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The Impeachment Inquiry: Its Meaning

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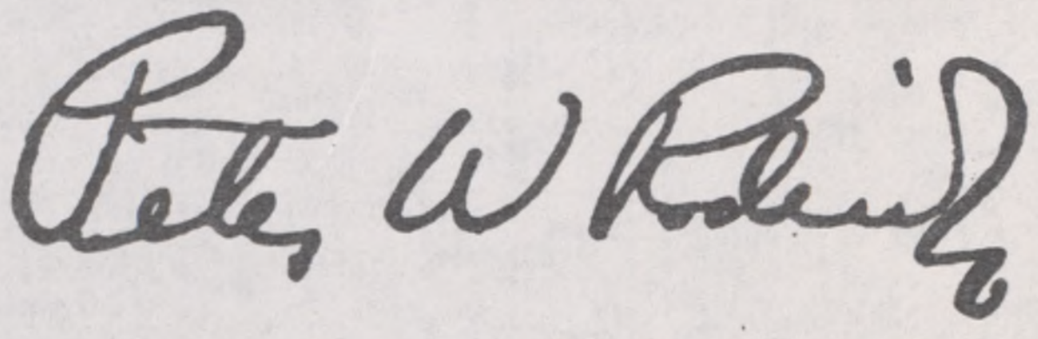
Foreword

For the first time in over one hundred years, the House of Representatives has voted to conduct an inquiry to determine whether or not the President of the United States should be impeached.

In the course of recent months, the Committee on the Judiciary has issued a series of extensive legal publications describing the constitutional and procedural bases of the impeachment process in the United States. The response to these publications has been enormous.

At the same time, the committee continues to receive innumerable requests for a concise and simplified explanation of the impeachment inquiry that has been undertaken. For that reason, I am pleased to make available this brief description of the work being done in the House of Representatives.



PETER W. RODINO, JR.

MARCH 22, 1974.

The Impeachment Inquiry: Its Meaning

For the first time in over one hundred years, the House of Representatives has voted to conduct an inquiry to determine whether or not the President of the United States should be impeached. A number of impeachment resolutions were introduced by Members of the House in the first session of the 93d Congress. They were referred to the Judiciary Committee by the Speaker. Judiciary Committee Chairman Peter W. Rodino, Jr., in speaking to the House of Representatives on February 6, 1974, recognized the seriousness of the Impeachment Inquiry when he said:

> These are extremely grave questions, which seriously preoccupy the country. We cannot turn away, out of partisanship or convenience, from problems that are now our responsibility, our inescapable responsibility to consider. It would be a violation of our own public trust if we, as the people's representatives, chose not to inquire, not to consult, not even to deliberate, and then to pretend that we had not by default, made choices.
>
> We stand in such a position now. And—whatever the result—we are going to be just, and honorable, and worthy of the public trust.
>
> Our responsibility in this is clear. "The House of Representatives," the Constitution says, in Article I; Section 2, Clause 5, "shall have the sole Power of Impeachment."

What Does the Constitution Say About Impeachment?

Article II, Section 4 of the Constitution provides that:

> The President, Vice President and all civil Officers of the United States, shall be removed from Office on Impeachment for, and Conviction of, Treason, Bribery, or other high Crimes and Misdemeanors.

Article I, Section 2 of the Constitution states that:

> The House of Representatives . . . shall have the sole Power of Impeachment.

And, Article I, Section 3 of the Constitution describes the Senate's role:

> The Senate shall have the sole Power to try all Impeachments. When sitting for that Purpose, they shall be on Oath or Affirmation. When the President of the United States is tried, the Chief Justice shall preside: And no Person shall be convicted without the Concurrence of two thirds of the Members present.

> Judgment in Cases of Impeachment shall not extend further than to removal from Office, and disqualification to hold and enjoy any Office of Honor, Trust or Profit under the United States: but the Party convicted shall nevertheless be liable and subject to Indictment, Trial, Judgment and Punishment, according to Law.

Other provisions of the Constitution deny the President the power to grant reprieves and pardons in cases of impeachment (Article II, Section 2), and deny the right to trial by jury in cases of impeachment (Article III, Section 2).

What Does the Constitution Mean by Impeachment?

Impeachment is a process by which the House of Representatives charges the President, Vice President, or civil officers of the United States with misconduct. The charge of misconduct is made by a majority vote of the House. If the House does not think that grounds for impeachment exist, it will not vote to impeach. If, however, a majority of the House believes that there are such grounds, it will vote for impeachment. A vote to impeach is followed by a trial in the Senate.

After the trial, if two-thirds of the Members present in the Senate vote to convict, the officer is removed from office and may be disqualified from holding any other office in the Government. Conviction by the Senate, however, does not bar subsequent indictment, trial, or judgment of the convicted officer in a court of law.

