

D. HISTORY OF PROCEEDINGS

§ 14. Charges Not Resulting in Impeachment

The following is a compilation of impeachment charges made from 1932 to the present which did not result in impeachment by the House.

Cross References

Committee reports adverse to impeachment, their privilege and consideration, see §§ 7.8–7.10, 8.2, *supra*.

House proceedings against Associate Justice Douglas, discussion in the House, and portions of final subcommittee report relative to grounds for impeachment of federal judges, see §§ 3.9–3.13, *supra*.

House proceedings on impeachment discontinued against President Nixon, following his resignation, see § 15, *infra*.

Resignations and effect on impeachment and trial, see § 2, *supra*.

Trial of Judge English dismissed following his resignation, see § 16, *infra*.

Charges Against Secretary of the Treasury Mellon

§ 14.1 In the 72d Congress a Member rose to a question of constitutional privilege, impeached Secretary of the Treasury Andrew Mellon, and submitted a resolution authorizing the Committee on the Judiciary to inves-

tigate the charges, which resolution was referred to the Committee on the Judiciary.

On Jan. 6, 1932, Mr. Wright Patman, of Texas, rose to impeach Mr. Mellon, Secretary of the Treasury:

IMPEACHMENT OF ANDREW W. MELLON,
SECRETARY OF THE TREASURY

MR. PATMAN: Mr. Speaker, I rise to a question of constitutional privilege. On my own responsibility as a Member of this House, I impeach Andrew William Mellon, Secretary of the Treasury of the United States for high crimes and misdemeanors, and offer the following resolution:

Whereas the said Andrew William Mellon, of Pennsylvania, was nominated Secretary of the Treasury of the United States by the then Chief Executive of the Nation, Warren G. Harding, March 4, 1921; his nomination was confirmed by the Senate of the United States on March 4, 1921; he has held said office since March 4, 1921, without further nominations or confirmations.

Whereas section 243 of title 5 of the Code of Laws of the United States provides:

“Sec. 243. Restrictions upon Secretary of Treasury: No person appointed to the office of Secretary of the Treasury, or Treasurer, or register, shall directly or indirectly be concerned or interested in carrying on the business of trade or commerce, or be owner in whole or in part of any sea vessel, or purchase by himself, or another in trust for him, any public lands or other public property, or be concerned in the purchase or disposal of any public secu-

rities of any State, or of the United States, or take or apply to his own use any emolument or gain for negotiating or transacting any business in the Treasury Department other than what shall be allowed by law; and every person who offends against any of the prohibitions of this section shall be deemed guilty of a high misdemeanor and forfeit to the United States the penalty of \$3,000, and shall upon conviction be removed from office, and forever thereafter be incapable of holding any office under the United States; and if any other person than a public prosecutor shall give information of any such offense, upon which a prosecution and conviction shall be had, one-half the aforesaid penalty of \$3,000 when recovered shall be for the use of the person giving such information.

Whereas the said Andrew William Mellon has not only been indirectly concerned in carrying on the business of trade and commerce in violation of the above-quoted section of the law but has been directly interested in carrying on the business of trade and commerce in that he is now and has been since taking the oath of office as Secretary of the Treasury of the United States the owner of a substantial interest in the form of voting stock in more than 300 corporations with resources aggregating more than \$3,000,000,000, being some of the largest corporations on earth, and he and his family and close business associates in many instances own a majority of the stock of said corporations and, in some instances, constitute ownership of practically the entire outstanding capital stock; said corporations are engaged in the business of trade and commerce in every State, county, and village in the United States, every country in the world, and upon the Seven Seas; said corporations are extensively engaged in the following businesses: Mining prop-

erties, bauxite, magnesium, carbon electrodes, aluminum, sales, railroads, Pullman cars, gas, electric light, street railways, copper, glass, brass, steel, tar, banking, locomotives, water power, steamship, shipbuilding, oil, coke, coal, and many other different industries; said corporations are directly interested in the tariff, in the levying and collections of Federal taxes, and in the shipping of products upon the high seas; many of the products of these corporations are protected by our tariff laws and the Secretary of the Treasury has direct charge of the enforcement of these laws.

MELLON'S OWNERSHIP OF SEA VESSELS AND CONTROL OF UNITED STATES COAST GUARD

Whereas the Coast Guard (sec. 1, ch. 1, title 14, of the United States Code) is a part of the military forces of the United States and is operated under the Treasury Department in time of peace; that the Secretary of the Treasury directs the performance of the Coast Guard (sec. 51, ch. 1, title 14, of the Code of Laws of the United States); that officers of the Coast Guard are deemed officers of the customs (sec. 6, ch. 2, title 14, United States Code), and it is their duty to go on board the vessels which arrive within the United States, or within 4 leagues of the coast thereof, and search and examine the same, and every part thereof, and shall demand, receive, and certify the manifests required to be on board certain vessels shall affix and put proper fastenings on the hatches and other communications with the hold of any vessel, and shall remain on board such vessels until they arrive at the port of their destination; that the said Andrew William Mellon is now, and has been since becoming Secretary of the Treasury, the owner in whole or in part of many sea vessels operating to and from the United States, and in competition

with other steamship lines; that his interest in the sea vessels and his control over the Coast Guard represent a violation of section 243 of title 5 of the Code of Laws of the United States.

CUSTOMS OFFICERS

Whereas the Secretary of the Treasury of the United States superintends the collection of the duties on imports (sec. 3, ch. 1, title 19, Code of Laws of the United States); he establishes and promulgates rules and regulations for the appraisement of imported merchandise and the classification and assessment of duties thereon at various ports of entry (sec. 382, ch. 3, title 19, Code of Laws of United States); that the present Secretary of the Treasury, Andrew W. Mellon, is now and has been since becoming Secretary of the Treasury personally interested in the importation of goods, wares, articles, and merchandise in substantial quantities and large amounts; that it is repugnant to American principles and a violation of the laws of the United States for such an officer to hold the dual position of serving two masters—himself and the United States.

OWNERSHIP OF SEA VESSELS

Whereas the said Andrew W. Mellon is now, and has been since becoming Secretary of the Treasury of the United States, holding said office in violation of that part of section 243 of title 5 of the Code of Laws of the United States, which provides that "no person appointed to the office of Secretary of the Treasury . . . shall be the owner in whole or in part of any sea vessel," in that he was and is now the owner in whole or in part of the following sea vessels:

Registered in Norway: *Austvangen, Nordvangen, Sorvangen, Vestvangen.*

Venezuelan flag: 14 tankers, of 36,654 gross tons.

United States flag: *S. Haiti*; 13 general cargo vessels, *Conemaugh, Gulf of Mexico, Gulfbird, Gulfcoast, Gulfgem, Gulfking, Gulfprince, Gulfstar, Gulfstream, Gulfwax, Harmony, Ligonier, Ohio, Susquehanna, Winifred, Currier, Gulf of Venezuela, Gulf breeze, Gulfcrest, Gulphawk, Gulfland, Gulfmaid, Gulfpenn, Gulfpride, Gulfqueen, Gulfstate, Gulftrade, Gulfwing, Juniata, Monongahela, Supreme, Trinidadian.*

INCOME TAXES PAID BY MELLON COMPANIES AND REFUNDS MADE TO THEM—BY HIMSELF

Whereas section 1 (2), chapter 1, title 26, of the Code of laws of the United States, provides "The Commissioner of Internal Revenue, under the direction of the Secretary of the Treasury, shall have general superintendence of the assessment and collection of all duties and taxes imposed by any law providing internal revenue. . . ." The tax laws of the United States, including the granting of refunds, credits, and abatements, are administered in secret under the direction of the Secretary of the Treasury; that income-tax returns and evidence upon which refunds are made, or granted, to taxpayers are not subject to public inspection; that under the direction of the present Secretary of the Treasury, Andrew W. Mellon, many hundred corporations that are substantially owned by him annually make settlement for their taxes and many such corporations have been granted under his direction large tax refunds amounting to tens of millions of dollars.

OWNERSHIP OF BANK STOCK

Whereas section 244, chapter 3, title 12, of the Code of Laws of the United States, provides:

"Sec. 244. Chairman of the board; qualifications of members; vacancies.—The Secretary of the Treasury shall be ex officio chairman of the Federal Reserve Board. No member of the Federal Reserve Board shall be an officer or director of any bank, banking institution, trust company, or Federal reserve bank, nor hold stock in any bank, banking institution, or trust company. . . .

That the present Secretary of the Treasury, Andrew W. Mellon, is now and has been since-becoming Secretary of the Treasury the owner of stock in a bank, banking institution, and trust company in violation of this law.

WHISKY BUSINESS

Whereas the said Andrew W. Mellon has held the office of Secretary of the Treasury in violation of section 243 of title 5 of the Code of Laws of the United States, in that from March 4, 1921, to October 2, 1928, he was interested in and received his share of the proceeds and profits from the sale of distilled whisky, which said whisky was sold as a commodity in trade and commerce.

ALUMINUM IN PUBLIC BUILDINGS

Whereas the said Andrew W. Mellon has further violated the law which prohibits the Secretary of the Treasury from being directly or indirectly interested or concerned in the carrying on of business or trade or commerce, in that as Secretary of the Treasury he controls the construction and maintenance of public buildings; the Office of the Supervising Architect is subject to the direction and approval of the Secretary of the Treasury; the duties performed by the Supervising Architect

embrace the following: Preparation of drawings, estimates, specifications, etc., for and the superintendence of the work of constructing, rebuilding, extending, or repairing public buildings; under the supervision of the Supervising Architect and subject to the direction and approval of the Secretary of the Treasury the Government of the United States has spent and will soon spend several hundred million dollars in the construction of public buildings. The said Andrew W. Mellon is the principal owner and controls the Aluminum Co. of America, which produces and markets practically all of the aluminum in the United States used for all purposes. The said Andrew W. Mellon has, while occupying the position as Secretary of the Treasury, directly interested himself in the carrying on and promotion of the business of the Aluminum Co. of America by causing to be published in Room 410 of the Treasury Building of the United States, located between the United States Capitol and the White House, a magazine known as the Federal Architect, published quarterly, which carries the pictures of public buildings in which aluminum is used in their construction and carries articles concerning the use of aluminum in architecture which suggest how aluminum can be used for different purposes in the construction of public buildings for the purpose of convincing the architects who draw the plans and specifications for public buildings that aluminum can and should be used for certain construction work and ornamental purposes. The use of aluminum in the construction of public buildings displaces materials which can be purchased on competitive bids, whereas the Aluminum Co. of America holds a monopoly and has no competitors. Said magazine is published by employees of the United States Government in the Office of the Supervising

Architect and distributed to the architects of the Nation, many of whom have been or will be employed by the Supervising Architect to draw plans and specifications for public buildings in their local communities. More aluminum is now being used in the construction of public buildings, under the direction of the Secretary of the Treasury, than has ever before been used, as a result of this advantage.

