Excerpts From Judiciary

Panel's Impeachment Debate

Following are excerpts from the House Judiciary Committee debate on the Nixon impeachment resolution.

McClory. I am offering this motion, Mr. Chairman, to defer the conclusion of our proceedings for a period of 10 days, unless we get, providing that we get assurance from the President by tomorrow noon that the 64 tapes or 63 of the 64 tapes which the President has ordered to, or which the Supreme Court has ordered to be made available to the District Court, to Judge Sirica, are also made available to this committee.

Now, the reason I mention 63 is that 63 of the 64 tapes which were involved in the Supreme Court proceeding were also requested by us. We subpoenaed those, and the President has failed to make them available to us.

I might say, Mr. Chairman, that I would press more vigorously for this if I had some assurance that these tapes would be made available. I might say that Wednesday, following the Supreme Court decision, I communicated directly and personally with Mr. McCahill, who is the associate attorney with Mr. St. Clair, and urged him to make this material available to us and give us some immediate response. Also I watched the TV press conference of Mr. St. Clair, and waited anxiously for Mr. St. Clair to make some offer to make the materials available to our Committee, which the President is now compelled by the Supreme Court order to make available to the District Court. I did not hear any such commitment on his part. And I have the strong feeling that there is no intention to provide the materials to this committee.

I think, nevertheless, that this motion should be made, this opportunity should be offered, because later I expect to offer an article which would suggest that the President should be impeached on the basis of his contempt of the Congress in failing to respond to the subpoenas that we have directed to him for relevant andnecessary materials which we require for a complete and a conclusion of our inquiry. And therefore, Mr. Chairman, I move the adoption of the motion.

Brooks. And I rise in opposition to the motion, and would point out that this order by the court is a very narrow order which is restricted to a criminal prosecution. It provides only for in camera inspection by the judge. There is nothing in this decision that gave any assurance whatsoever that this committee would ever receive any of these tapes.

This committee has written to the President, has written again, has subpoenaed the President, has subpoenaed him again. He has refused to send this and other materials. We stand ready to receive any of these tapes or material now, and have been ready for some weeks.

I want to say that we haev been imminently fair to the President in this regard. This order does not give any assurance of the committee receiving any additional information. I don't think that the public would appreciate the delay of this important proceeding. I would be opposed to it. I would ask the members to vote against this motion for delay.

McClory. I want to agree with the gentleman that there is nothing implicit in the court's order which would indicate any obligation on the part of Judge Sirica to provide us with the material. As a matter of fact, the Supreme Court indicates that they should be used for the sole purpose of aiding and for the benefit of the defendants in the Watergate coverup trials.

But, I would also indicate that we can provide the same kind of an in camera mechanism through our counsel, with the cooperation of Mr. St. Clair, to see that no national security information is divulged, but we only would be interested in the relevant materials regarding the subject of our inquiry.

