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Federal Bureau of Investigation authorization/forensic science laboratories; Federal Bureau of Investigation authorization; Consular functions of the Department of State; Antitrust Division of the Department of Justice; Bureau of Alcohol, Tobacco and Firearms; Corporate initiative; Final report of the Select Commission on Immigration and Refugee Policy; Federal courts; Proposed revision of the Federal criminal code; Racially motivated violence against minorities; America's crime problem; Government Accounting Office report on Copyright Royalty Tribunal; U.S. Commission on Civil Rights report on the impact of the Reagan budget cuts on civil rights enforcement; Financial services institutions; Antitrust aspects of professional sports; Bankruptcy commodity brokers; Administration's proposals on immigration reform.

Mergers; Refugee program; School desegregation; Bankruptcy provisions relating to stockbroker bankruptcies; Implementation of the Parental Kidnapping Prevention Act of 1980; Administration's refugee program for fiscal year 1982 (admission and allocation of refugees); Administration's proposal to abolish the Bureau of Alcohol, Tobacco and Firearms; Implementation of the Speedy Trial Act; Look-alike drugs; Immigration reform; Interstate identification index pilot program; Bankruptcy, Chapter 13; Unemployment and crime; Intelligence policy and the rights of Americans; Report of the Attorney General's Task Force on Violent Crime; Immigration and Naturalization Service revised budget request for fiscal year 1982; International antitrust issues; Drug enforcement policies.

## **The Committee and Impeachment**

No discussion of the committee's history would be complete without special mention of the extraordinary constitutional responsibilities undertaken by the 38 member committee during the 93d Congress, in 1973 and 1974.

For the first time since the administration of Andrew Johnson and for only the second time in the history of the Republic, the House of Representatives formally authorized an impeachment inquiry of a President. On February 6, 1974, the House adopted by a vote of 410-4, a resolution—House Resolution 803—authorizing and directing the Committee on the Judiciary “to investigate fully and completely whether sufficient grounds exist for the House of Representatives to exercise its constitutional power to impeach Richard M. Nixon, President of the United States of America” and to report “such resolutions, articles of impeachment, or other recommendations as it deems proper.” This action officially set into motion an investigation by the Judiciary Committee that would culminate with the Committee’s reporting three articles of impeachment and eventually led to President Nixon’s resignation on August 9, 1974 and Vice President Gerald R. Ford becoming the 38th President of the United States.

Impeachment, a power exclusively reserved for Congress’ use by the Constitution, and described by Lord Bryce as “the heaviest piece of artillery in the Congressional arsenal,” offers Congress an extraordinarily powerful tool to investigate alleged executive and judicial misbehavior and to eliminate such misbehavior through the conviction and removal from office of the offending individuals. Throughout American history, the House of Representatives, in a vast majority of the cases, has chosen its Judiciary Committee to bear the burden of investigating the questions of high constitutional privilege raised by impeachment resolutions.

There have been 90 identifiable impeachment-related inquiries conducted by Congress since the first such investigation of George Turner, a Northwest Territory judge, in 1796. Of the approximately 80 investigations conducted after the Judiciary Committee’s formation in 1813, the committee has been involved in a great majority—including the two formal impeachment investigations of Presidents.

#### EARLY HISTORY

James Madison, in his classic observation on the nature of men and the necessity for government, wrote that if men were angels there would be no need for either laws or government, but since men are not angels it is necessary to construct “auxiliary precautions” against abuses of power. Impeachment is one of those auxiliary precautions.

Scarred in some instances by personal experience, Madison’s colleagues at the Constitutional Convention of 1787 shared his fear of despotism, and they were determined to provide the new Republic with a means whereby a President and other public officials could be held accountable. At the same time, the Founding Fathers sought also to control the authority of Congress in punishing the misuse of power. So while Congress was given the power to remove from office those convicted of misusing their public trust, criminal punishment was left to the discretion of the courts.

Under the hand of the Framers of the Constitution, the House of Representatives was given the “sole Power of Impeachment,”<sup>14</sup> and the Senate was accorded “sole Power to try all Impeachments.”<sup>15</sup> Impeach-

<sup>14</sup> U.S. Const. art. I, § 2, cl. 5.