MELLON INTEREST IN SOVIET UNION
(RUSSIA)

Whereas section 140 of title 19 of the Code of Laws of the United States provides—

“Sec. 140. Goods manufactured by convict labor prohibited.—All goods, wares, articles, and merchandise manufactured wholly or in part in any foreign country by convict labor shall not be entitled to entry at any of the ports of the United States, and the importation thereof is prohibited, and the Secretary of the Treasury is authorized and directed to prescribe such regulations as may be necessary for the enforcement of this provision”—

charges are now being made that goods, wares, articles, and merchandise are being transported to the United States from the Soviet Union (Russia) in violation of this act; the present Secretary of the Treasury, Andrew W. Mellon, whose duty it is to enforce this provision of the law, is one of the principal owners of the Koppers Co., a company with resources amounting to \$143,379,352, which is carrying on trade and commerce in all parts of the world; that said company during the year 1930 made a contract with the Soviet Union whereby the Koppers Co. obligated itself to build coke ovens and steel mills in the Soviet Union aggregating in value \$200,000,000, in furtherance of the Soviet's 5-year plan; that said contract is now being car-

ried into effect, and the said Andrew W. Mellon is financially interested in its success; that his interest in this contract with the Soviet Union destroys his impartiality as an officer of the United States to enforce the above-quoted law; his interest in said company, which is engaged in the business of carrying on trade and commerce, disqualifies him as Secretary of the Treasury under section 243 of title 5 of the Code of Laws of the United States and makes him guilty of a high misdemeanor and subject to impeachment: Therefore be it

Resolved, That the Committee on the Judiciary is authorized and directed, as a whole or by subcommittee, to investigate the official conduct of Andrew W. Mellon, Secretary of the Treasury, to determine whether, in its opinion, he has been guilty of any high crime or misdemeanor which, in the contemplation of the Constitution, requires the interposition of the constitutional powers of the House. Such committee shall report its findings to the House together with such resolution of impeachment or other recommendation as it deems proper.

Sec. 2. For the purposes of this resolution, the committee is authorized to sit and act during the present Congress at such times and places in the District of Columbia or elsewhere, whether or not the House is sitting, has recessed, or has adjourned, to hold such hearings, to employ such experts, and such clerical, stenographic, and other assistants, to require the attendance of such witnesses and the production of such books, papers, and documents, to take such testimony, to have such printing and binding done, and to make such expenditures not exceeding \$5,000, as it deems necessary.

MR. [JOSEPH W.] BYRNS [of Tennessee]: Mr. Speaker, I move that the articles just read be referred to the

Committee on the Judiciary, and upon that motion I demand the previous question.

The previous question was ordered.

THE SPEAKER:⁽²⁾ The question is on the motion of the gentleman from Tennessee, that the articles be referred to the Committee on the Judiciary.

The motion was agreed to.⁽³⁾

§ 14.2 The House discontinued by resolution further proceedings of impeachment against Secretary of the Treasury Andrew Mellon, after he had been nominated and confirmed for another position and had resigned his Cabinet post.

On Feb. 13, 1932, Mr. Hatton W. Sumners, of Texas, presented House Report No. 444 and House Resolution 143, discontinuing proceedings against Secretary of the Treasury Mellon:

IMPEACHMENT CHARGES—REPORT
FROM COMMITTEE ON THE JUDICIARY

MR. SUMNERS of Texas: Mr. Speaker, I offer a report from the Committee on the Judiciary, and I would like to give notice that immediately upon the reading of the report I shall move the previous question.

THE SPEAKER:⁽⁴⁾ The gentleman from Texas offers a report, which the Clerk will read.

2. John N. Garner (Tex.).
3. 75 CONG REC. 1400 72d Cong. 1st Sess.
4. John N. Garner (Tex.).

The Clerk read the report, as follows:

HOUSE OF REPRESENTATIVES—RELATIVE TO THE ACTION OF THE COMMITTEE ON THE JUDICIARY WITH REFERENCE TO HOUSE RESOLUTION 92

Mr. Sumners of Texas, from the Committee on the Judiciary, submitted the following report (to accompany H. Res. 143):

I am directed by the Committee on the Judiciary to submit to the House, as its report to the House, the following resolution adopted by the Committee on the Judiciary indicating its action with reference to House Resolution No. 92 heretofore referred by the House to the Committee on the Judiciary:

Whereas Hon. Wright Patman, Member of the House of Representatives, filed certain impeachment charges against Hon. Andrew W. Mellon, Secretary of the Treasury, which were referred to this committee; and

Whereas pending the investigation of said charges by said committee, and before said investigation had been completed, the said Hon. Andrew W. Mellon was nominated by the President of the United States for the post of ambassador to the Court of St. James and the said nomination was duly confirmed by the United States Senate pursuant to law, and the said Andrew W. Mellon has resigned the position of Secretary of the Treasury: Be it

Resolved by this committee, That the further consideration of the said charges made against the said Andrew W. Mellon, as Secretary of the Treasury, be, and the same are hereby, discontinued.

MINORITY VIEWS

We cannot join in the majority views and findings. While we concur in the conclusions of the majority

that section 243 of the Revised Statutes, upon which the proceedings herein were based, provides for action in the nature of an ouster proceeding, it is our view that the Hon. Andrew W. Mellon, the former Secretary of the Treasury, having removed himself from that office, no useful purpose would be served by continuing the investigation of the charges filed by the Hon. Wright Patman. We desire to stress that the action of the undersigned is based on that reason alone, particularly when the prohibition contained in said section 243 is not applicable to the office now held by Mr. Mellon.

FIORIELLO H. LAGUARDIA.
GORDON BROWNING.
M. C. TARVER.
FRANCIS B. CONDON.

MR. SUMNERS of Texas: Mr. Speaker, I think the resolution is fairly explanatory of the views held by the different members of the committee. No useful purpose could be served by the consumption of the usual 40 minutes, so I move the previous question.

The previous question was ordered.

THE SPEAKER: The question is on agreeing to the resolution.

The resolution was agreed to.⁽⁵⁾

Charges Against President Hoover

§ 14.3 Impeachment of President Herbert Hoover was proposed but not considered

5. 75 CONG. REC. 3850, 72d Cong. 1st Sess.

The House Journal (p. 382) for this date indicates that Mr. Sumners called up H. Res. 143 which was debated prior to its adoption.

by the House or by committee in the 72d Congress.

On Jan. 17, 1933, Mr. Louis T. McFadden, of Pennsylvania, rose and on his own responsibility as a Member of the House impeached President Hoover as follows:

MR. MCFADDEN: On my own responsibility, as a Member of the House of Representatives, I impeach Herbert Hoover, President of the United States, for high crimes and misdemeanors.

He offered a resolution with a lengthy preamble, which concluded as follows:

Resolved, That the Committee on the Judiciary is authorized to investigate the official conduct of Herbert Hoover, President of the United States, and all matters related thereto, to determine whether, in the opinion of the said committee, he has been guilty of any high crime or misdemeanor which, in the contemplation of the Constitution, requires the interposition of the constitutional powers of the House. Such committee shall report its findings to the House, together with such resolution of impeachment or other recommendation as it deems proper, in order that the House of Representatives may, if necessary, present its complaint to the Senate, to the end that Herbert Hoover may be tried according to the manner prescribed for the trial of the Executive by the Constitution and the people be given their constitutional remedy and be relieved of their present apprehension that a criminal may be in office.

For the purposes of this resolution the committee is authorized to sit and

act during the present Congress at such times and places in the District of Columbia or elsewhere, whether or not the House is sitting, has recessed, or has adjourned, to hold such hearings, to employ such experts, and such clerical, stenographic, and other assistants, to require the attendance of such witnesses and the production of such books, papers, and documents, to take such testimony, to have such printing and binding done, and to make such expenditures as it deems necessary.

Mr. Henry T. Rainey, of Illinois, moved that the resolution be laid on the table and the House adopted the motion, precluding any debate by Mr. McFadden on his resolution of impeachment.

Pending a vote on the motion, Speaker John N. Garner, of Texas, stated in response to a parliamentary inquiry that the language which had transpired could not be expunged from the *Congressional Record* by motion but must be done by unanimous consent since no unparliamentary language was involved.⁽⁶⁾

On Jan. 18, 1933, Mr. McFadden rose to state a question of privilege, with the intention of impeaching President Hoover. In response to a point of order, Speaker Garner held that a question of constitutional privilege or a question of privilege of the House, as

distinguished from a question of personal privilege, could not be presented until a motion or resolution was submitted. He declined to recognize Mr. McFadden since no resolution was presented.⁽⁷⁾

Charges Against U.S. District Judge Lowell

§ 14.4 In the 73d Congress the Committee on the Judiciary conducted an investigation into impeachment charges against District Judge James Lowell and later recommended that further proceedings be discontinued.

On Apr. 26, 1933, Mr. Howard W. Smith, of Virginia, rose to a question of constitutional privilege and impeached Mr. Lowell, a U.S. District Judge for the District of Massachusetts. He specified the following charges:

First. I charge that the said James A. Lowell, having been nominated by the President of the United States and confirmed by the Senate of the United States, duly qualified and commissioned, and while acting as district judge for the district of Massachusetts, did on divers and various occasions so abuse the powers of his high office and so misconduct himself as to be guilty of favoritism, oppression, and judicial misconduct, whereby he has brought the administration of justice in said

6. 76 CONG. REC. 1965-68, 72d Cong. 2d Sess.