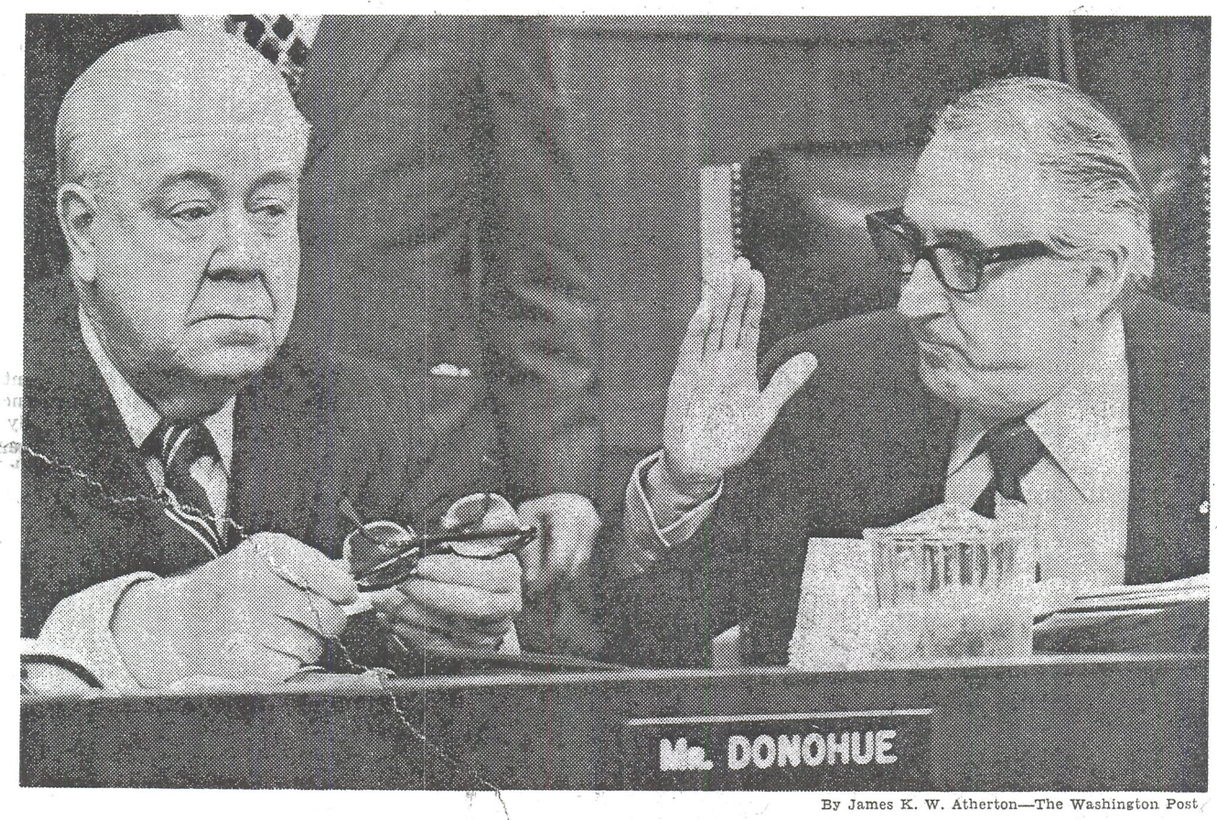
Railsback . . . What I wonder about is, is it not a fact that under the Supreme Court order that Judge Sirica will be required to in camera screen all of the 63 or the 64 conversations to determine if there are sensitive or nonrelevant or other privileged matters? And I am just wondering how much time does the White House have to turn the case over, first of all to Judge Sirica, and then I am wondering, I cannot help but wonder how long it is going to take him from a physical standpoint to listen to the tapes, to screem them in camera to determine the possible relevance?

McClory. Well, I will answer the gentleman in this way. As I understand it, Judge Sirica has ordered the materials delivered to him within ten days. And I would say this, that if the information contained in these tapes, and I understand about three-fourths of it relates to the Watergate affair, it would seem to me that we are going to do a disservice by not getting this material if it is available . . . My motion is directed directly to the President and not Judge Sirica, you see.

Railsback. Can I just say to my friend that were it not for this late date, and after all of these deliberations, and with the problems that I think are very apparent, I would be inclined to agree with you. And as a matter of fact, I think perhaps if we could ascertain that the House itself, after we move, would have a reasonable opportunity, or a reasonable possibility that they could get a hold of those materials, perhaps the House should act . . .

Smith. Mr. Chairman, I speak in support of the motion of the gentleman from Illinois. As the chairman knows, I was one of the six who voted to submit our subpoenas for presidential tapes to the court, and the will of the committee was otherwise, that we would not go into court and ask the court to enforce our subpoenas.

I have always thought that we should have done that, and the recent Supreme Court decision in going to the special prosecutor's motion enforces that opinion in my mind. I think that in the state of the evidence that we have had presented to this committee, that we should make every effort to secure these tapes if we can, and it seems to me that the motion by the



By James K. W. Atherton—The Washington Post

Rep. Harold D. Donohue (D-Mass.) and Chairman Rodino as yesterday's Judiciary Committee session got under way.

gentleman from Illinois is at least in that direction, and I support it.

Danielson. Mr. Chairman, I oppose the motion offered by the gentleman from Illinois. The Supreme Court ruling very properly did not make any references to these impeachment proceedings as it should not have, since it is apparent on the face of our Constitution that the Supreme Court has no jurisdiction whatever to inject itself into these proceedings.

The court's opinion, decision was absolutely proper and in keeping with its constitutional jurisdiction.

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Danielson. I would also like to point out as have my colleagues that pointed out, we have subpoenaed these tapes, these conversations long weeks ago, and it has been within the power of the President to produce them if he chose to do so. We are ready, willing, and I am sure agreeable to receiving any information which he wishes to present, but there is no forum through which we should proceed other than the one which the Constitution places upon us. This Committee, this House of Representatives has the full jurisdiction.