<sup>15</sup> *Id.*, art. I, § 3, cl. 6.

ments could be brought against the "President, Vice President, and all Civil Officers of the United States"<sup>16</sup> for "Treason, Bribery, or other high Crimes and Misdemeanors."<sup>17</sup> Conviction meant "removal from Office, and disqualification to hold and enjoy any Office of honor, Trust, or Profit under the United States."<sup>18</sup>

Although the records of the Philadelphia Convention show that the delegates were primarily concerned with the impeachment of Presidents, the proceedings of Congress over the years indicate that impeachment has been utilized principally as a means of removing Federal judges. On only one other occasion prior to the impeachment investigation of President Richard M. Nixon has the impeachment process touched with any degree of seriousness upon the Presidency of the United States. There have been resolutions to impeach, or investigate the possibility of impeaching, at least six Presidents (Richard M. Nixon—1972, 1973, and 1974; Harry S. Truman—1952; Herbert C. Hoover—1932 and 1933; Grover Cleveland—1896; Andrew Johnson—1867 and 1868; and John Tyler—1843), but only the charges against Presidents Johnson and Nixon have been reported to the full body of the House by the committee assigned to consider their propriety.

#### JUDICIAL IMPEACHMENTS

Federal judges have been accused in 9 of the 12 impeachment cases that have reached the floor of the Senate and have constituted the guilty parties in all four of the Senate convictions. Of the five impeachments involving Federal judges which did not result in a conviction, the impeachment trial of Associate Justice of the Supreme Court Samuel Chase is the most famous and controversial. Scholars have long regarded the impeachment of Justice Chase as essentially a move on the part of the Jefferson Administration to set a precedent for ousting Federal judges. Chase was charged on December 4, 1804 with harsh and partisan conduct on the bench and with unfairness to litigants. more than a year after the investigation began, the trial in the Senate concluded with an acquittal.

An impeachment resolution did not again reach the floor of the Senate for a quarter of a century. In 1830, James H. Peck, judge of the United States District Court for the District of Missouri, was impeached but subsequently acquitted of having set an unreasonable and oppressive penalty for contempt of court.

In the century that followed the trial of Judge Peck, three other U.S. district court judges were impeached and then acquitted. In 1904, the House charged that Charles Swayne, U.S. judge for the Northern District of Florida, was living outside his district, had improperly fined a lawyer for contempt, and was using a private railroad car that had been put in the hands of a receiver that he had appointed. Judge Swayne's trial in the Senate ended on February 27, 1904, with votes of acquittal on all articles issued against the accused.

On April 1, 1926, George W. English, U.S. judge for the Eastern District of Illinois, was impeached by the House on charges of partiality, tyranny, and oppression. The following day Judge English re-

<sup>16</sup> *Id.*, art. II, § 4.

<sup>17</sup> *Id.*

<sup>18</sup> *Id.*, art. I, § 3, cl. 7.

signed his office. The Senate, after convening as a court even though English had resigned, dismissed the charges against the judge on December 13, 1926, at the request of the House managers. In 1933, Harold Louderback, U.S. judge for the Northern District of California, was impeached by the House but acquitted by the Senate of favoritism and conspiracy in the appointment of bank receivers.

In the first impeachment conviction by the Senate, John Pickering, U.S. district judge for the district of New Hampshire, who at the time of the impeachment was known to be insane, was removed from office on March 8, 1804, for irregular judicial procedures, loose morals, and drunkenness. Not until the Republic had entered the Civil War was another judge convicted by the Senate. During the War Between the States, the House voted to impeach and the Senate to convict West H. Humphreys, a U.S. judge for the East, Middle, and West Districts of Tennessee, for accepting an appointment as a Confederate judge without having first resigned from his Union judicial assignment.

In the 20th century, there have been two convictions by the Senate. In January 1913, Judge Robert W. Archbald, associate judge of the U.S. Commerce Court, was impeached and convicted of having accepted favors from litigants. The last man to be impeached by the House was the U.S. judge for the Southern District of Florida, Halsted L. Ritter, who was convicted in 1936 by an exact two-thirds majority of the Senate for bringing his court into scandal and disrepute by filing false income tax returns among other specifications.