7. *Id.* at pp. 2041, 2042.

district in the court of which he is judge into disrepute by his aforesaid misconduct and acts, and is guilty of misbehavior and misconduct, falling under the constitutional provision as ground for impeachment and removal from office.

Second. I charge that the said James A. Lowell did knowingly and willfully violate his oath to support the Constitution in his refusal to comply with the provisions of article IV, section 2, clause 2, of the Constitution of the United States, wherein it is provided:

A person charged in any State with treason, felony, or other crime, who shall flee from justice and be found in another State, shall, on demand of the executive authority of the State from which he fled, be delivered up, to be removed to the State having jurisdiction of the crime.

Third. I charge that the said James A. Lowell did, on the 24th day of April, 1933, unlawfully, willfully, and contrary to well-established law, order the discharge from custody of one George Crawford, who had been regularly indicted for first-degree murder in Loudoun County, Va., had confessed his crime, and whose extradition from the State of Massachusetts had, after full hearing and investigation, been officially ordered by Joseph B. Ely, Governor of the State of Massachusetts.

Fourth. I charge that the said James A. Lowell did deliberately and willfully by ordering the release of said George Crawford, unlawfully and contrary to the law in such cases made and provided, seek to defeat the ends of justice and to prevent the said George Crawford from being duly and regularly tried in the tribunal having juris-

diction thereof for the crime with which he is charged, to which he had confessed.

Fifth. I charge that the said James A. Lowell did on the said 24th day of April 1933 willfully, deliberately, and viciously attempt to nullify the operation of the laws for the punishment of crime of the State of Virginia and many other States in the Union, notwithstanding numerous decisions directly to the contrary by the Supreme Court of the United States, all of which decisions were brought to the attention of the said judge by the attorney general of Massachusetts and the Commonwealth's attorney of Loudoun County, Va., at the time of said action.

Sixth. I further charge that the said James A. Lowell, on the said 24th day of April 1933, in rendering said decision did use his judicial position for the unlawful purpose of casting aspersions upon and attempting to bring disrepute upon the administration of law in the Commonwealth of Virginia and various other States in this Union, and that in so doing he used the following language:

I say this whole thing is absolutely wrong. It goes against my Yankee common sense to have a case go on trial for 2 or 3 years and then have the whole thing thrown out by the Supreme Court.

They say justice is blind. Justice should not be as blind as a bat. In this case it would be if a writ of habeas corpus were denied.

Why should I send a negro back from Boston to Virginia, when I know and everybody knows that the Supreme Court will say that the trial is illegal? The only persons who would get any good out of it would be the lawyers.

Governor Ely in signing the extradition papers was bound only by the

question of whether the indictment from Virginia is in order. But why shouldn't I, sitting here in this court, have a different constitutional outlook from the governor who sits on the case merely to see if the indictment satisfies the law in Virginia?

I keep on good terms with Chief Justice Rugg, of the Massachusetts Supreme Court, but I don't have to keep on good terms with the chief justice of Virginia, because I don't have to see him.

I'd rather be wrong on my law than give my sanction to legal nonsense.

Seventh. I further charge that the said James A. Lowell has been arbitrary, capricious, and czarlike in the administration of the duties of his high office and has been grossly and willfully indifferent to the rights of litigants in his court, particularly in the case of George Crawford against Frank G. Hale.⁽⁸⁾

The charges were referred to the Committee on the Judiciary. Mr. Smith then offered House Resolution 120, authorizing an investigation of such charges, which resolution was adopted by the House:

Resolved, That the Committee on the Judiciary is authorized and directed, as a whole or by subcommittee, to inquire into and investigate the official conduct of James A. Lowell, a district judge for the United States District Court for the District of Massachusetts, to determine whether in the opinion of said committee he has been guilty of any high crime or mis-

demeanor which in the contemplation of the Constitution requires the interposition of the constitutional powers of the House. Said committee shall report its findings to the House, together with such resolution of impeachment or other recommendation as it deems proper.

Sec. 2. For the purpose of this resolution the committee is authorized to sit and act during the present Congress at such times and places in the District of Columbia and elsewhere, whether or not the House is sitting, has recessed, or has adjourned, to hold such hearings, to employ such clerical, stenographic, and other assistance, to require the attendance of such witnesses and the production of such books, papers, and documents, and to take such testimony, to have such printing and binding done, and to make such expenditures, not exceeding \$5,000, as it deems necessary.⁽⁹⁾

On May 4, 1933, Mr. Smith offered House Resolution 132, providing for payment out of the contingent fund for the expenses of the Committee on the Judiciary incurred under House Resolution 120. The resolution was referred to the Committee on Accounts and was called up by that committee on May 8, when it was adopted by the House.⁽¹⁰⁾

On Feb. 6, 1934, the House agreed to House Resolution 226, reported by Mr. Gordon Browning, of Tennessee, of the Committee on

8. H. JOUR. 205, 206, 73d Cong. 1st Sess.

9. *Id.* at p. 206.

10. *Id.* at pp. 233, 238.

the Judiciary, providing that no further proceedings be had under House Resolution 120:

Resolved, That no further proceedings be had under H. Res. 120, agreed to April 26, 1933, providing for an investigation of the official conduct of James A. Lowell, United States district judge for the district of Massachusetts, and that the Committee on the Judiciary be discharged.⁽¹¹⁾

Charges Against Federal Reserve Board Members

§ 14.5 After a Member of the House offered a resolution to impeach various members and former members of the Federal Reserve Board, and Federal Reserve agents, his resolution was referred to the Committee on the Judiciary and not acted upon.

On May 23, 1933, Mr. Louis T. McFadden, of Pennsylvania, rose to a question of constitutional privilege and impeached on his own responsibility Eugene Meyer, former member of the Federal Reserve Board, and a number of other former members, members, and Federal Reserve agents. His resolution, House Resolution 1458, was referred to the Committee on the Judiciary, pursuant to a motion to refer offered by Mr. Joseph W. Byrns, of Tennessee. The com-

11. H. JOUR. 137, 73d Cong. 2d Sess.

mittee took no action on the resolution.

During debate on the resolution, Mr. Carl E. Mapes, of Michigan, rose to a point of order against the resolution, claiming it was not privileged because it called for the impeachment of various persons who were no longer U.S. civil officers. Speaker Henry T. Rainey, of Illinois, held that the issue presented was a constitutional question upon which the House and not the Chair should pass.⁽¹²⁾

Charges Against U.S. District Judge Molyneaux

§ 14.6 Impeachment of U.S. District Judge Joseph Molyneaux was proposed in the 73d Congress but not acted upon by the House or the Committee on the Judiciary, to which the charges were referred.

On Jan. 22, 1934, Mr. Francis H. Shoemaker, of Minnesota, introduced House Resolution 233, authorizing an investigation by the Committee on the Judiciary into the official conduct of Mr. Molyneaux, a U.S. District Judge for the District of Minnesota, to determine whether he was guilty of high crimes or misdemeanors

12. H. JOUR. 298-302, 73d Cong. 1st Sess.

requiring the “interposition of the constitutional powers of the House.” The resolution was referred to the Committee on the Judiciary.⁽¹³⁾

The Committee on the Judiciary having taken no action on his resolution, Mr. Shoemaker rose to a question of constitutional privilege on Apr. 20, 1934, and impeached Judge Molyneaux on his own responsibility. He offered charges and a resolution (H. Res. 344) impeaching the judge, which resolution was referred on motion to the Committee on the Judiciary. The resolution charged corruption in the appointment of receivers, in the disposal of estates, interference with justice, and mental senility, and dishonesty. The committee took no action thereon.⁽¹⁴⁾

Charges Against U.S. Circuit Judge Alschuler

§ 14.7 A Member having impeached Judge Samuel Alschuler, a Circuit Judge for the seventh circuit, the Committee on the Judiciary reported adversely on the resolution authorizing an investigation, and the resolution was laid on the table.

On May 7, 1935, Mr. Everett M. Dirksen, of Illinois, rose to a ques-

13. H. JOUR. 87, 73d Cong. 2d Sess.

14. *Id.* at p. 423.

tion of “high constitutional privilege” and impeached Samuel Alschuler, U.S. Circuit Judge for the seventh circuit. He discussed his charges (principally that the accused improperly favored a litigant before his court) and offered House Resolution 214, authorizing an investigation by the Committee on the Judiciary. The resolution was referred on motion of Mr. Hatton W. Sumners, of Texas, to the Committee on the Judiciary.⁽¹⁵⁾

On Aug. 15, 1935, Mr. Sumners reported adversely (H. Rept. No. 1802) on House Resolution 214, by direction of the Committee on the Judiciary. Mr. Sumners moved to lay the resolution on the table, and the House agreed to the motion.⁽¹⁶⁾

Charges Against Secretary of Labor Perkins

§ 14.8 In the 76th Congress, a resolution was offered impeaching Secretary of Labor Frances Perkins and two other officials of the Department of Labor, and was referred on motion to the Committee on the Judiciary.

On Jan. 24, 1939,⁽¹⁷⁾ a Member impeached certain officials of the

15. H. JOUR. 668–71, 74th Cong. 1st Sess.

16. *Id.* at p. 1093.

17. 84 CONG. REC. 702–11, 76th Cong. 1st Sess.

executive branch and introduced a resolution authorizing an investigation:

IMPEACHMENT OF FRANCES PERKINS,
SECRETARY OF LABOR; JAMES L.
HOUGHTELING; AND GERARD D.
REILLY

MR. [J. PARNELL] THOMAS of New Jersey: Mr. Speaker, on my own responsibility as a Member of the House of Representatives, I impeach Frances Perkins, Secretary of Labor of the United States; James L. Houghteling, Commissioner of the Immigration and Naturalization Service of the Department of Labor; and Gerard D. Reilly, Solicitor of the Department of Labor, as civil officers of the United States, for high crimes and misdemeanors in violation of the Constitution and laws of the United States, and I charge that the aforesaid Frances Perkins, James L. Houghteling, and Gerard D. Reilly, as civil officers of the United States, were and are guilty of high crimes and misdemeanors in office in manner and form as follows, to wit: That they did willfully, unlawfully, and feloniously conspire, confederate, and agree together from on or about September 1, 1937, to and including this date, to commit offenses against the United States and to defraud the United States by failing, neglecting, and refusing to enforce the immigration laws of the United States, including to wit section 137, title 8, United States Code, and section 156, title 8, United States Code, against Alfred Renton Bryant Bridges, alias Harry Renton Bridges, alias Harry Dorgan, alias Canfield, alias Rossi, an alien, who advises, advocates, or teaches and is a member of

or affiliated with an organization, association, society, or group that advises, advocates, or teaches the overthrow by force or violence of the Government of the United States, or the unlawful damage, injury, or destruction of property, or sabotage; and that the aforesaid Frances Perkins, James L. Houghteling, and Gerard D. Reilly have unlawfully conspired together to release said alien after his arrest on his own recognizance, without requiring a bond of not less than \$500; and that said Frances Perkins, James L. Houghteling, and Gerard D. Reilly and each of them have committed many overt acts to effect the object of said conspiracy, all in violation of the Constitution of the United States in such cases made and provided.

