

DEBATE ON ARTICLES OF IMPEACHMENT

HEARINGS
OF THE
COMMITTEE ON THE JUDICIARY
HOUSE OF REPRESENTATIVES

NINETY-THIRD CONGRESS

SECOND SESSION

PURSUANT TO

H. Res. 803

A RESOLUTION AUTHORIZING AND DIRECTING THE
COMMITTEE ON THE JUDICIARY TO INVESTIGATE
WHETHER SUFFICIENT GROUNDS EXIST FOR THE
HOUSE OF REPRESENTATIVES TO EXERCISE ITS
CONSTITUTIONAL POWER TO IMPEACH

RICHARD M. NIXON
PRESIDENT OF THE UNITED STATES OF AMERICA

JULY 24, 25, 26, 27, 29, and 30, 1974



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Mr. Petersen, Assistant Attorney General, and head of the Criminal Justice Division of the Department of Justice, in answer to a number of questions and in answer again specifically to a question asked by Mr. Sandman, stated that there is no evidence, there is no evidence to implicate the President of the United States in any criminal action. Now, this comes from the head of the Criminal Justice Division, from the man who has made the investigation, from a career man, from a man whose reputation and integrity are beyond reproach.

And yet, Mr. Dean says otherwise. I can only say that I do not believe Mr. Dean, and I don't believe the American people will believe Mr. Dean.

If I have to choose between Mr. Dean and the President as to who is telling the truth, I have no difficulty in that regard.

Now, let us turn to the tape of the morning of April 16, 1973, and what does the President say to Mr. Dean, in regard to his testimony before the Grand Jury? The President says: "Don't lie. Don't do it. John. Tell the truth. That is the thing I have told everyone here. Tell the truth. Don't lie. Understand what I say. Don't lie about me either." In effect he says later on go to the Grand Jury. Go down and testify. Go down and tell the truth. Do not claim executive privilege. Do not claim attorney-client privilege. I waive that.

Mr. Chairman, and members of this committee, does this sound like a man who wants to cover up? What more can a President do but to tell his staff, as he did, to tell the truth and not claim executive privilege on the Watergate break-in.

Mr. Chairman, let me say that I listened with interest to your opening statement and I concur with that portion of your statement in which you say that we must deal fairly with every man. It is my hope that we adopt that principle expounded by you in our final and most crucial deliberations.

I look forward with interest to the discussion of the particular articles of impeachment that may be set forth and I invite those who propose impeachment to marshal the hard facts in support of their position.

They have a duty and a responsibility to do so and I, Mr. Chairman, will exercise my duty and responsibility to consider the hard facts if they can be shown.

Thank you, Mr. Chairman, and I wish to yield the balance of my time to Mr. Latta.

THE CHAIRMAN. The gentleman from New Jersey has 1 minute and 5 seconds remaining which will be yielded to Mr. Latta at the appropriate time.

I recognize the gentlelady from Texas, Ms. Jordan, for the purpose of general debate, not to exceed a period of 15 minutes.

STATEMENT OF HON. BARBARA JORDAN, A REPRESENTATIVE IN CONGRESS FROM THE 18TH CONGRESSIONAL DISTRICT OF THE STATE OF TEXAS

Ms. JORDAN. Thank you, Mr. Chairman.

Mr. Chairman, I join my colleague, Mr. Rangel, in thanking you for giving the junior members of this committee the glorious opportunity of sharing the pain of this inquiry. Mr. Chairman, you are a

strong man and it has not been easy but we have tried as best we can to give you as much assistance as possible.

Earlier today we heard the beginning of the Preamble to the Constitution of the United States, We, the people. It is a very eloquent beginning. But when that document was completed on the 17th of September in 1787 I was not included in that "We, the people." I felt somehow for many years that George Washington and Alexander Hamilton just left me out by mistake. But through the process of amendment, interpretation and court decision I have finally been included in "We, the people."

Today, I am an inquisitor. I believe hyperbole would not be fictional and would not overstate the solemnity that I feel right now. My faith in the Constitution is whole, it is complete, it is total. I am not going to sit here and be an idle spectator to the diminution, the subversion, the destruction of the Constitution.

"Who can so properly be the inquisitors for the nation as the representatives of the nation themselves?" (Federalist No. 65) The subject of its jurisdiction are those offenses which proceed from the misconduct of public men. That is what we are talking about. In other words, the jurisdiction comes from the abuse of violation of some public trust. It is wrong, I suggest, it is a misreading of the Constitution for any member here to assert that for a member to vote for an Article of Impeachment means that that member must be convinced that the President should be removed from office. The Constitution doesn't say that. The powers relating to impeachment are an essential check in the hands of this body, the legislature, against and upon the encroachment of the Executive. In establishing the division between the two branches of the legislature, the House and the Senate, assigning to the one the right to accuse and to the other the right to judge, the Framers of this Constitution were very astute. They did not make the accusers and the judges the same person.