Lastly, I would like to point out that the gentleman's motion is a truncated motion. The last six words of the last line, and the last line itself, would limit us to the tapes which the court has ordered to be available to the District Court pursuant to the Supreme Court order. It is my understanding that the tapes which we have heretofore subpoenaed, and which we deem to be relevant are far larger in number. They cover a greater period of time than those which are included within the gentleman's motion . . .

McClory. The gentleman is exactly right. I understand we have subpoenaed 147 tapes, and this would only cover 63 of those.

Danielson. That is correct. I thank the gentleman for confirming my fear here. This is a truncated order at best. If we are going to have some compliance, some cooperation from the White House, I submit that we should have full compliance and full cooperation. This is only half a loaf, and we are in a situation where we are entitled to the full loaf. I therefore urge my colleagues to defeat this motion.

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Sandman. Mr. Chairman, I oppose the resolution of my friend from Illinois. I can hardly see how we can delay this proceeding to receive some tapes when this very same Committee voted down the requirements to have the most important witness of them all come before the committee and testify live. If we did not have one day to listen to Howard Hunt, the subject matter of the entire transaction of the cover-up, we have no business trying to put this thing off to listen to some more tapes.

Now, I do not subscribe to the fact that the President did not honor our subpoenas, and I have said so from the very beginning. I think that he should have. For whatever reason he used, whether he is right or wrong, we did not get those tapes. Wheteher we received truckloads of tapes for or against it is not going to change the outcome of the vote here and everybody knows it. So, let us get on. You have the votes, move the resolution, and let's go home.

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Dennis. Mr. Chairman, this appears to me to be an exceedingly moderate resolution, which really ought to draw the support of everyone here. All it says is that if the President gives us assurances by tomorrow noon, that he is going to produce forthwith the matter which is to be given to the special prosecutor, that then we will give him the short period of 10 days in which to do so. Now, that is a very moderate proposition. It seems to me axiomatic that in the conducting of any investigation you ought to get all the evidence you can get, and certainly in a matter of this importance, you ought to. I indicated my position on the basis of the evidence, and as it now stands in my remarks yesterday. But, my view could be changed if there is something on these tapes that ought to change it, and there may be.

On the other hand, I would hope that those who are now ready to impeach could have their views modified if there were something on these tapes which was, indeed, exculpatory.

McClory. I join with the gentleman in expressing disappointment that we have not had better cooperation, and I also, I know that the suspicion is that the tapes were not produced because they contain adverse information as far as the President is concerned. But, what if they do provide exculptaroy information which would change our minds and provide for the President to be exonerated on one or more of the charges? It would seem to me it would be extremely embarrassing and awkward for us to have made a decision without the benefit of all of the evidence . . .

Seiberling. Mr. Chairman, I remember some years ago when a legal trial was being argued before one of our great justices, Learned Hand, and the attorneys kept wanting to file motions, and rearguments and so forth, and finally he advised them that the court would accept no further motions or papers in the case, and the lawyers protested, and he said, gentlemen, some concession must be made to the shortness of human life.

Now, actually our first request for tapes from the President was on February 25th. If my arithmetic is correct, that is almost exactly six months ago. The tapes are in the full possession of President Nixon. At any time he can walk in or send Mr. St. Clair into this committee and deliver all of the tapes, not just the ones covered by the Supreme Court. He is in complete control of that. He has heard presumably the arguments that were advanced in this committee. He has had access to the evidence considered by this committee, and he knows what would be exculpatory and that which would tend to disprove that evidence if he has further material that would tend to disprove it. And I submit to the gentlemen and ladies of this committee that there is absolutely no reason why at any point in our deliberations or in the deliberations of the House of Representatives, which are certainly going to take more than ten days, there is no reason why the President cannot walk in and deliver to us every piece of evidence that we have subpoenaed. And we know full well that when that happens, and if it happens, we will stop our proceedings and consider the evidence. But, until that happens, I do not see why

we should fool around with giving further opportunity to delay to a President who has shown that he will take very possible means to delay and drag out, and obfuscate these proceedings . . .

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Fish. Mr. Chairman, if I felt for a minute that the delay sought here was a question of fairness to the President, I would not hesitate to support the motion. But, I do not think this is the case, as I think very straightforwardly put, there has been every opportunity, including the opportunity to come in with the tapes today, or tomorrow, without the necessity of this resolution . . .