And I further charge that Frances Perkins, James L. Houghteling, and Gerard D. Reilly, as civil officers of the United States, were and are guilty of high crimes and misdemeanors by unlawfully conspiring together to commit offenses against the United States and to defraud the United States by causing the Strecker case to be appealed to the Supreme Court of the United States, and by failing, neglecting, and refusing to enforce section 137, United States Code, against other aliens illegally within the United States contrary to the Constitution of the United States and the statutes of the United States in such cases made and provided.

In support of the foregoing charges and impeachment, I now present a resolution setting forth specifically, facts, circumstances, and allegations with a view to their consideration by a committee of the House and by the House itself to determine their truth or falsity.

Mr. Speaker, I offer the following resolution and ask that it be considered at this time.

THE SPEAKER:⁽¹⁸⁾ The Clerk will report the resolution.

The Clerk read as follows:

HOUSE RESOLUTION 67

Whereas Frances Perkins, of New York, was nominated by the President of the United States, confirmed by the Senate of the United States, duly qualified and commissioned on March 4, 1933, and has since March 4, 1933, without further nominations or confirmations, acted as Secretary of Labor and as a civil officer of the United States.

Whereas James L. Houghteling, of Illinois, was nominated by the President of the United States, confirmed by the Senate of the United States, duly qualified and commissioned on August 4, 1937, as Commissioner of the Immigration and Naturalization Service of the Department of Labor and has since August 4, 1937, without further nominations or confirmations, acted as Commissioner of the Immigration and Naturalization Service of the Department of Labor and as a civil officer of the United States.

Whereas Gerard D. Reilly, of Massachusetts, was nominated by the President of the United States, confirmed by the Senate of the United States, duly qualified and commissioned on August 10, 1937, as Solicitor of the Department of Labor, and has since August 10, 1937, without further nominations or confirmations, acted as Solicitor of the Department of Labor and as a civil officer of the United States.

Resolved, That the Committee on the Judiciary be and is hereby authorized and directed, as a whole or by subcommittee, to investigate the

official conduct of Frances Perkins, Secretary of Labor; James L. Houghteling, Commissioner of Immigration and Naturalization Service, Department of Labor; and Gerard D. Reilly, Solicitor, Department of Labor, to determine whether, in its opinion, they have been guilty of any high crimes or misdemeanors which, in the contemplation of the Constitution, requires the interposition of the constitutional powers of the House. Such committee shall report its findings to the House, together with such articles of impeachment as the facts may warrant.

For the purposes of this resolution the committee is authorized and directed to sit and act, during the present session of Congress, at such times and places in the District of Columbia, or elsewhere, whether or not the House is sitting, has recessed, or has adjourned; to hold hearings; to employ such experts and such clerical, stenographic and other assistance; and to require the attendance of such witnesses and the production of such books, papers, and documents; and to take such testimony and to have such printing and binding done; and to make such expenditures not exceeding \$10,000, as it deems necessary.

The resolution was referred as follows:

MR. [SAM] RAYBURN [of Texas]: Mr. Speaker, I move that the resolution be referred to the Committee on the Judiciary of the House and upon that I desire to say just a word. A great many suggestions have been made as to what should be done with this resolution, but I think this would be the orderly procedure so that the facts may be developed. The resolution will come out of that committee or remain in it according to the testimony adduced.

I therefore move the previous question on my motion to refer, Mr. Speaker.

18. William B. Bankhead (Ala.).

The previous question was ordered.
The motion was agreed to.

§ 14.9 The Committee on the Judiciary agreed unanimously to report adversely the resolution urging an investigation of Secretary of Labor Frances Perkins and the House agreed to a motion to lay the resolution on the table.

On Mar. 24, 1939,⁽¹⁹⁾ charges of impeachment against Secretary of Labor Perkins were finally and adversely disposed of:

IMPEACHMENT PROCEEDINGS—FRANCES PERKINS

MR. [SAM] HOBBS [of Alabama]: Mr. Speaker, by direction of the Committee on the Judiciary I present a privileged report upon House Resolution 67, which I send to the desk.

THE SPEAKER:⁽²⁰⁾ The Clerk will report the resolution.

The Clerk read House Resolution 67.

MR. HOBBS: Mr. Speaker, this is a unanimous report from the Committee on the Judiciary adverse to this resolution. I move to lay the resolution on the table.

THE SPEAKER: The question is on the motion of the gentleman from Alabama to lay the resolution on the table.

The motion was agreed to.

19. 84 CONG. REC. 3273, 76th Cong. 1st Sess.

20. William B. Bankhead (Ala.).

Charges Against U.S. District Judges Johnson and Watson

§ 14.10 The House authorized the Committee on the Judiciary to investigate allegations of impeachable offenses charged against U.S. District Court Judges Johnson and Watson but no final report was submitted.

On Jan. 24, 1944, Mr. Hatton W. Sumners, of Texas, introduced House Resolution 406 authorizing an investigation by the Committee on the Judiciary into the conduct of U.S. District Court Judges Albert Johnson and Albert Watson from Pennsylvania. The resolution was referred to the Committee on the Judiciary. House Resolution 407, also introduced by Mr. Sumners and providing for the expenses of the committee in conducting such an investigation, was referred to the Committee on the Judiciary.⁽¹⁾

On Jan. 26, 1944, Mr. Sumners called up by direction of the Committee on the Judiciary House Resolution 406, authorizing the investigation and the House agreed thereto.⁽²⁾

Parliamentarian's Note: Extensive hearings, presided over by Mr. Estes Kefauver, of Tennessee,

1. H. JOUR. 46, 78th Cong. 2d Sess.

2. *Id.* at p. 57.

were held relative to the conduct of Judge Johnson. The subcommittee report recommended impeachment based on evidence of corrupt practices and acts including corrupt appointment to court offices. Judge Johnson having resigned, the Committee on the Judiciary discontinued the proceedings.

Charges Against President Truman

§ 14.11 In the 82d Congress, a resolution proposing an inquiry as to whether President Harry Truman should be impeached was referred to the Committee on the Judiciary, which took no action thereon.

On Apr. 23, 1952,⁽³⁾ a resolution relating to impeachment was referred to the Committee on the Judiciary, which took no action thereon:

By Mr. [George H.] Bender [of Ohio]:

H. Res. 607. Resolution creating a select committee to inquire and report to the House whether Harry S. Truman, President of the United States, shall be impeached; to the Committee on the Judiciary.

§ 14.12 A petition was filed to discharge the Committee on

3. 98 CONG. REC. 4325, 82d Cong. 2d Sess.

the Judiciary from the further consideration of a resolution impeaching President Harry Truman but did not gain the requisite number of signatures.

On June 17, 1952, Mr. John C. Schafer, of Wisconsin, announced that he was filing a petition to discharge the Committee on the Judiciary from the further consideration of House Resolution 614, impeaching President Truman:⁽⁴⁾

MR. SCHAFFER: Mr. Speaker, on April 28 of this year I introduced House Resolution 614, to impeach Harry S. Truman, President of the United States, of high crimes and misdemeanors in office. This resolution was referred to the Committee on the Judiciary, which committee has failed to take action thereon.

Thirty legislative days having now elapsed since introduction of this resolution, I today have placed on the Clerk's desk a petition to discharge the committee from further consideration of the resolution.

In my judgment, developments since I introduced the Resolution April 28 have immeasurably enlarged and strengthened the case for impeachment and have added new urgency for such action by this House.

First. Since the introduction of this resolution, the United States Supreme Court, by a 6-to-3 vote, has held that in his seizure of the steel mills Harry S. Truman, President of the United

4. 98 CONG. REC. 7424, 82d Cong. 2d Sess.

States, exceeded his authority and powers, violated the Constitution of the United States, and flouted the expressed will and intent of the Congress—and, in so finding, the Court gave unprecedented warnings against the threat to freedom and constitutional government implicit in his act.

Second. Despite the President's technical compliance with the finding of the Court, prior to the Court decision he reasserted his claim to the powers then in question, and subsequent to that decision he has contemptuously called into question "the intention of the Court's majority" and contemptuously attributed the limits set on the President's powers not to Congress, or to the Court, or to the Constitution, but to "the Court's majority."

Third. The Court, in its finding in the steel case, emphasized not only the unconstitutionality of the Presidential seizure but also stressed his failure to utilize and exhaust existing and available legal resources for dealing with the situation, including the Taft-Hartley law.

Fourth. The President's failure and refusal to utilize and exhaust existing and available legal resources for dealing with the emergency has persisted since the Court decision and in spite of clear and unmistakable evidence of the will and intent of Congress given in response to his latest request for special legislation authorizing seizure or other special procedures.

The discharge petition, No. 14, was not signed by a majority of the Members of the House and was therefore not eligible for consideration in the House under

Rule XXVII clause 4, *House Rules and Manual* § 908 (1973).

***Charges Against Judges
Murrah, Chandler, and
Bohanon***

§ 14.13 A resolution authorizing an investigation in the 89th Congress into the conduct of three federal judges was referred to the Committee on Rules but not acted on.