#### NONJUDICIAL IMPEACHMENTS

The three nonjudicial officials impeached, but not convicted, were Senator William Blount in 1798; William W. Belknap, President Grant's Secretary of War, in 1876; and President Andrew Johnson in 1868.

On July 7, 1798, the House impeached Senator Blount on charges of having conspired to launch a military expedition, with the aid of the British, against Louisiana and Spanish Florida to achieve the transfer of those areas to British control. The Senate, the following day, expelled Blount on the charge that he was "guilty of high misdemeanor, entirely inconsistent with his public trust and duty as a Senator." Six months later, the Senate, on January 17, 1799, voted to dismiss the charges against Blount for lack of jurisdiction.

#### ANDREW JOHNSON

Beginning in the latter days of the second session of the 39th Congress and concluding the 3rd day of the second session of the 40th Congress, the House Judiciary Committee conducted an exhaustive impeachment investigation of President Andrew Johnson. With the conclusion of the committee's inquiry, a recommendation for impeachment was drafted. The House, however, on December 7, 1867, rejected the committee's resolution impeaching the President.

A second inquiry into the President's conduct began with the new year, this time under the direction of the Committee on Reconstruction.

On February 10, 1868, the Reconstruction Committee received the evidence gathered in 1867. Then on February 21, 1868, President Johnson formally dismissed Secretary of War Edwin M. Stanton. The dismissal of Stanton was a direct violation of the Tenure of Office Act of March 2, 1867, which required Senate concurrence in the appointment and removal of members of the Cabinet.

Congressional reaction to Stanton's dismissal was immediate. The day after President Johnson removed Stanton the Committee on Reconstruction recommended impeachment of the President. On February 24, 1868, the House approved the committee's resolution. Subsequently, 11 articles of impeachment were adopted by the House on March 2 and 3, including the charge that the President had criticized Congress in speeches. The principal thrust of the articles, however, related to the dismissal of Stanton. The longest impeachment trial in the Nation's history followed, extending from March 30 to May 26, 1868. In dramatic votes taken on May 16 and May 26, President Johnson was acquitted by a single vote on each of the three articles against him which were presented to the Senate.

#### WILLIAM W. BELKNAP

On March 2, 1876, Secretary of War William W. Belknap was impeached on charges that he had accepted money—\$6,000 a year for several years—for the appointment and retention of an Indian post trader at Fort Sill, Oklahoma. Despite Belknap's resignation a few hours prior to the House vote, articles of impeachment were agreed to a month after the charges had been submitted. In late May 1876, the Senate declared by a vote of 37 to 19 that it had jurisdiction over Belknap regardless of his resignation. A lengthy trial in the Senate concluded with Belknap's acquittal on August 1.

#### THE IMPEACHMENT INVESTIGATION OF RICHARD NIXON

While the details of President Richard M. Nixon's departure from public life may in time slip from memory, the Judiciary Committee's inquiry preceding Mr. Nixon's resignation will leave a lasting impact on the administrations of future Chief Executives.

During the first session of the 93d Congress more than 40 resolutions were introduced in the House of Representatives calling for either the impeachment or an investigation into the possible impeachment of President Richard M. Nixon.<sup>19</sup> Although the October 20, 1973, presidential firing of Special Watergate Prosecutor Archibald Cox precipitated a majority of the resolutions, the specific charges listed against the President confirmed the fact that the dismissal of Mr. Cox was merely the culminating episode in a series of confrontations between the White House and Congress.

Aside from those relating to the firing of Mr. Cox and obstruction of the Watergate investigation, other charges accused President Nixon of:

<sup>19</sup> The first Nixon impeachment resolution offered in the 93d Congress was introduced by Representative Robert F. Drinan (D-Mass.) on July 31, 1973.

- (1) Violating the first amendment in the establishment of the "plumbers" unit.
- (2) Aiding and abetting the "plumbers."
- (3) Concealing the felonies committed by the "plumbers."
- (4) Authorizing Government agencies to violate the constitutional rights of citizens (the so-called "Houston Plan"), knowing the conduct he was authorizing was illegal.
- (5) Obstructing the proper administration of justice in the Ellsberg case.
- (6) Negligently failing to supervise the collection, and permitting illegal use, of campaign funds in his 1972 campaign.
- (7) Illegally impounding \$40 million in funds appropriated by Congress for various domestic programs.
- (8) Dismantling of the Office of Economic Opportunity despite legislation extending its authority until June 30, 1974.
- (9) Usurping the warmaking and appropriation powers of Congress by authorizing the secret bombing of neutral Cambodia and falsification of military reports, and by concealing the bombing from Congress and the American people.