Hogan. . . . Now, some of my colleagues have said here today that they see no reason for waiting. I see a very important reason for waiting. If the tapes are given to us, and I do think that we should send another letter reminding the President of the Supreme Court's decision so we are on record, and if the material does, in fact, come to us—and I will admit that I am not overly optimistic—perhaps it will be more damaging to the President's case, in which eventuality we may vote out a resolution from this committee by a vote of 38 to nothing. I think that that would strenghten the case in the House and in the nation. If on the other hand, if the material is exculpatory, perhaps no impeachment resolution would be voted out at all, and we in the House, in the Congress and the country would be spared the ordeal of this impeachment.

So, I think it is reasonable for us to dealy for a 10-day period . . .

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Cohen. . . I would like to speak in opposition to the motion. I think that in view of the Supreme Court's decision, and the ruling that there would be no hesitancy on the part of the President to turn over this information to the Committee, because Mr. Hogan has just so eloquently stated, the Supreme Court has cut away any possible basis for a witholding of that information. We have waited since February for it, but it seems to me that there is a time for deliberation, a time for debate, and also a time for decision, and today is that day.

We stand ready, and we are a continuing investigative body, we stand ready to receive and to screen all of this information and to report it to the House of Representatives, exonerating information as well as incriminating. And I suspect that the House, if it is in doubt after the evidence has been presented to it, it can also defer the matter back and refer it back to this body for further investigation and for further recommendation . . .

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McClory I think that it would be a mistake if the information could be made available that we would not receive it and not consider it, and so I would think it would be important for us to have this, and at least give this opportunity for the President to pr - vide us with the additional information . . .

Chairman. I would just like to point out that we had better set the record straight, and I think the gentleman from Illinois, while he says we have had no indication that the President would comply, we have had every indication, and not just indications, but a clear demonstration, and a clear reply, and a response from the President to this committee by letter of May 22nd that he would decline to supply this Committee with any material, that we had the complete story of Watergate, that he would respectfully decline any further subpoenas that this committee would issue. So, there is no question whatsoever in the mind of this gentleman that the President has no intention whatsoever of complying. It has been a period of time since letter after letter was sent to the President. We have been fair. We have been patient. We have sought not only through letter, but through various requests, and I think it would be an idle, futile gesture for us to delay this matter of moment at this time when we have before us an issue to decide, knowing full well that we have the President's full response, which is unequivocal, categorical, and as decisive as anyone would want it to be . . .

At this point, the McClory motion todelay was defeated and the reading of the articles of impeachment begun. Rep. Paul S. Sarbanes offered a substitute Article I. Following are excerpts from debate on that substitute:

Hutchinson. . . . I want to express my opposition to the substitute as offered . . . I am very critical of the substitute and its drafting in that it does not set forth with specific detail the exact incidents upon which any criminal indictment would have to lay.

It seems to me as though in writing an article of impeachment in this general language, that you leave the defendant or the respondent or whatever it is that we call him, grasping around trying to find out specifically what it is that he is charged with, what he has to answer to.

This is just a lot of generalities. You do not set forth any specific incidents. You do not—you do not—and I think that—I think it is fatal, fatal on that account.

I also raise just by way of illustration here another point and I won't go through it all, but your first two paragraphs here, I am referring to paragraphs numbered 1 and 2, you say, "making false and misleading statements to lawfully authorized investigative officers and employees of the United States." It would seem to me as though you ought to at least allege that those were made to them in the course of an investigation. If they were made in an off-duty status or something of that sort, it would seem to me, in that respect to be fatal, or rather, defective. . . .

Railsback. Mr. Sarbanes, I am wondering if it is your intent in drafting this article to try to limit the allegations to matters that include the President himself either in respect to knowledge that he had or participation that he entered into rather than to in any way try to impute criminal responsibility to him for acts of misconduct on the part of his subordinates that he had no knowledge of. In other words, are we talking about—are these various allegations meant to apply to the President himself and either knowledge that he had or involvement that he had in these various acts that you have enumerated?

Sarbanes. If the acts of his subordinates were in furtherance of his policy, and that is the language set forth in Pragraph 2 of the article, then those acts would be shown under the headings provided for means. Those acts would have been carried out by those subordinates and agents in furtherance of such policy. The policy, of course, is the one outlined in Paragraph 2 of the proposed article.

Railsback. It would have to be, would it not, a policy that—a policy that would be a specific policy of his, not on interference but based on some facts or information?

Sarbanes. Well, the President could establish a policy with respect to this cover-up which his agents were generally implementing.

Railsback. But that would have to be a specific—

Sarbanes. Implementation of that policy by the agents could be brought forth in support of the allegations of this article.