On Feb. 22, 1966, Mr. H. R. Gross, of Iowa, introduced House Resolution 739, authorizing the Committee on the Judiciary to inquire into and investigate the conduct of Alfred Murrah, Chief Judge of the 10th Circuit, Stephen Chandler, District Judge, Western District of Oklahoma, and Luther Bohanon, District Judge, Eastern, Northern, and Western Districts of Oklahoma, in order to determine whether any of the three judges had been guilty of high crimes or misdemeanors. The resolution was referred to the Committee on Rules.⁽⁵⁾

Mr. Gross stated the purpose of the resolution as follows:

Mr. Segal, Judge John Biggs, Jr., the chairman of the judicial conference committee on court administration,

5. 112 CONG. REC. 3665, 89th Cong. 2d Sess.

and Mr. Joseph Borkin, Washington attorney and author of the book, "The Corrupt Judge," were in agreement that impeachment is the only remedy available today for action against judicial misconduct.

Both Mr. Borkin and the chairman of the subcommittee emphasized the serious problem that has arisen in Oklahoma where the Judicial Council of the 10th Judicial Circuit made an attempt to bar Judge Stephen S. Chandler from handling cases because it was stated he was "either unwilling or unable" to perform his judicial functions adequately.

Mr. Borkin, a man with an impressive background in the study of the problems of corruption and misconduct in the judiciary, pointed out that Judge Chandler, in return, has made serious charges of attempted bribery and other misconduct against two other judges—Alfred P. Murrah, chief judge, 10th Circuit, U.S. Court of Appeals, and Luther Bohanon, district judge, U.S. District Court for the Eastern, Northern, and Western Districts of Oklahoma.

Mr. Borkin stressed that this dispute in Oklahoma has been an upsetting factor in the Federal courts in Oklahoma since 1962, and he declared that these charges should not be permitted to stand. He emphasized that there can be no compromise short of a full investigation to clear the judges or to force their removal.

I agree with Mr. Borkin that great damage has been done because the courts, the executive branch, and the Congress have taken no effective steps to clear up this scandalous situation. I have waited patiently for months, and I have hoped that the Justice Depart-

ment, the courts, or the Congress would initiate or suggest a proper legal investigation to clear the air and put an end to this outrageous situation in the judiciary in the 10th circuit.

There has been no effective action taken, or even started. Therefore, I am today instituting the only action available to try to get to the bottom of this.

I have introduced a House resolution authorizing and directing the House Committee on the Judiciary to investigate the conduct of the three Federal judges in Oklahoma involved in this controversy. Upon its finding of fact, the House Judiciary Committee would be empowered to institute impeachment proceedings or make any other recommendations it deems proper.

The committee would also be empowered to require the attendance of witnesses and the production of such books, papers, and documents—including financial statements, contracts, and bank accounts—as it deems necessary.

The resolution in no way establishes the guilt of the principals involved. It is necessary to the launching of an investigation for the purpose of determining the facts essential to an intelligent conclusion and eliminating the cloud now hanging over the Federal judiciary.⁶

The Committee on Rules took no action on the resolution.

Charges Against Associate Supreme Court Justice Douglas

§ 14.14 When the Minority Leader criticized the conduct

6. *Id.* at p. 3653.

of Associate Justice William O. Douglas of the U.S. Supreme Court during a special order speech in the 91st Congress and suggested the creation of a select committee to investigate such conduct to determine whether impeachment was warranted, another Member announced on the floor that he was introducing a resolution of impeachment; the resolution was referred to the Committee on the Judiciary.

On Apr. 15, 1970, Minority Leader Gerald R. Ford, of Michigan, took the floor for a special order speech in which he criticized the conduct of Associate Justice Douglas of the U.S. Supreme Court. Mr. Ford suggested that a select committee of the House be created to investigate such conduct in order to determine whether impeachment proceedings might be warranted.⁽⁷⁾

Mr. Louis C. Wyman, of New Hampshire, then took the floor under a special order speech to discuss the same subject. He

7. 116 CONG. REC. 11912-17, 91st Cong. 2d Sess. Mr. Ford discussed the standard for impeachable offenses and concluded in part that such an offense was "whatever a majority of the House of Representatives considers [it] to be at a given moment in history." *Id.* at p. 11913.

yielded time to Mr. Andrew Jacobs, Jr., of Indiana, as follows:

MR. JACOBS: Mr. Speaker, will the gentleman yield for a three-sentence statement?

MR. WYMAN: I yield to the gentleman from Indiana.

MR. JACOBS: Mr. Speaker, the gentleman from Michigan has stated publicly that he favors impeachment of Justice Douglas.

He, therefore, has a duty to this House and this country to file a resolution of impeachment.

Since he refuses to do so and since he raises grave questions, the answers to which I do not know, but every American is entitled to know, I introduce at this time the resolution of impeachment in order that a proper and dignified inquiry into this matter might be held.

At this point Mr. Jacobs introduced the resolution by placing it in the hopper at the Clerk's desk.

THE SPEAKER PRO TEMPORE:⁽⁸⁾ The gentleman from New Hampshire has the floor.

MR. WYMAN: I did not yield for that purpose.

THE SPEAKER PRO TEMPORE: The gentleman from Indiana has introduced a resolution.⁽⁹⁾

Mr. Jacobs' resolution, House Resolution 920, which was referred to the Committee on the Judiciary⁽¹⁰⁾ declared:

8. Charles M. Price (Ill.).

9. 116 CONG. REC. 11920, 91st Cong. 2d Sess.

10. *Id.* at p. 11942. For a similar resolution proposed in the 83d Congress,

Resolved, That William O. Douglas, Associate Justice of the Supreme Court of the United States be impeached [for] high crimes and misdemeanors and misbehavior in office.

Other resolutions, all of which called for the creation of a select committee to conduct an investigation and to determine whether impeachment proceedings were warranted, were referred to the Committee on Rules. For example, House Resolution 922, introduced by Mr. Wyman, with 24 cosponsors, read as follows:⁽¹¹⁾

Whereas, the Constitution of the United States provides in Article III, Section 1, that Justices of the Supreme Court shall hold office only “during good behavior”, and

Whereas, the Constitution also provides in Article II, Section 4, that Justices of the Supreme Court shall be removed from Office on Impeachment for High Crimes and Misdemeanors, and

Whereas the Constitution also provides in Article VI that Justices of the Supreme Court shall be bound by “Oath or Affirmation to support this Constitution” and the United States

but not acted upon, impeaching Justice Douglas, see H. Res. 290, introduced June 17, 1953, 99 CONG. REC. 6760, 83d Cong. 1st Sess.

11. H. Res. 922 was referred to the Committee on Rules. 116 CONG. REC. 12130, 12131, 91st Cong. 2d Sess., Apr. 16, 1970.

See also H. Res. 923, H. Res. 924, H. Res. 925, H. Res. 926, H. Res. 927, H. Res. 928, 91st Cong. 2d Sess.

Code (5 U.S.C. 16) prescribes the following form of oath which was taken and sworn to by William Orville Douglas prior to his accession to incumbency on the United States Supreme Court:

I, William Orville Douglas, do solemnly swear that I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion, and that I will well and faithfully discharge the duties of the office on which I am about to enter. So help me God.

and

Whereas, integrity and objectivity in respect to issues and causes to be presented to the United States Supreme Court for final determination make it mandatory that Members thereof refrain from public advocacy of a position on any matter that may come before the High Court lest public confidence in this constitutionally co-equal judicial body be undermined, and

Whereas, the said William Orville Douglas has, on frequent occasions in published writings, speeches, lectures and statements, declared a personal position on issues to come before the United States Supreme Court indicative of a prejudiced and nonjudicial attitude incompatible with good behavior and contrary to the requirements of judicial decorum obligatory upon the Federal judiciary in general and members of the United States Supreme Court in particular, and

Whereas, by the aforementioned conduct and writings, the said William Orville Douglas has established himself before the public, including liti-

gants whose lives, rights and future are seriously affected by decisions of the Court of which the said William Orville Douglas is a member, as a partisan advocate and not as a judge, and

Whereas, by indicating in advance of Supreme Court decisions, on the basis of declared, printed, or quoted convictions, how he would decide matters in controversy pending and to become pending before the Court of which he is a member, the said William Orville Douglas has committed the high misdemeanor of undermining the integrity of the highest constitutional Court in America, and has willfully and deliberately undermined public confidence in the said Court as an institution, and

Whereas, contrary to his Oath of Office as well as patently in conflict with the Canons of Ethics for the Judiciary of the American Bar Association, the said William Orville Douglas nevertheless on February 19, 1970, did publish and publicly distribute throughout the United States, statements encouraging, aggravating and inciting violence, anarchy and civil unrest in the form of a book entitled "Points of Rebellion" in which the said William Orville Douglas, all the while an incumbent on the Highest Court of last resort in the United States, stated, among other things, that:

But where grievances pile high and most of the elected spokesmen represent the Establishment, violence may be the only effective response. (pp. 88-89, "Points of Rebellion," Random House, Inc., February 19, 1970, William O. Douglas.)

The special interests that control government use its powers to favor themselves and to perpetuate regimes of oppression, exploitation, and discrimination against the many (ibid, p. 92).

People march and protest but they are not heard (ibid, p. 88).

Where there is a persistent sense of futility, there is violence; and that is where we are today (ibid, p. 56).

The two parties have become almost indistinguishable; and each is controlled by the Establishment. The modern day dissenters and protesters are functioning as the loyal opposition functions in England. They are the mounting voice of political opposition to the status quo, calling for revolutionary changes in our institutions. Yet the powers-that-be faintly echo Adolph Hitler (ibid, p. 57).

Yet American protesters need not be submissive. A speaker who resists arrest is acting as a free man (ibid, p. 6).