Following the introduction of a series of nine resolutions relating to the impeachment of the President on October 23, 1973, the House Judiciary Committee was formally granted jurisdiction over the inquiry into the charges. By the beginning of the following week, Judiciary Committee Chairman Peter W. Rodino, Jr. had been given the power to issue subpoenas relative to the impeachment investigation. On November 15, 1973, the House passed House Resolution 702 by a vote of 367-51 providing \$1 million for the Judiciary Committee staff investigation into whether proper grounds existed for the impeachment of the President. Organization of a special impeachment inquiry staff began in earnest shortly thereafter.

On February 6, 1974, the House passed House Resolution 803 by a vote of 410-4 authorizing and directing the Judiciary Committee "to investigate fully and completely whether sufficient grounds exist for the House of Representatives to exercise its constitutional power to impeach Richard M. Nixon, President of the United States of America." The resolution also granted subpoena power to the committee, and specifically authorized use of the funds made available under House Resolution 702 to carry out the investigation.

On March 3, 1974, the President's attorney, James D. St. Clair, disclosed before Judge John J. Sirica of the U.S. District Court for the District of Columbia, and principal jurist in the Watergate trials, that President Nixon had decided to provide the Judiciary Committee all the tapes and documents submitted to the Watergate grand jury. But the event overshadowing all else during the month of March had occurred 2 days earlier: seven former White House aides or officials of President Nixon's Reelection Committee were indicted by the Watergate grand jury for Watergate-related activities. Of special significance to the Judiciary Committee was a secret report and a briefcase of evidence gathered by the grand jury allegedly pertaining to President Nixon's possible obstruction of justice in the case. It was the intent of the jury that the report and briefcase be

turned over to the impeachment inquiry staff. Three weeks later on March 26, after district and appellate court decisions, the committee finally received the material.

Meanwhile, the newspapers of the country were flooded with articles addressing the question of exactly what was an impeachable offense. Near the end of February, the constitutional arguments relative to what the Framers of the Constitution meant by the phrase "other high crimes and misdemeanors" in the impeachment clause of article II, section 4, became, at least momentarily, the most important consideration in the inquiry. From the beginning, one of the principal objectives of the impeachment inquiry had been to define the constitutional grounds for impeachment. On March 20, 1974, the Judiciary Committee staff released a study entitled the "Constitutional Grounds for Impeachment," which concluded that a President could be impeached and removed from the office for offenses against the public interest which are not necessarily crimes in the legal sense. A White House staff report released less than a week later argued that only criminal offenses that are found in the Constitution or in the laws of the United States and that are of a serious and public or governmental nature are grounds for impeaching the President. A third staff report on impeachment prepared by the Department of Justice at approximately the same time as the White House and Judiciary reports concluded that there were persuasive arguments for the narrow view that a criminal action is required as well as the broad view that certain noncriminal "political" offenses may justify impeachment. President Nixon had early joined in the discussion on February 25, when he stated, during the course of his first press conference in 4 months, that the Constitution was "very precise" in specifying that impeachment should depend upon proof of criminal conduct.

On April 3, the Joint Committee on Internal Revenue Taxation reported its findings that President Nixon owed \$476,431, including interest, on back taxes for 1969 through 1972.

On April 11, the Judiciary Committee, exercising the power granted to it by House Resolution 803, issued a subpoena to President Nixon. Demanded by the subpoena were tapes and other records of 42 Presidential conversations, which the committee had sought to obtain from the White House for nearly two months. Five days after the issuance of the subpoena, Watergate Special Prosecutor Leon Jaworski asked for a subpoena ordering President Nixon to produce tape recordings, dictabelts, and memos involving 64 White House conversations. Ultimately this request would, on appeal, reach the Supreme Court.

