, election, and ended up trying to save the longtime loyal aides from being charged with violation of criminal laws.

I am concerned about the flurry of activity that took place in California, Washington and Key Biscayne on June 17, 18, 19 and 20 between Mitchell, Mardian, Magruder, LaRue, Ehrlichman, Colson, Haldeman, Dean and Sloane. And the relationship of what these key staffers were doing to what the President could be reasonably expected to do and to know.

The President, shown to be a man concerned with detail, a man concerned with the salad at the banquet table, a man concerned with the pictures on the wall at the banquet. A man who knew that Howard Hunt had possible connections with the White House.

Yet a man we are asked to believe did not demand or receive a clear and true picture of the real situation by June 30, 1972. A man who talks on June 30 about the risk of something coming out and about cutting the loss fast.

Yes, I am concerned about the references on March 21, when the President told Dean: "You have the right plan, let me say, I have no doubts about the right plan before the election. You handled it just right. You contained it. Now after the election we've got to have another plan."

And when the President told Mitchell on March 22, "The whole theory has been containment." Yes, I am concerned about a March 20, 1973, order to Dean to make a complete statement but make it very incomplete.

I am concerned about an order to Ehrlichman on April 16, 1973, to create a scenario with regard to the President's role. I am concerned about the President telling Dean on March 21, 1973, "Just be damn sure you say, 'I don't remember,' 'I can't recall,' 'I can't give an honest answer,' 'In answer to that I can recall,'" but that's it.

### Robert F. Drinan

I have been deeply troubled because the process of choosing articles of impeachment is not necessarily done in the order of their gravity but to some extent on their capacity to a "play in Peoria." There has been no shortage of lawless acts on which to focus in this inquiry, but only history will discover why the greatest deception and possibly the most impeachable offense of Richard Nixon may not become a charge against him.

I speak of the concealment of the clandestine war in Cambodia. I do not here reach the claimed merits of the bombings. I speak only of its concealment.

We see in this series of events the same abuse of power and the same techniques of cover-up employed by the President and his associates in the aftermath of Watergate.

Like the gentleman from New York, Congressman Henry Smith, I am profoundly disturbed at the massive cover-up of the facts during and after the secret bombing raids where 3,695 B-52's went over Cambodia during a period of 14 months from March, 1969, to May, 1970.

I remember well my absolute consternation on July 16, 1973, when the Cambodian bombings were revealed for the first time. I learned on that day that President Nixon had misled me and misled the entire nation when he had said three years prior to that time on April 30, 1970, that:

"For the past five years we have pro-

vided no military assistance whatever and no economic assistance to Cambodia."

The calculated cover-up of Cambodia, like the cover-up of Watergate, unraveled by accident. We heard of it in the Congress and in the country because a foreign correspondent happened to report on his discovery in Cambodia of the thousands of craters made by American B-52's.

There was, in my judgment, no justification for maintaining secrecy about that war. Prince Sihanouk knew; the Cambodians knew, the North Vietnamese knew; everyone knew except the people of America and this information was withheld from them until it happened to come out.

### Carlos J. Moorhead

We had nine people that appeared before this committee. We had some very important witnesses, although there were some very important ones that we didn't have.

I thought two or three of those witnesses were exceptionally candid and valuable to these hearings. I thought Mr. Colson did an excellent job in presenting his point of view to our committee and in covering a great deal of ground that we needed to know about before we made a decision, and in the end his testimony was almost all exculpatory of the President.

The only area where there was any question about Presidential responsibility was that the President had ordered Mr. Colson to release the materials pertaining to Mr. Ellsberg, and it's true that Mr. Colson later pled guilty to the charge of obstruction of justice on the grounds that he did release such materials, but Mr. Colson testified to this committee that every single word that he released was true that the reason for releasing that material was that Dr. Ellsberg was engaging in a battle in the press against the Administration to deceive the American people and that it was necessary for the Administration to bring out their side so that the people would have a full picture of what was going on.

Mr. Ellsberg's trial didn't take place until 20 months later, and Mr. Colson, in giving the reasons for his plea, told us that he was so concerned with the rights of a defendant to have a free trial that he wanted to be able to come to this committee and tell us everything he knew without jeopardizing his trial and by making an example for anyone who in the public print would hurt any defendant who had been indicted and prior to trial.

I would submit that half of the press of the nation would be in jail if that were a criminal offense for which a person could be guilty.

### Butterfield Testimony

I was also impressed by the testimony that was given by Mr. Butterfield. He talked to our committee about his job, in great detail about where his particular office was in connection with the Oval Office. It happened to be right outside the door. Mr. Butterfield's job, among other things, was to carry all of the material that the President was to see for that day into the President's office, and act more or less himself as an "in" box, and to also get all the material that the President was sending back out with his notes and comments that he had made during his perusal of whatever materials it might be.

And Mr. Butterfield when interrogated testified that he had this total access and he also testified that he knew of no instance in any of the materials that he had seen or anything that he had heard of any involvement by the President in the Watergate before it happened and on questioning or was involved in any cover-up and he said, "Oh, no, absolutely not. You are correct."