We must realize that today's Establishment is the new George III. Whether it will continue to adhere to his tactics, we do not know. If it does, the redress, honored in tradition, is also revolution (ibid, p. 95).

and thus willfully and deliberately fanned the fires of unrest, rebellion, and revolution in the United States, and

Whereas, in the April 1970 issue of Evergreen Magazine, the said William Orville Douglas for pay did, while an incumbent on the United States Supreme Court, publish an article entitled Redress and Revolution, appearing on page 41 of said issue immediately following a malicious caricature of the President of the United States as George III, as well as photographs of nudes engaging in various acts of sexual intercourse, in which article the said William Orville Douglas again wrote for pay that:

George III was the symbol against which our Founders made a revolution now considered bright and glorious. . . . We must realize that to-

day's Establishment is the new George III. Whether it will continue to adhere to his tactics, we do not know. If it does, the redress, honored in tradition, is also Revolution.

and

Whereas, the said William Orville Douglas, prepared, authored, and received payment for an article which appeared in the March 1969 issue of the magazine, *Avant Garde*, published by Ralph Ginzburg, previously convicted of sending obscene literature through the United States Mails, (see 383 U.S. 463) at a time when the said Ralph Ginzburg was actively pursuing an appeal from his conviction upon a charge of malicious libel before the Supreme Court of the United States, yet nevertheless the said William Orville Douglas, as a sitting member of the Supreme Court of the United States, knowing full well his own financial relationship with this litigant before the Court, sat in judgment on the Ginzburg appeal, all in clear violation and conflict with his Oath of Office, the Canons of Judicial Ethics, and Federal law (396 U.S. 1049), and

Whereas, while an incumbent on the United States Supreme Court the said William Orville Douglas for hire has served and is reported to still serve as a Director and as Chairman of the Executive Committee of the Center for the Study of Democratic Institutions in Santa Barbara, California, a politically oriented action organization which, among other things, has organized national conferences designed to seek détente with the Soviet Union and openly encouraged student radicalism, and

Whereas, the said Center for the Study of Democratic Institutions, in

violation of the Logan Act, sponsored and financed a "Pacem in Terris II Convocation" at Geneva, Switzerland, May 28-31, 1967, to discuss foreign affairs and U.S. foreign policy including the "Case of Vietnam" and the "Case of Germany", to which Ho Chi Minh was publicly invited, and all while the United States was in the midst of war in which Communists directed by the same Ho Chi Minh were killing American boys fighting to give South Vietnam the independence and freedom from aggression we had promised that Nation, and from this same Center there were paid to the said William Orville Douglas fees of \$500 per day for Seminars and Articles, and

Whereas, paid activity of this type by a sitting Justice of the Supreme Court of the United States is contrary to his Oath of Office to uphold the United States Constitution, violative the Canons of Ethics of the American Bar Association and is believed to constitute misdemeanors of the most fundamental type in the context in which that term appears in the United States Constitution (Article II, Section 4) as well as failing to constitute "good behavior" as that term appears in the Constitution (Article III, Section 1), upon which the tenure of all Federal judges is expressly conditioned, and

Whereas, moneys paid to the said William Orville Douglas from and by the aforementioned Center are at least as follows: 1962, \$900; 1963, \$800; 1965, \$1,000; 1966, \$1,000; 1968, \$1,100; 1969, \$2,000; all during tenure on the United States Supreme Court, and all while a Director on a Board of Directors that meets (and met) biannually to determine the general policies of the Center, and

Whereas, the said William Orville Douglas, contrary to his sworn obligation to refrain therefrom and in violation of the Canons of Ethics, has repeatedly engaged in political activity while an incumbent of the High Court, evidenced in part by his authorization for the use of his name in a recent political fund-raising letter, has continued public advocacy of the recognition of Red China by the United States, has publicly criticized the military posture of the United States, has authored for pay several articles on subjects patently related to causes pending or to be pending before the United States Supreme Court in Playboy Magazine on such subjects as invasions of privacy and civil liberties, and most recently has expressed in Brazil public criticism of United States foreign policy while on a visit to Brazil in 1969, plainly designed to undermine public confidence in South and Latin American countries in the motives and objectives of the foreign policy of the United States in Latin America, and

Whereas, in addition to the foregoing, and while a sitting Justice on the Supreme Court of the United States, the said William Orville Douglas has charged, been paid and received \$12,000 per annum as President and Director of the Parvin Foundation from 1960 to 1969, which Foundation received substantial income from gambling interests in the Freemont Casino at Las Vegas, Nevada, as well as the Flamingo at the same location, accompanied by innumerable conflicts of interest and overlapping financial maneuvers frequently involved in litigation the ultimate appeal from which could only be to the Supreme Court of which the said William Orville Douglas

was and is a member, the tenure of the said William Orville Douglas with the Parvin Foundation being reported to have existed since 1960 in the capacity of President, and resulting in the receipt by the said William Orville Douglas from the Parvin Foundation of fees aggregating at least \$85,000, all while a member of the United States Supreme Court, and all while referring to Internal Revenue Service investigation of the Parvin Foundation while a Justice of the United States Supreme Court as a "manufactured case" intended to force him to leave the bench all while he was still President and Director of the said Foundation and was earning a \$12,000 annual salary in those posts, a patent conflict of interest, and

Whereas, it has been repeatedly alleged that the said William Orville Douglas in his position as President of the Parvin Foundation did in fact give the said Foundation tax advice, with particular reference to matters known by the said William Orville Douglas at the time to have been under investigation by the United States Internal Revenue Service, all contrary to the basic legal and judicial requirement that a Supreme Court Justice may not give legal advice, and particularly not for a fee, and

Whereas, the said William Orville Douglas has, from time to time over the past ten years, had dealings with, involved himself with, and may actually have received fees and travel expenses, either directly or indirectly, from known criminals, gamblers, and gangsters or their representatives and associates, for services, both within the United States and abroad, and

Whereas, the foregoing conduct on the part of the said William Orville

Douglas while a Justice of the Supreme Court is incompatible with his constitutional obligation to refrain from non-judicial activity of a patently unethical nature, and

Whereas, the foregoing conduct and other activities on the part of the said William Orville Douglas while a sitting Justice on the United States Supreme Court, establishes that the said William Orville Douglas in the conduct of his solemn judicial responsibilities has become a prejudiced advocate of pre-determined position on matters in controversy or to become in controversy before the High Court to the demonstrated detriment of American jurisprudence, and

Whereas, from the foregoing, and without reference to whatever additional relevant information may be developed through investigation under oath, it appears that the said William Orville Douglas, among other things, has sat in judgment on a case involving a party from whom the said William Orville Douglas to his knowledge received financial gain, as well as that the said William Orville Douglas for personal financial gain, while a member of the United States Supreme Court, has encouraged violence to alter the present form of government of the United States of America, and has received and accepted substantial financial compensation from various sources for various duties incompatible with his judicial position and constitutional obligation, and has publicly and repeatedly, both orally and in writings, declared himself a partisan on issues pending or likely to become pending before the Court of which he is a member: Now, therefore, be it

Resolved, That—

(1) The Speaker of the House shall within fourteen days hereafter appoint a select committee of six Members of the House, equally divided between the majority and the minority parties and shall designate one member to serve as chairman, which select committee shall proceed to investigate and determine whether Associate Justice William Orville Douglas has committed high crimes and misdemeanors as that phrase appears in the Constitution, Article II, Section 4, or has, while an incumbent, failed to be of the good behavior upon which his Commission as said Justice is conditioned by the Constitution, Article III, Section 1. The select committee shall report to the House the results of its investigation, together with its recommendations on this resolution for impeachment of the said William Orville Douglas not later than ninety days following the designation of its full membership by the Speaker.

(2) For the purpose of carrying out this resolution the committee, or any subcommittee thereof, is authorized to sit and act during the present Congress at such times and places within the United States whether the House is sitting, has recessed, or has adjourned, to hold such hearings, and to require by subpoena or otherwise, the attendance and testimony of such witnesses and the production of such books, records, correspondence, memorandums, papers, and documents as it deems necessary. Subpenas may be issued under the signature of the chairman of the committee or any member of the committee designated by him, and may be served by any person designated by such chairman or member.

Parliamentarian's Note: On Apr. 24, 1970, Chairman William M. Colmer, of Mississippi, of the Committee on Rules stated that pursuant to the statement of Emanuel Celler, of New York, Chairman of the Committee on the Judiciary, that the latter committee would hold hearings and take action on the impeachment within 60 days, he would not program for consideration by the Committee on Rules the resolutions creating a select committee to study the charges of impeachment.

§ 14.15 A subcommittee of the Committee on the Judiciary investigated charges of impeachable offenses against Associate Justice William O. Douglas and issued an interim report.

On June 20, 1970, the special subcommittee of the Committee on the Judiciary on House Resolution 920, impeaching Associate Justice Douglas, issued an interim report on the progress of its investigation of the charges.⁽¹²⁾ The creation of the subcommittee and

¹². First report by the special subcommittee on H. Res. 920 of the Committee on the Judiciary, committee print, 91st Cong; 2d Sess., June 20, 1970.

scope of its authority was set out on the first page of the report:

I. AUTHORITY

On April 21, 1970, the Committee on the Judiciary adopted a resolution to authorize the appointment of a Special Subcommittee on H. Res. 920, a resolution impeaching William O. Douglas, Associate Justice of the Supreme Court of the United States, of high crimes and misdemeanors in office. Pursuant to this resolution, the following members were appointed: Emanuel Celler (New York), Chairman; Byron G. Rogers (Colorado); Jack Brooks (Texas); William M. McCulloch (Ohio); and Edward Hutchinson (Michigan).

The Special Subcommittee on H. Res. 920 is appointed and operates under the Rules of the House of Representatives. Rule XI, 13(f) empowers the Committee on the Judiciary to act on all proposed legislation, messages, petitions, memorials, or other matters relating to ". . . Federal courts and judges." In the 91st Congress, Rule XI has been implemented by H. Res. 93, February 5, 1969. H. Res. 93 authorizes the Committee on the Judiciary, acting as a whole or by subcommittee, to conduct full and complete investigations and studies on the matters coming within its jurisdiction, specifically ". . . (4) relating to judicial proceedings and the administration of Federal courts and personnel thereof, including local courts in territories and possessions".

H. Res. 93 empowers the Committee to issue subpoenas, over the signature of the Chairman of the Committee or any Member of the Committee designated by him. Subpoenas issued by

the Committee may be served by any person designated by the Chairman or such designated Member.

On April 28, 1970, the Special Subcommittee on H. Res. 920 held its organization meeting, appointed staff, and adopted procedures to be applied during the investigation. Although the power to issue subpoenas is available, and the Subcommittee is prepared to use subpoenas if necessary to carry out this investigation, thus far all potential witnesses have been cooperative and it has not been necessary to employ this investigatory tool. The Special Subcommittee operates under procedures established in paragraph 27, Rules of Committee Procedure, of Rule XI of the House of Representatives. These procedures will be followed until additional rules are adopted, which, on the basis of precedent in other impeachment proceedings, are determined by the Special Subcommittee to be appropriate.