Less than two weeks later, the Judiciary Committee impeachment inquiry staff, in a status report released on April 24, detailed its work since the release of a similar report on March 1 and identified the areas under investigation at that time. Also noted within the report were 12 allegations which the staff felt did not warrant further investigation. Among the items which should be dismissed according to the staff report were the bombing of Cambodia, the dismantling of the Office of Economic Opportunity, and the impoundment of appropriated funds. Allegations considered by the impeachment inquiry staff but not detailed in the report included:

(1) Domestic surveillance activities by or at the direction of the White House.

(2) Intelligence activities conducted by or at the direction of the White House anticipating the Presidential election of 1972.

(3) The Watergate break-in and related activities, including alleged reports by persons in the White House and others to "cover up" such activities, and other related matters.

Allegations continuing to occupy the attention of the impeachment inquiry staff and discussed at some length in the report were:

(4) Improprieties in connection with the personal finances of the President.

(5) Efforts by the White House to use agencies of the executive branch for political purposes, and alleged White House involvement with election campaign contributions.

(6) Illegal campaign contributions received from labor unions.

(7) Illegal campaign contributions received from foreign nationals in exchange for promises of favorable treatment by Government agencies.

President Nixon, in a conciliatory response on April 4, stated that he would pay the back taxes. On the evening of April 29, in a precedent-setting speech to the Nation, the President announced that he would turn over to the House impeachment investigators—and make public—edited transcripts of White House conversations that "will tell it all" and prove him innocent in the Watergate affair. The President further explained that verification of the transcripts could be made by Chairman Rodino and the ranking minority member of the committee, Representative Edward Hutchinson, by their personally listening to the tapes at the White House. If additional questions should still exist, the President would be willing to submit to written interrogatories.

A few hours prior to the President's televised address, the House approved House Resolution 1027 providing an appropriation of \$733,759.31 for continuation of the Judiciary Committee's impeachment inquiry. Two days later, the Judiciary Committee by a narrow vote decided to inform the President by letter that the edited transcripts did not satisfy the demands of the subpoena issued to him on April 11.

On May 7, presidential counsel St. Clair confirmed earlier reports that President Nixon would not comply with further requests for taped White House conversations by either the Special Watergate Prosecutor or the House Judiciary Committee. He told reporters that "the only basis for further requests would be a desire by some to erode the Presidency and the President is not going to stand for it." Less than 48 hours later, the Judiciary Committee opened its hearings to determine whether the President of the United States should be impeached.

For the next 3 months, the committee, meeting in executive session, heard from members of the inquiry staff, presidential counsel St. Clair, who earlier had been granted permission to participate in this phase of the investigation, and a number of witnesses. As events developed amidst these proceedings, the committee on three separate

occasions sought unsuccessfully to subpoena additional White House tapes.

On July 19, 1974, both of the committee's senior counsel argued that by virtue of the evidence presented during the hearings a recommendation for a Senate impeachment trial was warranted.

On the evening of Wednesday, July 24, for the first time in history, formal deliberations of a Congressional committee considering arguments for and against impeachment of an American President were broadcast over the Nation's television and radio networks. Earlier in the day, the Supreme Court by a unanimous vote of 8 to 0 (Associate Justice William H. Rehnquist having disqualified himself from participation in the case) upheld the decision of U.S. District Court Judge John J. Sirica that 64 Watergate tapes requested by Watergate Special Prosecutor Jaworski for use in the September trial of the Watergate defendants had to be released by the White House.

Three days later, on July 27, the Judiciary Committee by a vote of 27 to 11 approved an article of impeachment which specified that President Nixon had personally engaged in a "course of conduct" which "prevented, obstructed and impeded the administration of justice" in the investigation of the Watergate break-in. After a Sunday recess, the committee on Monday, July 29, discussed and then voted 28 to 10 to recommend a second impeachment article in which Mr. Nixon was charged with "repeatedly" engaging in conduct "violating the constitutional rights of citizens, impairing the due and proper administration of justice and the conduct of lawful inquiries, or contravening the laws governing agencies of the executive branch and the purposes of the agencies." A third article approved the following day charged that the President had "failed without lawful cause or excuse" to honor subpoenas issued by the committee.