We know the nature of impeachment. We have been talking about it awhile now. "It is chiefly designed for the President and his high ministers" to somehow be called into account. It is designed to "bridle" the Executive if he engages in excesses. "It is designed as a method of national inquest into the conduct of public men." (Hamilton, Federalist No. 65) The Framers confined in the Congress the power if need be, to remove the President in order to strike a delicate balance between a President swollen with power and grown tyrannical; and preservation of the independence of the Executive. The nature of impeachment is a narrowly channeled exception to the separation of powers maxim, the Federal Convention of 1787 said that. It limited impeachment to high crimes and misdemeanors and discounted and opposed the term, "maladministration." "It is to be used only for great misdemeanors," so it was said in the North Carolina ratification convention. And in the Virginia ratification convention: "We do not trust our liberty to a particular branch. We need one branch to check the others."

The North Carolina Ratification Convention: "No one need be afraid that officers who commit oppression will pass with immunity."

"Prosecutions of impeachments will seldom fail to agitate the passions of the whole community," said Hamilton in the Federalist Papers No. 65. "And to divide it into parties more or less friendly

or inimical to the accused." I do not mean political parties in that sense.

The drawing of political lines goes to the motivation behind impeachment; but impeachment must proceed within the confines of the constitutional term, "high crime and misdemeanors."

Of the impeachment process, it was Woodrow Wilson who said that "nothing short of the grossest offenses against the plain law of the land will suffice to give them speed and effectiveness. Indignation so great as to overgrow party interest may secure a conviction; but nothing else can."

Commonsense would be revolted if we engaged upon this process for petty reasons. Congress has a lot to do. Appropriations, tax reform, health insurance, campaign finance reform, housing, environmental protection, energy sufficiency, mass transportation. Pettiness cannot be allowed to stand in the face of such overwhelming problems. So today we are not being petty. We are trying to be big because the task we have before us is a big one.

This morning in a discussion of the evidence we were told that the evidence which purports to support the allegations of misuse of the CIA by the President is thin. We are told that that evidence is insufficient. What that recital of the evidence this morning did not include is what the President did know on June 23, 1972. The President did know that it was Republican money, that it was money from the Committee for the Re-Election of the President, which was found in the possession of one of the burglars arrested on June 17.

What the President did know on June 23 was the prior activities of E. Howard Hunt, which included his participation in the break-in of Daniel Ellsberg's psychiatrist, which included Howard Hunt's participation in the Dita Beard ITT affair, which included Howard Hunt's fabrication of cables designed to discredit the Kennedy administration.

We were further cautioned today that perhaps these proceedings ought to be delayed because certainly there would be new evidence forthcoming from the President of the United States. There has not even been an obfuscated indication that this committee would receive any additional materials from the President. The committee subpoena is outstanding and if the President wants to supply that material, the committee sits here.

The fact is that on yesterday, the American people waited with great anxiety for 8 hours, not knowing whether their President would obey an order of the Supreme Court of the United States.

At this point I would like to juxtapose a few of the impeachment criteria with some of the President's actions.

Impeachment criteria: James Madison, from the Virginia Ratification Convention. "If the President be connected in any suspicious manner with any person and there be grounds to believe that he will shelter him, he may be impeached."

We have heard time and time again that the evidence reflects payment to the defendants of money. The President had knowledge that these funds were being paid and that these were funds collected for the 1972 Presidential campaign.

We know that the President met with Mr. Henry Petersen 27 times to discuss matters related to Watergate and immediately thereafter met with the very persons who were implicated in the information Mr. Petersen was receiving and transmitting to the President. The words are, "if the President be connected in any suspicious manner with any person and there be grounds to believe that he will shelter that person, he may be impeached."

Justice Story: "Impeachment is intended for occasional and extraordinary cases where a superior power acting for the whole people is put into operation to protect their rights and rescue their liberties from violations."

We know about the Huston plan. We know about the break-in of the psychiatrist's office. We know that there was absolute complete direction in August 1971 when the President instructed Ehrlichman to "do whatever is necessary." This instruction led to a surreptitious entry into Dr. Fielding's office.

"Protect their rights." "Rescue their liberties from violation."

The South Carolina Ratification Convention impeachment criteria: Those are impeachable "who behave amiss or betray their public trust."

Beginning shortly after the Watergate break-in and continuing to the present time the President has engaged in a series of public statements and actions designed to thwart the lawful investigation by Government prosecutors. Moreover, the President has made public announcements and assertions bearing on the Watergate case which the evidence will show he knew to be false.

These assertions, false assertions, impeachable, those who misbehave. Those who "behave amiss or betray their public trust."

James Madison again at the Constitutional Convention: "A President is impeachable if he attempts to subvert the Constitution."

The Constitution charges the President with the task of taking care that the laws be faithfully executed, and yet the President has counseled his aides to commit perjury, willfully disregarded the secrecy of grand jury proceedings, concealed surreptitious entry, attempted to compromise a Federal judge while publicly displaying his cooperation with the processes of criminal justice.

"A President is impeachable if he attempts to subvert the Constitution."

If the impeachment provision in the Constitution of the United States will not reach the offenses charged here, then perhaps that 18th century Constitution should be abandoned to a 20th century paper shredder. Has the President committed offenses and planned and directed and acquiesced in a course of conduct which the Constitution will not tolerate? That is the question. We know that. We know the question. We should now forthwith proceed to answer the question. It is reason, and not passion, which must guide our deliberations, guide our debate, and guide our decision.

I yield back the balance of my time, Mr. Chairman.

The CHAIRMAN. I recognize the gentleman from Ohio, Mr. Latta, for 15 minutes and 5 seconds.