The subcommittee held no hearings but gathered information on the various charges contained in House Resolution 922. As stated in the report, the subcommittee requested inspection of tax returns of Justice Douglas. Pursuant to advice by the Internal Revenue Service that a special resolution of the full committee would be required, as well as an executive order by the President, the committee adopted the following resolution on May 26, 1970:

RESOLUTION FOR SPECIAL SUBCOMMITTEE TO CONSIDER HOUSE RESOLUTION 920

Resolved, That the Special Subcommittee to consider H. Res. 920, a

resolution impeaching William O. Douglas, Associate Justice of the Supreme Court of the United States, of high crimes and misdemeanors in office, hereby is authorized and directed to obtain and inspect from the Internal Revenue Service any and all materials and information relevant to its investigation in the files of the Internal Revenue Service, including tax returns, investigative reports, or other documents, that the Special Subcommittee to consider H. Res. 920 determines to be within the scope of H. Res. 920 and the various related resolutions that have been introduced into the House of Representatives.

The Special Subcommittee on H. Res. 920 is authorized to make such requests to the Internal Revenue Service as the Subcommittee determines to be appropriate, and the Subcommittee is authorized to amend its requests to designate such additional persons, taxpayers, tax returns, investigative reports, and other documents as the Subcommittee determines to be appropriate during the course of this investigation.

The Special Subcommittee on H. Res. 920 may designate agents to examine and receive information from the Internal Revenue Service.

This resolution specifically authorizes and directs the Special Subcommittee to obtain and inspect from the Internal Revenue Service the documents and other file materials described in the letter dated May 12, 1970, from Chairman Emanuel Celler to the Honorable Randolph Thrower. The tax returns for the following taxpayers, and the returns for such additional taxpayers as the Subcommittee subsequently may request, are included in this resolution:

Associate Justice William O. Douglas, Supreme Court of the United States, Washington, D. C. 20036.

Albert Parvin, 1900 Avenue of the Stars, Suite 1790, Century City, Calif. 90067.

Albert Parvin Foundation, c/o Arnold & Porter, 1229-19th Street, N. W., Washington, D.C. 20036.

The Center for the Study of Democratic Institutions, Box 4068, Santa Barbara, Calif. 93103.

Fund for the Republic, 136 East 57th Street, New York, N.Y. 10022.

Parvin-Dohrmann Corp., (Now Recrion Corp.), 120 N. Robertson Blvd., Los Angeles, Calif. 90048.⁽¹³⁾

The President subsequently issued the following executive order:

INSPECTION OF TAX RETURNS BY THE
COMMITTEE ON THE JUDICIARY,
HOUSE OF REPRESENTATIVES

By virtue of the authority vested in me by sections 55(a) and 1604(c) of the Internal Revenue Code of 1939, as amended (26 U.S.C. (1952 ea.) 55(a), 1604(c)), and by sections 6103(a) and 6106 of the Internal Revenue Code of 1954, as amended (26 U.S.C. 6103(a), 6106), it is hereby ordered that any income, excess-profits, estate, gift, unemployment, or excise tax return, including all reports, documents, or other factual data relating thereto, shall, during the Ninety-first Congress, be open to inspection by the Committee on the Judiciary, House of Representatives, or any duly authorized subcommittee thereof, in connection with its consideration of House Resolution 920, a resolution impeaching William O. Douglas, Associate Justice of the

13. Subcommittee report at pp. 18, 19.

Supreme Court of the United States. Whenever a return is open to inspection by such Committee or subcommittee, a copy thereof shall, upon request, be furnished to such Committee or subcommittee. Such inspection shall be in accordance and upon compliance with the rules and regulations prescribed by the Secretary of the Treasury in Treasury Decisions 6132 and 6133, relating to the inspection of returns by committees of the Congress, approved by the President on May 3, 1955.⁽¹⁴⁾

The subcommittee recommended in its first report that the Committee on the Judiciary authorize an additional 60 days for the subcommittee to complete its investigation.⁽¹⁵⁾

§ 14.16 In its final report on its investigation into charges of impeachment against Associate Justice William O. Douglas, a subcommittee of the Committee on the Judiciary concluded that a federal judge could be impeached (1) for judicial conduct which is criminal or which is a serious dereliction from public duty, and (2) for nonjudicial conduct which is criminal; the subcommittee recommended that the evidence

14. Exec. Order No. 11535, issued June 12, 1970, subcommittee report at p. 19.

15. Subcommittee report at pp. 25, 26.

against Justice Douglas did not warrant impeachment.

On Sept. 17, 1970, the Special Subcommittee on House Resolution 920 of the Committee on the Judiciary, which subcommittee had been created by the committee to investigate and report on charges of impeachment against Associate Justice Douglas of the Supreme Court, submitted its final report to the committee.⁽¹⁶⁾

The report cited the 60-day extension granted the subcommittee by the Committee on the Judiciary on June 24, 1970, to complete its investigation. The report summarized the further investigation undertaken during the 60-day period and the additional requests for information from the Department of State, the Central Intelligence Agency, and various individuals.⁽¹⁷⁾

16. Final report by the Special Subcommittee on H. Res. 920 of the Committee on the Judiciary, committee print, Committee on the Judiciary, 91st Cong. 2d Sess., Sept. 17, 1970.

17. The subcommittee issued on Aug. 11, 1970, a special subcommittee publication entitled "Legal Materials on Impeachment," containing briefs on the impeachment of Justice Douglas, information from the Library of Congress, and relevant extracts from Hinds' and Cannon's Precedents.

The report discussed concepts of impeachment and grounds for impeachment of federal civil officers and of federal judges in particular. The report concluded as follows on the grounds for impeachment of a federal judge:

Reconciliation of the differences between the concept that a judge has a right to his office during "good behavior" and the concept that the legislature has a duty to remove him if his conduct constitutes a "misdemeanor" is facilitated by distinguishing conduct that occurs in connection with the exercise of his judicial office from conduct that is non-judicially connected. Such a distinction permits recognition that the content of the word "misdemeanor" for conduct that occurs in the course of exercise of the power of the judicial office includes a broader spectrum of action than is the case when nonjudicial activities are involved.

When such a distinction is made, the two concepts on the necessity for judicial conduct to be criminal in nature to be subject to impeachment becomes defined and may be reconciled under the overriding requirement that to be a "misdemeanor," and hence impeachable, conduct must amount to a serious dereliction of an obligation owed to society.

To facilitate exposition, the two concepts may be summarized as follows:

Both concepts must satisfy the requirements of Article II, Section 4, that the challenged activity must constitute ". . . Treason, Bribery or High Crimes and Misdemeanors."

Both concepts would allow a judge to be impeached for acts which occur in the exercise of judicial office that

(1) involve criminal conduct in violation of law, or (2) that involve serious dereliction from public duty, but not necessarily in violation of positive statutory law or forbidden by the common law. . . . When such misbehavior occurs in connection with the federal office, actual criminal conduct should not be a requisite to impeachment of a judge or any other federal official. While such conduct need not be criminal, it nonetheless must be sufficiently serious to be offenses [sic] against good morals and injurious to the social body.

Both concepts would allow a judge to be impeached for conduct not connected with the duties and responsibilities of the judicial office which involve criminal acts in violation of law.

The two concepts differ only with respect to impeachability of judicial behavior not connected with the duties and responsibilities of the judicial office. Concept 2 would define "misdemeanor" to permit impeachment for serious derelictions of public duty but not necessarily violations of statutory or common law.

In summary, an outline of the two concepts would look this way:

A judge may be impeached for ". . . Treason, Bribery, or High Crimes or Misdemeanors."

A. Behavior, connected with judicial office or exercise of judicial power.

Concept I

1. Criminal conduct.
2. Serious dereliction from public duty.

Concept II

1. Criminal conduct.
2. Serious dereliction from public duty.

B. Behavior not connected with the duties and responsibilities of the judicial office.

Concept I

1. Criminal conduct.

Concept II

1. Criminal conduct.
2. Serious dereliction from public duty.

Chapter III, Disposition of Charges sets forth the Special Subcommittee's analysis of the charges that involve activities of Associate Justice William O. Douglas. Under this analysis it is not necessary for the members of the Judiciary Committee to choose between Concept I and II.⁽¹⁸⁾

The subcommittee's recommendation to the full committee read as follows:

IV. RECOMMENDATIONS OF SPECIAL SUBCOMMITTEE TO JUDICIARY COMMITTEE

1. It is not necessary for the members of the Judiciary Committee to take a position on either of the concepts of impeachment that are discussed in Chapter II.

2. Intensive investigation of the Special Subcommittee has not disclosed creditable evidence that would warrant preparation of charges on any acceptable concept of an impeachable offense.⁽¹⁹⁾

EMANUEL CELLER,
BYRON G. ROGERS,
JACK BROOKS.

18. Special subcommittee report at pp. 37-39. For the entire portion of the subcommittee report entitled "Concepts of Impeachment", see §3.13, *supra*.

19. Special subcommittee report at p. 349.

The report included minority views of Mr. Edward Hutchinson, of Michigan, stating (1) that the portion of the report on concepts of impeachment was mere dicta under the circumstances and (2) that the investigation was incomplete and should have been further pursued, not only as to impeachment for improper conduct but also as to other action such as censure or official rebuke:

The report contains a chapter on the Concepts of Impeachment. At the same time, it takes the position that it is unnecessary to choose among the concepts mentioned because it finds no impeachable offense under any. It is evident, therefore, that while a discussion of the theory of impeachment is interesting, it is unnecessary to a resolution of the case as the Subcommittee views it. This chapter on Concepts is nothing more than dicta under the circumstances. Certainly the Subcommittee should not even indirectly narrow the power of the House to impeach through a recitation of two or three theories and a very apparent choice of one over the others, while at the same time asserting that no choice is necessary. The Subcommittee's report adopts the view that a Federal judge cannot be impeached unless he is found to have committed a crime, or a serious indiscretion in his judicially connected activities. Although it is purely dicta, inclusion of this chapter in the report may be mischievous since it might unjustifiably restrict the scope of further investigation.