The text of the resolution and the articles of impeachment adopted by the Committee on the Judiciary stated:

#### RESOLUTION

Impeaching Richard M. Nixon, President of the United States, of high crimes and misdemeanors.

*Resolved.* That Richard M. Nixon, President of the United States, is impeached for high crimes and misdemeanors and that the following articles of impeachment be exhibited to the Senate:

Articles of impeachment exhibited by the House of Representatives of the United States of America in the name of itself and of all of the people of the United States of America, against Richard M. Nixon, President of the United States of America, in maintenance and support of its impeachment against him for high crimes and misdemeanors.

#### ARTICLE I

In his conduct of the office of President of the United States, Richard M. Nixon, in violation of his constitutional oath faithfully to execute the office of President of the United States and, to the best of his ability, preserve, protect, and defend the Constitution of the United States, and in violation of his constitutional duty to take care that the laws be faithfully executed, has prevented, obstructed, and impeded the administration of justice, in that:

On June 17, 1972, and prior thereto, agents of the Committee for the Re-election of the President committed unlawful entry of the headquarters of the Democratic National Committee in Washington, District of Columbia, for the purpose of securing political intelligence. Subsequent thereto, Richard M. Nixon, using the

powers of his high office, engaged personally and through his subordinates and agents, in a course of conduct or plan designed to delay, impede, and obstruct the investigation of such unlawful entry; to cover up, conceal and protect those responsible; and to conceal the existence and scope of other unlawful covert activities.

The means used to implement this course of conduct or plan included one or more of the following:

- (1) making or causing to be made false or misleading statements to lawfully authorized investigative officers and employees of the United States;
- (2) withholding relevant and material evidence or information from lawfully authorized investigative officers and employees of the United States;
- (3) approving, condoning, acquiescing in, and counseling witnesses with respect to the giving of false or misleading statements to lawfully authorized investigative officers and employees of the United States and false or misleading testimony in duly instituted judicial and congressional proceedings;
- (4) interfering or endeavoring to interfere with the conduct of investigations by the Department of Justice of the United States, the Federal Bureau of Investigation, the Office of Watergate Special Prosecution Force, and Congressional Committees;
- (5) approving, condoning, and acquiescing in, the surreptitious payment of substantial sums of money for the purpose of obtaining the silence or influencing the testimony of witnesses, potential witnesses or individuals who participated in such unlawful entry and other illegal activities;
- (6) endeavoring to misuse the Central Intelligence Agency, an agency of the United States;
- (7) disseminating information received from officers of the Department of Justice of the United States to subjects of investigations conducted by lawfully authorized investigative officers and employees of the United States, for the purpose of aiding and assisting such subjects in their attempts to avoid criminal liability;
- (8) making false or misleading public statements for the purpose of deceiving the people of the United States into believing that a thorough and complete investigation had been conducted with respect to allegations of misconduct on the part of personnel of the executive branch of the United States and personnel of the Committee for the Re-election of the President, and that there was no involvement of such personnel in such misconduct; or
- (9) endeavoring to cause prospective defendants, and individuals duly tried and convicted, to expect favored treatment and consideration in return for their silence or false testimony, or rewarding individuals for their silence or false testimony.

In all of this, Richard M. Nixon has acted in a manner contrary to his trust as President and subversive of constitutional government, to the great prejudice of the cause of law and justice and to the manifest injury of the people of the United States.

Wherefore Richard M. Nixon, by such conduct, warrants impeachment and trial, and removal from office.

## ARTICLE II . . .

Using the powers of the office of President of the United States, Richard M. Nixon, in violation of his constitutional oath faithfully to execute the office of President of the United States and, to the best of his ability, preserve, protect, and defend the Constitution of the United States, and in disregard of his constitutional duty to take care that the laws be faithfully executed, has repeatedly engaged in conduct violating the constitutional rights of citizens, impairing the due and proper administration of justice and the conduct of lawful inquiries, or contravening the laws governing agencies of the executive branch and the purposes of these agencies.

This conduct has included one or more of the following:

- (1) He has, acting personally and through his subordinates and agents, endeavored to obtain from the Internal Revenue Service, in violation of the constitutional rights of citizens, confidential information contained in income tax returns for purposes not authorized by law, and to cause, in violation of the constitutional rights of citizens, income tax audits or other income tax investigations to be initiated or conducted in a discriminatory manner.

