

Remarks of Wayne Owens
Before the House Committee on the Judiciary
Investigating the Impeachment of President William Clinton
December 8, 1998

Mr. Chairman, Ladies and Gentlemen of the Committee:

We appear before you this afternoon as three ghosts of impeachment past. Thank you for the privilege of addressing this distinguished Committee on this subject of utmost gravity and importance. I am among those who believe that, except for declaring war, Congress makes no more serious or far reaching decision than impeachment and removal of an American President. I do not envy you this responsibility.

I remember keenly this afternoon how I felt 25 years ago when I learned, while deer hunting in the mountains of Southern Utah, of the so-called Saturday night massacre, the firing by President Nixon of Attorney General Eliot Richardson, of Deputy Attorney General William Ruckelshaus, and then of Special Prosecutor Archibald Cox. I had been following the revelations of the Senate Watergate Committee for six months. It was obvious that Sunday morning that the House would be required to pursue an impeachment investigation, and that my Committee, the Judiciary Committee would be called to conduct that investigation.

I think that I was initially in awe of the assignment, almost intimidated. No President had been called to account before the Congress in 100 years. History would be looking over our shoulder, and we wanted, from Chairman Peter Rodino on down, to be sure that we were careful, judicial and bi-partisan in all that we did. While we recognized that impeachment is a political process, we were determined that it would not be ~~partisan~~ partisan, and we reported unanimously our recommendation to the House that the investigation go forward -- all 21 Democrats and 17 Republicans -- and it was accepted by the full House by a vote of 410 to 4.

So we are aware, I think, of your feelings as you approach the decisions you must make. Chairman Hyde indicated early on that the precedents of the Nixon Impeachment would be followed closely, and my

assigned task this afternoon is to argue to you that President Clinton's misdeeds do not reach the standard of impeachment which our Committee established.

What was that standard? We defined impeachment in our final report as: "...a constitutional remedy addressed to serious offenses against the system of government." Ten Republican members of the Committee, in a minority report, argued for a higher standard of judgment, saying: "...the President should be removable by the Legislative Branch only for serious misconduct dangerous to the system of government established by the Constitution." The man who is now the Senate Majority Leader, then Congressman Trent Lott, a member of the Committee, was one of the ten arguing for that higher standard.

I want to recall for you briefly the circumstances surrounding the adoption of the so-called "Abuse of Power" Article of Impeachment in late July, 1974. The Committee had just passed the first article, referred to as the Obstruction of Justice Article, by a solid vote of 21 Democrats and 6 of the 17 Republicans.

Proposed Article of Impeachment # 2, after serious consideration and debate, was passed by an even larger majority. A total of 7 Republicans joined 21 Democrats, finding that President Nixon had violated the constitutional rights of citizens, in five specific instances of abuse of his powers, and voted to report the Article to the floor for full House consideration.

I urge you to consider carefully the gravity of those charges, which an overwhelming and bi-partisan majority of the Committee found to be sustained by clear and convincing evidence. It was obvious to us that President Nixon had:

1. Directed or authorized his subordinates to interfere with the impartial and non-political administration of the internal revenue law for political purposes,
2. Directed or authorized unlawful electronic surveillance and investigations of citizens and the use of information obtained from the surveillance for his own political advantage,

3. Permitted a secret investigative unit within the office of the President to engage in unlawful and covert activities for his political purposes,

4. Once these and other unlawful and improper activities on his behalf were suspected, and after he knew or had reason to know that his close subordinates were interfering with lawful investigations into them, he failed to perform his duty to see that the criminal laws were enforced against those subordinates, and

5. He used his executive power to interfere with the lawful operations of agencies of the Executive branch, including the Department of Justice and the Central Intelligence Agency, in order to assist in these activities, as well as to conceal the truth about his misconduct and that of his subordinates and agents.

Today you are faced with the record of misdeeds by a President who carried on an illicit sexual affair, then publicly and privately misled others to protect his wife and daughter, and the public, from finding out about his infidelity. Personal, not official, misconduct, akin to President Nixon cheating on his taxes -- improper and serious, but by nature personal misconduct and therefore not impeachable.

Your obligation, may I be permitted to point it out, is to put those powerful differences into perspective and to render a judgment based solely on the gravity of the offense, because there is little disagreement on the facts.

I know that it is said that impeachment is a political, not a legal, decision. But if you vote to impeach a president because he had an improper sexual affair, then avoided full disclosure by using narrow legal definitions, even then affirming that testimony before a grand jury, if you impeach on that narrow base of personal -- not official misconduct -- you do untold damage to the Constitution and to the stability of future presidents.

Our forefathers wisely intended that only abuses of official presidential powers should be the premise for impeachment, and Ladies and Gentlemen, there is no evidence of such abuses before the Committee -- none.

In closing, may I quote again briefly from the Minority Views of those Ten House Judiciary Committee Republicans, already cited: “Absent the element of danger to the State, we believe the delegates to the Federal Convention of 1787, in providing that the President should serve for a fixed

elective term rather than during good behavior or popularity, struck the balance in favor of stability in the Executive Branch.”

Thank you.