The Subcommittee's report, which is called a final report, addresses itself

only to the question of impeachment. Admittedly no investigation has been undertaken to determine whether some of the Justice's activities, if not impeachable, seem so improper as to merit congressional censure or other official criticism by the House. There is considerable precedent for censure or other official rebuke even though a particular activity, while improper, was found not impeachable. This Subcommittee, however, did not investigate with the thoroughness requisite for judging questionable activities short of impeachment. The majority concludes that it finds no grounds for impeachment and stops there. In my opinion, it should have pursued the matter further. ⁽²⁰⁾

The Committee on the Judiciary discontinued further proceedings against Justice Douglas, and the matter was not further considered by the House.⁽¹⁾

Charges Against Vice President Agnew

§ 14.17 The Speaker laid before the House in the 93d Con-

20. *Id.* at pp. 351, 352.

1. For remarks on the final subcommittee report and the Judiciary Committee's failure to act on the final report, see 116 CONG. REC. 43147, 43148, 91st Cong. 2d Sess., Dec. 21, 1970 (remarks of Mr. David W. Dennis [Ind.]). For the minority views on the report of Mr. Hutchinson, printed in the Record, see 116 CONG. REC. 43486, 91st Cong. 2d Sess., Dec. 22, 1970.

gress a communication from Vice President Spiro Agnew requesting the House to initiate an investigation of charges which might “assume the character of impeachable offenses,” made against him during an investigation by a U.S. Attorney, and offering the House full cooperation in such a House investigation. No action was taken on the request.

On Sept. 25, 1973,⁽²⁾ Speaker Carl Albert, of Oklahoma, laid before the House a communication from Vice President Agnew requesting that the House investigate certain charges brought against him by a U.S. Attorney:

The Speaker laid before the House the following communication from the Vice President of the United States:

THE VICE PRESIDENT,
Washington, September 25, 1973.
Hon. CARL ALBERT,
Speaker of the House of Representatives, the House of Representatives, Washington, D.C.

DEAR MR. SPEAKER: I respectfully request that the House of Representatives undertake a full inquiry into the charges which have apparently been made against me in the course of an investigation by the United States Attorney for the District of Maryland.

This request is made in the dual interests of preserving the Constitutional stature of my Office and accomplishing my personal vindication.

After the most careful study, my counsel have advised me that the Constitution bars a criminal proceeding of any kind—federal or state, county or town—against a President or Vice President while he holds office.

Accordingly, I cannot acquiesce in any criminal proceeding being lodged against me in Maryland or elsewhere. And I cannot look to any such proceeding for vindication.

In these circumstances, I believe, it is the right and duty of the Vice President to turn to the House. A closely parallel precedent so suggests.

Almost a century and a half ago, Vice President Calhoun was beset with charges of improper participation in the profits of an Army contract made while he had been Secretary of War. On December 29, 1826, he addressed to your Body a communication whose eloquent language I can better quote than rival:

“An imperious sense of duty, and a sacred regard to the honor of the station which I occupy, compel me to approach your body in its high character of grand inquest of the nation.

“Charges have been made against me of the most serious nature, and which, if true ought to degrade me from the high station in which I have been placed by the choice of my fellow-citizens, and to consign my name to perpetual infamy.

“In claiming the investigation of the House, I am sensible that, under our free and happy institutions, the conduct of public servants is a fair subject of the closest scrutiny and the freest remarks, and that a firm and faithful discharge of duty affords, ordinarily, ample protection against political attacks; but, when such attacks assume the character of impeachable offenses, and become, in some degree, official, by being placed among the public records, an officer thus assailed, however base the instrument used, if conscious of inno-

2. 119 CONG. REC. 31368, 93d Cong. 1st Sess.

cence, can look for refuge only to the Hall of the immediate Representatives of the People.”

Vice President Calhoun concluded his communication with a “challenge” to “the freest investigation of the House, as the only means effectively to repel this premeditated attack.” Your Body responded at once by establishing a select committee, which subpoenaed witnesses and documents, held exhaustive hearings, and submitted a Report on February 13, 1827. The Report, exonerating the Vice President of any wrongdoing, was laid on the table (together with minority views even more strongly in his favor) and the accusations were thereby put to rest.

Like my predecessor Calhoun I am the subject of public attacks that may “assume the character of impeachable offenses,” and thus require investigation by the House as the repository of “the sole Power of Impeachment” and the “grand inquest of the nation.” No investigation in any other forum could either substitute for the investigation by the House contemplated by Article I, Section 2, Clause 5 of the Constitution or lay to rest in a timely and definitive manner the unfounded charges whose currency unavoidably jeopardizes the functions of my Office.

The wisdom of the Framers of the Constitution in making the House the only proper agency to investigate the conduct of a President or Vice President has been borne out by recent events. Since the Maryland investigation became a matter of public knowledge some seven weeks ago, there has been a constant and ever-broadening stream of rumors, accusations and speculations aimed at me. I regret to say that the source, in many instances, can have been only the prosecutors themselves.

The result has been so to foul the atmosphere that no grand or petit

jury could fairly consider this matter on the merits.

I therefore respectfully call upon the House to discharge its Constitutional obligation.

I shall, of course, cooperate fully. As I have said before, I have nothing to hide. I have directed my counsel to deliver forthwith to the Clerk of the House all of my original records of which copies have previously been furnished to the United States Attorney. If there is any other way in which I can be of aid, I am wholly at the disposal of the House.

I am confident that, like Vice President Calhoun, I shall be vindicated by the House.

Respectfully yours

SPIRO T. AGNEW.

On Sept. 26, 1973,⁽³⁾ Majority Leader Thomas P. O’Neill, Jr., of Massachusetts, made an announcement in relation to Vice President Agnew’s request for an investigation into possible impeachable offenses against him:

(Mr. O’Neill asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

MR. O’NEILL: Mr. Speaker, I rise at this time merely to make an announcement to the House that in the press conference the Speaker made the following statement:

The Vice President’s letter relates to matters before the courts. In view of that fact, I, as Speaker, will not take any action on the letter at this time.

The House took no action on the Vice President’s request, although

3. *Id.* at p. 31453.

resolutions were introduced on Sept. 26, 1973, calling for investigation of the charges referred to by the Vice President, such charges to be investigated by the Committee on the Judiciary or by a select committee.⁽⁴⁾

Parliamentarian's Note: The request cited by the Vice President in his letter was made by Vice President John Calhoun in 1826 and is discussed at 3 Hinds' Precedents §1736. On that occasion, the alleged charges related to the Vice President's former tenure as Secretary of War. The communication was referred on motion to a select committee which investigated the charges and subsequently reported to the House that no impropriety had been found in the Vice President's former conduct as a civil officer under the United States. The report of the select committee was ordered to lie on the table and the House took no further action thereon.

In 1873, however, the Committee on the Judiciary reported that a civil officer, in that case Vice President Schuyler Colfax, could not be impeached for offenses allegedly committed prior to his term of office as a civil offi-

cer under the United States. The committee had investigated whether Vice President Colfax had, during his prior term as Speaker of the House, been involved in bribes of Members. As reported in 3 Hinds' Precedents §2510, the committee concluded as follows in its report to the House:

But we are to consider, taking the harshest construction of the evidence, whether the receipt of a bribe by a person who afterwards becomes a civil officer of the United States, even while holding another official position, is an act upon which an impeachment can be grounded to subject him to removal from an office which he afterwards holds. To elucidate this we first turn to the precedents.

Your committee find that in all cases of impeachment or attempted impeachment under our Constitution there is no instance where the accusation was not in regard to an act done or omitted to be done while the officer was in office. In every case it has been heretofore considered material that the articles of impeachment should allege in substance that, being such officer, and while in the exercise of the duties of his office, the accused committed the acts of alleged inculpation.

Vice President Agnew resigned his office as Vice President on Oct. 10, 1973. A resolution of inquiry (H. Res. 572), referred to the Committee on the Judiciary on Oct. 1, 1973, and directing the Attorney General to inform the

4. See H. Res. 566, H. Res. 567, H. Res. 569, H. Res. 570, referred to the Committee on Rules.

House of facts relating to Vice President Agnew's conduct, was discharged by unanimous consent on Oct. 10, 1973, and laid on the table.⁽⁵⁾

§ 15. Impeachment Proceedings Against President Nixon

Cross Reference

Portions of the final report of the Committee on the Judiciary, pursuant to its investigation into the conduct of the President, relating to grounds for Presidential impeachment and forms of articles of impeachment, see §§ 3.3, 3.7, 3.8, supra.

Collateral References

Debate on Articles of Impeachment, Hearings of the Committee on the Judiciary pursuant to House Resolution 803, 93d Cong. 2d Sess., July 24, 25, 26, 27, 29, and 30, 1974.

Impeachment of Richard M. Nixon, President of the United States, Report of the Committee on the Judiciary, H. REPT. No. 93-1305, 93d Cong. 2d Sess., Aug. 20, 1974, printed in full in the *Congressional Record*, 120 CONG. REC. 29219-361, 93d Cong. 2d Sess., Aug. 20, 1974.

Impeachment, Selected Materials, Committee on the Judiciary, H. Doc. No. 93-7, 93d Cong. 1st Sess., Oct. 1973.

Impeachment, Selected Materials on Procedure, Committee on the Judiciary,

5. 119 CONG. REC. 33687, 93d Cong. 1st Sess.

Committee Print, 93d Cong. 2d Sess., Jan. 1974.

Introduction of Impeachment Charges Against the President

§ 15.1 Various resolutions were introduced in the 93d Congress, first session, relating to the impeachment of President Richard M. Nixon, some directly calling for his censure or impeachment and some calling for an investigation by the Committee on the Judiciary or by a select committee; the former were referred to the Committee on the Judiciary and the latter were referred to the Committee on Rules.

On Oct. 23, 1973, resolutions calling for the impeachment of President Nixon or for investigations towards that end were introduced in the House by their being placed in the hopper pursuant to Rule XXII clause 4. The resolutions were referred as follows:

By Mr. Long of Maryland:

H. Con. Res. 365. Concurrent resolution of censure without prejudice to impeachment; to the Committee on the Judiciary.

By Ms. Abzug:

H. Res. 625. Resolution impeaching Richard M. Nixon, President of the