Have Any Federal Officials Ever Been Impeached?

During our Nation's history, only thirteen impeachments have been voted by the House, including the impeachment of President Andrew Johnson in 1868. In two instances, the impeached officer resigned prior to trial and the matter was not pursued further. Of the eleven impeachments tried in the Senate, four resulted in convictions. All four of these convictions were of Federal judges.

Why Is the Judiciary Committee Conducting the Impeachment Inquiry?

Traditionally impeachment resolutions have been introduced by Members of the House of Representatives and referred for investigation either to a select committee appointed for that purpose, or to one of the standing committees of the House of Representatives. In recent years impeachment resolutions customarily have been referred to the House Judiciary Committee.

In recent months several resolutions calling for the impeachment of President Nixon have been introduced on the floor of the House by various Members and have been referred by the Speaker of the House to the Judiciary Committee. The chairman of the committee is Peter W. Rodino, Jr., a Democrat from New Jersey. The committee has seventeen Republican and twenty-one Democratic members. The composition of the committee generally follows the ratio of Democrats to Republicans in the House of Representatives. All committee members are lawyers.

What Has the Judiciary Committee Been Doing?

Chairman Rodino of the Judiciary Committee requested and the House appropriated funds for the impeachment inquiry. To assist the committee in conducting the inquiry and discharging its responsibilities to the House, the committee appointed John Doar as its special counsel. Albert Jenner was appointed special counsel for the Republican minority Members. A staff of 43 lawyers has been employed to pursue the inquiry and to assist the Judiciary Committee in its investigation.

On February 6, 1974, the House by resolution authorized and directed 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. The committee shall report to the House of Representatives such resolutions, articles of impeachment or other recommendations as it deems proper.

The House adopted this resolution by a vote of 410 to 4. The resolution specifically authorizes broad subpena powers for the committee's use in the conduct of the investigation.

In offering the impeachment resolution on behalf of the Judiciary Committee on February 6, Chairman Rodino further stated:

> It has been said that our country, troubled by too many crises in recent years, is too tired to consider this one. In the first year of the Republic, Thomas Paine wrote: "Those who expect to reap the blessings of freedom must, like men, undergo the fatigue of supporting it." For almost two hundred years, Americans have undergone the stress of preserving their freedom and the Constitution that protects it. It is our turn now.
>
> We are going to work expeditiously and fairly. When we have completed our inquiry, whatever the result, we will make our recommendations to the House. We will do so as soon as we can, consistent with principles of fairness and completeness.
>
> Whatever the result, whatever we learn or conclude, let us now proceed, with such care and decency and thoroughness and honor that the vast majority of the American people, and their children after them, will say: That was the right course. There was no other way.

What if the Judiciary Committee Does Not Recommend That the President Be Impeached?

At the conclusion of its inquiry, the Committee on the Judiciary will report to the House of Representatives such resolutions, articles of impeachment, or other recommendations as it deems proper. It is the prerogative of the House to accept or reject any recommendation

made to it by one of its committees. If the committee does not recommend impeachment, the House still can impeach by majority vote.

What Happens if the Judiciary Committee Recommends That the President Be Impeached?

If the Judiciary Committee submits articles of impeachment against the President, the House of Representatives will debate the question on the floor of the House. Under the rules governing the order of business in the House, a direct proposition to impeach is a matter of high privilege and supersedes other business. At the end of the debate, each Member of the House will have the opportunity to vote either for or against impeachment.

If the House Votes for Impeachment, What Happens Next?

If a majority of the Members voting favor impeachment of the President, a committee of Members is selected by the Speaker of the House to inform the Senate of the House's vote. A delegation of Representatives from the House, known as "Managers," prosecutes the case before the Senate. The Chief Justice of the United States Supreme Court presides over the trial. The actual conduct of the trial is governed by the Senate's rules of procedures for impeachment trials.

What Happens to the President if the House Impeaches Him?

Impeachment is only a charge of misconduct. Only if the President were convicted of the charges by the Senate, would he be removed from office. But up until the time he is actually convicted by the Senate, he remains the Chief Executive of our Government, charged with seeing to it that the laws are faithfully executed.

Conclusion

Impeachment is a remedy adopted by the framers of our Constitution from the English parliamentary practice. Its use had been important in developing the English constitution through limiting the powers of the King, and the framers saw in it an appropriate method to limit the President to the role established for him by the Constitution. Clearly, the impeachment process was intended to be used only in cases of grave abuse of the power entrusted to the President by the people.

It is the function of the Judiciary Committee to inquire, on behalf of the House, whether there has been such abuse, and to report the results of its inquiry to the House of Representatives.

The Judiciary Committee hopes that this pamphlet will promote a better understanding of the nature and scope of the impeachment process and the procedures which the House of Representatives follows in meeting its constitutional obligations.

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