Railsback. But it would have to be a specific policy and nothing that we are inferring from other actions that have taken place, am I correct?

Sarbanes. Well, there would have to be a policy of the President.

Now, you could have a policy that he had established which he wished to have implemented. You could have that policy subsequently implemented by his close subordinates or his agents.

Railsback. Let me — let me perhaps express to you my concerns and I think the concerns of others. Some of us do not believe in the so-called Madison concept by which you hold responsible a superior for acts of misconduct committed by subordinates.

This—well, why don't you respond to that, if you can.

Sarbanes. Well, as I understand the wording of this language, it would not reach to the limits of the Madison superintendency theory—

Railsback. All right.

Sarbanes. — because that theory would reach to the point of — could reach to the point, I think at least, of acts of subordinates not only that the President did not have any knowledge of but that were not in implementation of a policy of the President. . . .

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Wiggins. An article of impeachment is no less a pleading than any other pleading in a similar criminal case, and its function is to give fair notice to the person charged so that he may have an opportunity to defend against that argument. It must not only be legally sufficient, but in the context of a panel such as this, we must be satisfied that the evidence justifies an otherwise legally sufifcient argument of impeachment. It is with that in mind that I am going to ask the author of the proposed article a series of questions, and I shall yield, of course, for the purpose of your answer.

The thrust of Article 1 is to charge the President with an obstruction of justice, as I understand it. Is it your intent by your article to charge the President with the substantive crime of obstruction of justice, the substantive crime of obstruction of justice?

Sarbanes. In a criminal sense, no it would not be the intention that the article would be specifically, that the content of this article would be specifically defined in criminal terms, in terms of the criminal offense and in terms of what would be required accordingly in a criminal trial.

Wiggins. All right. I understand.

Sarbanes. An impeachable offense, I do not believe, is coincidental with a criminal offense. I think that is a view generally accepted by the members of this committee, and this article is drawn on that premise.

Wiggins. All right, that being the premise, I think the answer to the next two questions is no. And if you would just answer no rather than explain it, it would preserve my time.

Is it your intent by this article to charge the President with the substantive crime of conspiracy to obstruct justice?

Sarbanes. Again, if you are using that term in a criminal sense, the answer would be no.

Wiggins. Is it your intention —

Sarbanes. But that does not mean that concepts pertaining to conspiracies would not be pertinent in the application of this article.

Wiggins. All right. Is it your intention by this article to charge the President with the substantive offense denouced in Section 1510, that is the interference with properly constituted investigative agencies?

Sarbanes . . . When the gentleman uses the phrase "substantive offense," of course, impeachable offenses are substantive. Now, if that phrase is meant again as I said earlier, to be coincident with a criminal offense—

Wiggins. That is my question.

Sarbanes. As defined in the criminal code, then this is not meant to be coincidental with a criminal offense, although concepts that may pertain in that area may also pertain here . . .

Wiggins. . . . It appears to be your answer that the article is not premised necessarily upon violation of the criminal law.

Sarbanes. That is correct. It does not

preclude such violations, but it is not premised and not limited to them.

Wiggins. . . . Now, the heart of this matter is that the President made it his policy to obstruct justice and to interfere with investigations. Would you please explain to this member of the committee and to the other members, when, and in what respect, and how did the President declare that policy? And I wish the gentleman would be rather specific, since it is the heart of the allegation?

Sarbanes. Well, of course the means by which this policy has been done are the ones that are set out subsequent to the second paragraph.

Wiggins. If the gentleman could confine himself to the question first, when was the policy declared?

Sarbanes. In 1 through 9. Well, the policy relates back to June 17, 1972, and prior thereto, agents of the committee committed illegal entry and it then goes on and says subsequent thereto Richard M. Nixon, using the powers of his high office, made it his policy, and in furtherance of such policy did act directly—

Wiggins. I can read the article, but I think it is rather important to all of us that we know from you, as the author of that article, exactly when this policy was declared, and I hope you will tell us.

Sarbanes. Well, I think there was varying factual matters that a member can draw conclusions in his own mind.

Wiggins. What about yourself as the author of the article?

Sarbanes. As to when that policy was established, and there are different stages in this matter. There is evidence with respect to the policy having been established immediately after the break-in, or virtually immediately after the break-in. There is other evidence that pertains more specifically to the period of March and April of 1973. The wording of this article would encompass that full time period, and I think the language is broad enough to carry with it the —

Wiggins. But your intent is not broad. I would like your intent to be specific, at least in your answer to me. We are talking about a policy of the President of the United States, which is the heart of your allegation, and the answer should not be confused. It ought to be specific.