(2) He misused the Federal Bureau of Investigation, the Secret Service and other executive personnel, in violation or disregard of the constitutional rights of citizens, by directing or authorizing such agencies or persons to conduct or continue electronic surveillance or other investigations for purposes unrelated to national security, the enforcement of laws, or any other lawful function of his office; he did direct, authorize, or permit the use of information obtained thereby for purposes unrelated to national security, the enforcement of laws, or any other lawful function of his office; and he did direct the concealment of certain records made by the Federal Bureau of Investigation of electronic surveillance.

(3) He has, acting personally and through his subordinates and agents, in violation or disregard of the constitutional rights of citizens, authorized and permitted to be maintained a secret investigative unit within the Executive Office of the President, financed in part with money derived from campaign contributions, which unlawfully utilized the resources of the Central Intelligence Agency, engaged in covert and unlawful activities, and attempted to project the constitutional right of an accused to a fair trial.

(4) He has failed to take care that the laws were faithfully executed, failing to act when he knew or had reason to know that his close subordinates endeavored to impede and frustrate lawful inquiries by duly constituted executive, judicial, and legislative entities concerning the unlawful entry into the headquarters of the Democratic National Committee, and the cover-up thereof, and concerning other unlawful activities, including those relating to the confirmation of Richard Kleindienst as Attorney General of the United States, the electronic surveillance of private citizens, the break-in into the offices of Dr. Lewis Fielding, and the campaign financing practices of the Committee to Re-elect the President.

(5) In disregard of the rule of law, he knowingly misused the executive power by interfering with agencies of the executive branch, including the Federal Bureau of Investigation, the Criminal Division, and the Office of the Watergate Special Prosecution Force, of the Department of Justice, and the Central Intelligence Agency, in violation of his duty to take care that the laws be faithfully executed.

In all of this, Richard M. Nixon has acted in a manner contrary to his trust as President and subversive of constitutional government, to the great prejudice of the cause of law and justice and to the manifest injury of the people of the United States.

Wherefore Richard M. Nixon, by such conduct, warrants impeachment, trial, and removal from office.

#### ARTICLE III

In his conduct of the office of President of the United States, Richard M. Nixon, contrary to his oath faithfully to execute the office of President of the United States and, to the best of his ability, preserve, protect, and defend the Constitution of the United States, and in violation of his constitutional duty to take care that the laws be faithfully executed, has failed without lawful cause or excuse to produce papers and things as directed by duly authorized subpoenas issued by the Committee on the Judiciary of the House of Representatives on April 11, 1974, May 15, 1974, May 30, 1974, and June 24, 1974, and willfully disobeyed such subpoenas. The subpoenaed papers and things were deemed necessary by the Committee in order to resolve by direct evidence fundamental, fact-based questions relating to Presidential direction, knowledge, or approval of activities demonstrated by other evidence to be substantial grounds for impeachment of the President. In refusing to produce these papers and things, Richard M. Nixon substituted his judgment as to what materials were necessary for the inquiry of the House of Representatives against the lawful subpoenas of the House of Representatives, thereby assuming to himself functions and judgments necessary to the exercise of the sole power of impeachment vested by the Constitution in the House of Representatives.

In all of this, Richard M. Nixon has acted in a manner contrary to his trust as President and subversive of constitutional government, to the great prejudice of the cause of law and justice, and to the manifest injury of the people of the United States.

Wherefore Richard M. Nixon, by such conduct, warrants impeachment, trial, and removal from office.

Having completed the hearing phase of its impeachment inquiry before a TV audience estimated unofficially at 70 million viewers, the committee began the task of drafting a report supporting the articles which would be presented to the full membership of the House within approximately two and a half weeks.

As the leadership of the House began preparations for a floor debate on the articles of impeachment, events during the first 9 days of August ended the Nixon Presidency. The month began with pronouncements from the White House that the President would continue his "political struggle." On August 5, however, Nixon's remaining support in Congress began to crumble following his disclosure that 6 days after the Watergate burglary he had ordered a halt to the investigation of the break-in for political as well as national security reasons and he had kept this information from his lawyers and supporters on the Judiciary Committee. In the face of resignation demands by his strongest supporters, President Nixon the following morning told his cabinet that he did not intend to resign and believed that the constitutional process should be allowed to run its course.