When was the policy declared, and if I get an answer to that, I would like to know in what manner it was declared. Now, that is not asking too much.

Sarbanes. Well, I want to distinguish two things. One is the scope of the article, which I think encompasses the entire period or any part of it, if a policy was established at any point through that period . . .

Sandman. Is it your understanding of the law that the articles of impeachment must be specific, and in order to meet the due process clause of the Constitution?

Sarbanes. I believe that this article that is presented to you meets the law of impeachment with respect to the problem that you raise.

Sandman. I did not ask that. I asked do you understand the law to say that an article of impeachment must be specific?

Sarbanes. In the same sense that a criminal indictment must be specific? I do not believe that the standards which govern the specificity of a criminal indictment are applicable to an article of impeachment, if that is the thrust of the gentleman's question.

Sandman. Well, now, do you not believe that under the due process clause of the Constitution that every individual, including the President, is entitled to due notice of what he is charged for? Do you believe that?

Sarbanes. I think this article does provide due notice.

Sandman. You are not answering my question.

Sarbanes. Well, I think I am answering your question.

Sandman. Well, let me ask you this, then. As I see this, you have about twenty different charges here, all on one piece of paper, and not one of them specific. The gentleman from California has asked you for a date, for example, on Charge 1 and 2. No date. You say that he withheld relevant material. When and how?

Is he not entitled to know that? How does he answer such a charge? This is not due process. Due process—

Sarbanes. I would point out to the gentleman from New Jersey that the President's counsel entered this committee room at the very moment that members of this committee entered the room and began to receive the presentation of information, and that he stayed in this room—

Sandman. I do not yield any further.

Sarbanes. —throughout that process.

Sandman. I do not yield any further for those kinds of speeches. I want answers, and this is what I am entitled to. This is a charge against the President of the United States, why he should be tried to be thrown out of office, and that is what it is for. For him to be duly noticed of what you are charging him, in my judgment, he is entitled to know specifically what he did wrong, and how does he gather that from what you say here?

Sarbanes. My response to the gentleman is that the article sets out the means. The President's counsel has been here throughout the proceedings and is aware of the material that was presented to us, and that this article, in comparison—

Sandman. One last question. One last question, and you can answer.

Do you or do you not believe, and you can say yes or no, that the President is entitled to know in the articles of impeachment specifically, specifically on what day he did that thing which you say he should be removed from office? Is he entitled to know that, and in an article of impeachment, not by virtue of the fact that his counsel was here?

Sarbanes. I do not believe that the article of impeachment is going to contain all the specific facts which go to support the article. If it were to do that, the article of impeachment would be 18 volumes, or whatever the number of volumes, are pertinent to place into it all of the specific information.

Sandman. I do not think it has to say that at all. But, I think it has to say that on a certain day he did something which is illegal, thus-and-so. You can say that in a simple sentence, but you are not saying that here. And, in fact, there is plenty of law on this point, and it says that these things shall not be general, these things shall not be general. They shall be specific. This has been the case of every impeachment trial tried in the United States, all the way up to the last one in 1936. You do not dispute that, do you?

Sarbanes. I do dispute that. If the gentleman is talking or referring back to criminal indictments, then the thrust of the gentleman's point has some merit, but I do dispute it when he shifts it to the law of impeachment. It is not a correct statement of the law of impeachment.

Sandman. I am talking about the impeachment of Justice Ritter. That was an impeachment.

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Danielson. . . Apropos of the debate as to specificity as to time, I should like to point out that although this is not a criminal prosecution there is ample precedent in our federal criminal procedural laws to established that the only point, the only necessity for establishing a date in an indictment, which this is analagous to, is to bring the activity complained of within the period of the statute of limitations. Here since the pleadings would indicate that on June 17, 1972, and prior thereto, but obviously in its context, within the period of time that Richard Nixon has served as the President of the United States, and, therefore, clearly within the period of limitations for this proceeding, these events did take place, and the policies were established.

The only other requirement in an accusatory pleading, which a bill of impeachment will be, as for specificity on facts, is that the facts be described with sufficient particularity so that the person charged or accused can be aware of the offenses with which he is charged, and thereby enabled to prepare his defense.

Secondly, that acquittal or conviction on that charge of factual information will serve as a bar to any subsequent prosecution.

Now, I respectfully submit that the pleading before us or proposed pleading as submitted by Mr. Sarbanes does clearly establish as to time that this policy was established, on June 17, 1972, and prior thereto, but within the term of office of President Richard N. Nixon, and therefore, as to time, this is sufficiently specific.

See TRANSCRIPT, A13, C 1. 1

Number two, as to the facts, I would respectfully submit that they are alleged with great particularity, and sufficiently enable the President to prepare his defense, and to have an acquittal or a conviction serve as a bar to a subsequent prosecution, thereby avoiding the constitutional ban against double jeopardy.

Lastly, I would like to point out that this document, a bill of particulars, is not an indictment, and criminal law, the precedents do not control. They are valuable as an analogy, but this need not be as specific as an indictment in a criminal case.

Moreover, the added information which counsel for the President may want in the nature of time, and in the nature of dates, places, particulars on facts, can be reached by him in the event this goes to trial in the Senate through his bringing a motion for a bill of particulars, or a motion to make more definite and certain, and it is not an attack upon the validity of this proposed Article of Impeachment. . . .

Sandman. Would the gentleman yield?

Danielson. I will be delighted to yield.

Sandman. Now, you have made a point that this is not necessarily the same as a criminal indictment.

Danielson. That is correct.

Sandman. All right now, even if we were to agree on that point, which I do not altogether, but let us assume we do, does the President have any rights pertaining to due process?

Danielson. No, he does not.

Sandman. As would a common criminal in an indictment?

Danielson. He does not have any less right, and as a matter of fact, in this proceeding he has enjoyed much greater rights.

Sandman. All right, so he is entitled to due process?

Danielson. This is my time, Mr. Sandman. I will point out that the President has been present and participated in these proceedings since the very first hour that we have met.

Sandman. Will the gentleman yield?

Danielson. His counsel has been permitted to introduce evidence and to examine witnesses. He has a complete copy of every document that pends before this committee. Due process has not been merely been observed here, it has been exalted, and I applaud it, but the President and no one else has ever had opportunity to be informed such as have been provided to him in this procedure.

Sandman. Will the gentleman admit that this begins a new chapter, this begins a new charge?

Danielson. I was about, I would say to the gentleman from New Jersey, I was about to yield to my colleague from California, Mr. Edwards.

Edwards. Thank you. I would like to direct a question to Mr. Danielson.

Danielson. I will yield for the question.

Edwards. Thank you. The purpose, of course, is to always be fair in an indictment, and that is why it should be as exact as possible. Do you think that the President and his attorney can understand in great particularity exactly the charges, the specific events that this Bill of Impeachment refers to?

Danielson. Well, at the risk of sounding frivolous, I would state anyone who is in charge of the complicated business of this nation certainly would be able to understand the intendments of this proposed Article of Impeachment. But, if under some happenstance this is not deemed clear to the person accused, he still will have the remedy of asking for a bill of particulars or make a motion for greater detail and specificity of these facts at an appropriate time. Yes, due process is well served, and fairness has been preserved in these proceedings.

At this point the committee recessed for lunch and resumed debate at 3:40 p.m.