By August 7, the principal topic of discussion in Washington was when, not if, the President would resign. That afternoon, the President met with Senate Minority Leader Hugh Scott, Senator Barry Goldwater, and House Minority Leader John J. Rhodes to discuss his precarious position. Apparently the President's decision to resign was solidified later that evening.

In a televised speech from the oval office, Mr. Nixon, at 9 o'clock the following evening, announced that he intended to resign as President of the United States because "it is evident to me that I no longer have a strong enough political base in the Congress to justify [the] effort [to stay in office]." He made no mention of impeachment, but the significance of the Judiciary Committee investigation was self-evident.

President Nixon formally resigned in a letter to the Secretary of State some 14 hours later, shortly after 11:30 a.m. on August 9, 1974. Gerald Rudolph Ford automatically became the Nation's 38th President at that time. Minutes later President Ford was formally sworn in by Chief Justice of the Supreme Court Warren E. Burger. President Ford observed to those gathered for his inauguration that "our long national nightmare is over. Our Constitution works. Our great Republic is a government of laws and not of men."

By choosing to resign rather than face almost sure impeachment by the House and possible conviction in the Senate, Mr. Nixon brought to an end the Congressional proceedings surrounding Watergate. Eleven days after President Ford assumed the Presidency, the House of Representatives formally concluded the impeachment inquiry of Richard M. Nixon by overwhelmingly accepting the Judiciary Committee's report recommending impeachment by a vote of 412 to 3.

A calm settled over the White House and the Nation for the first month of the Ford administration. On the morning of Sunday, September 8, however, President Ford announced that he was granting a full and unconditional pardon to former President Nixon for any Federal crimes he may have committed while in office. A tremendous out-

pouring of public and Congressional criticism ensued and some Congressmen even suggested that formal impeachment proceedings against Mr. Nixon should be reopened. Judiciary Committee Chairman Rodino, however, declared the next day that "impeachment is dead" and said he had no intention of renewing the inquiry.

## **The Committee and Vice Presidential Nominations Under the 25th Amendment**

When Spiro Agnew resigned as Vice President on October 10, 1973, the Nation was without a Vice President for the 17th time in its history. For the first time, however, the contingency of such a vacancy had been addressed by the Constitution.

The Twenty-fifth Amendment to the Constitution had been adopted by the Congress in 1965 and ratified by the States in 1967. Section 2 of the amendment provides:

Whenever there is a vacancy in the Office of the Vice President, the President shall nominate a Vice President who shall take office upon confirmation by a majority vote of both Houses of Congress.

Acting under the mandate of the amendment, the Speaker of the House referred to the full Judiciary Committee the matter of President Nixon's nomination of Gerald Ford to be the 40th Vice President. Within 24 hours of that nomination, the committee had assembled an experienced investigative team to pursue an exhaustive inquiry into Mr. Ford's qualifications and fitness for high office.

The inquiry was conducted both in Washington and in Grand Rapids, Mich., the nominee's home town. Every agency of the Federal Government was contacted and a request went out for all files in their possession relating to the nominee. The Judiciary Committee staff assembled voluminous materials regarding relevant financial and personal considerations, conducted an independent audit of the nominee's tax returns and interviewed hundreds of individuals as part of its investigation.

Between November 15 and November 26, the full committee held 6 days and one evening of hearings into the nomination, receiving testimony from a dozen witnesses, including Mr. Ford on four separate occasions.

On Thursday, November 29, after receiving more than 36 hours of testimony, the committee voted to report the nomination favorably to the full House, which agreed to the nomination on December 6.

One year later, on December 19, 1974, the full House confirmed President Ford's nomination of Nelson Rockefeller to be Vice President.

The Rockefeller nomination had been referred to the Judiciary Committee on August 20, 1974, and extensive investigative efforts and thorough hearings by the committee followed referral. A hearing record of more than 1,400 pages covering 9 days and several evenings of public testimony by two dozen witnesses was compiled before the committee made its favorable recommendation to the House on December 12, 1974.