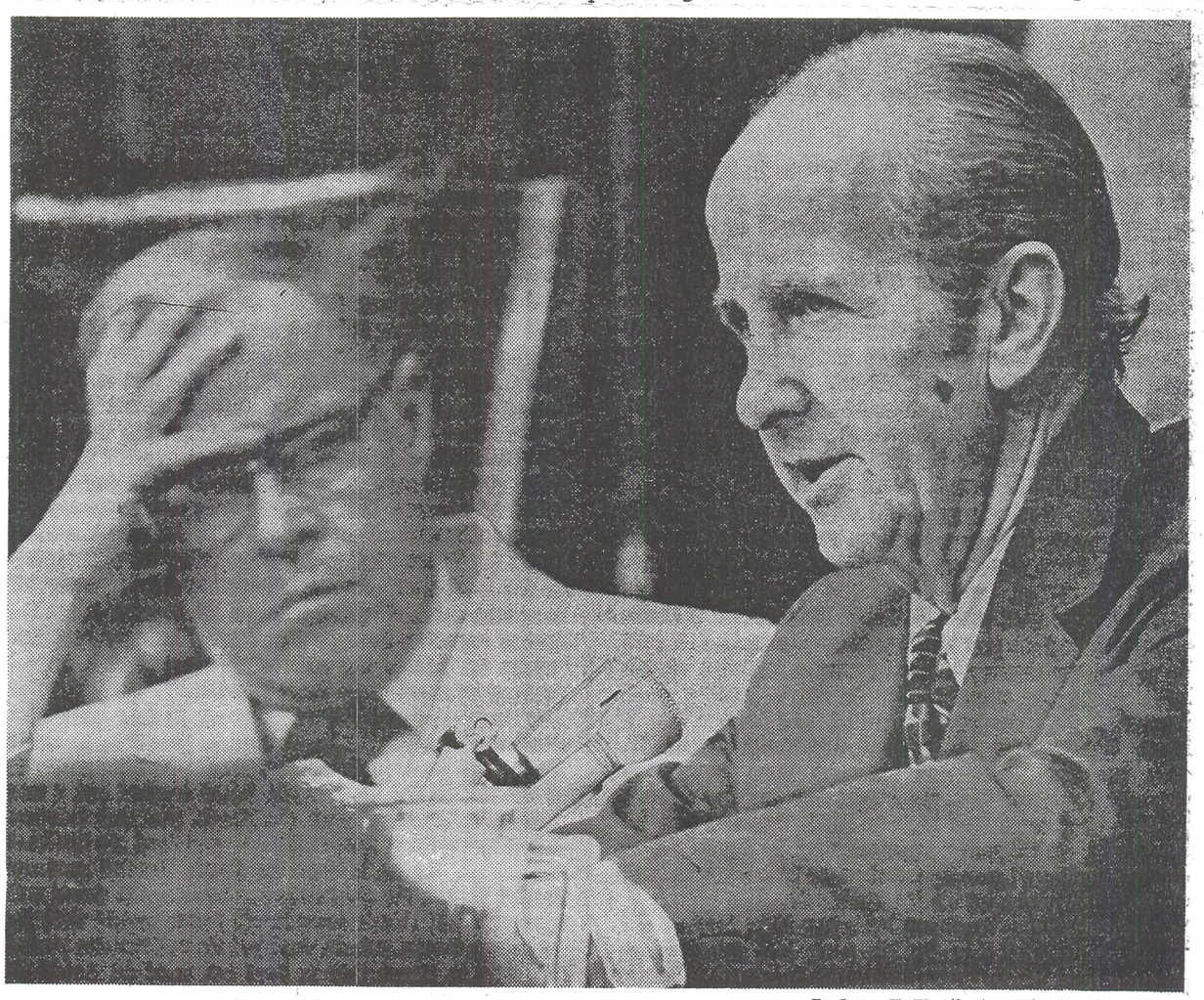
Mr. Maraziti. I was amazed to find—to hear the gentleman from Maryland explain why it is not necessary to detail the facts and one argument given is that the counsel for the President was present in the room when these matters were being discussed.

That is not a satisfactory disposition of the matter. It reminds me of counsel for a defendant appearing in a magistrate's court, a presentation made of an hour or two, then the prosecutor of the county—a very general indictment—it is not sufficient for the prosecutor of the county to say I do not have to specify because the counsel for the defendant attended the preliminary examination.

And the President—the knowledge of the counsel is not the knowledge of the President. We do not know whether the counsel for the President that appeared here is going to be associate counsel or one of a number of counsel or whether there will be different counsel.

Now, he makes a point of once the resolution or the articles get to the floor they can be justified, amended, and so on. That may be so. But I think it is necessary, Mr. Chairman, members of this committee, for us to, the members here and now, before we vote for or against a particular article, to know the time and place and names, to know all the events.

Now, I have done some legal research during the noon recess because it was represented that the law that pertains to indictments does not necessarily apply to impeachment proceedings. And I found that from the very beginning, when impeachment proceedings were instituted in 1798, right down to the present time, the last impeachment, of Judge Ritter in 1936, that every respondent charged has been faced with articles of impeachment that



By James K. W. Atherton—The Washington Post

Rep. Robert McClory (R-Ill.) debates impeachment issue as Rep. Edward Hutchinson listens.

alleged specifics, and there is a reason for it. There is a reason for it. So that he who is charged, and this is fundamental to Anglo-Saxon law, that he who is charged must know on what particular charge or points he must defend himself. It is not necessary for him to go over the tremendous amounts of information that we have here and say, well, maybe they will accuse me on this and maybe on that. And it is very simple, Mr. Chairman, because the gentleman from Maryland began to specify certain times, places and events.

Now, if that is it, if that is what the charge is, simply include it in the articles of impeachment . . . .