

White House that has decimated our military's capability.

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

CONSTITUTIONAL IMPEACHMENT

The SPEAKER pro tempore (Mr. BRADY of Texas). Under the Speaker's announced policy of January 7, 1997, the gentlewoman from Texas (Ms. JACKSON-LEE) is recognized for 60 minutes.

Ms. JACKSON-LEE of Texas. Mr. Speaker, rising behind my very able colleague, I would be remiss in not joining him in saying that this is an issue of great concern. It is a bipartisan issue. It warrants the attention of the Nation and of this Congress, and it warrants a collaborative effort between the executive and the legislative branch.

It is for that very reason that I thought it was almost imperative that, 1 day after the proceedings in the House Committee on the Judiciary, I come to the floor to discuss these issues that now seem to take the majority of the time, of the thought and analysis and the conscience of America. Today, Mr. Speaker, I rise as an American, and I speak on the issue of constitutional impeachment.

I am an American who happens to be a member of the House Committee on the Judiciary and, as well, a Democrat. But as I speak about constitutional impeachment, I hope that those who may engage in this debate or listen to this debate will not be thwarted by the fact that I serve on this Nation's House Committee on the Judiciary, may not be thwarted by the fact that I am a Democrat, may not label my remarks because I am an African American or because I am a woman.

□ 1930

Frankly I welcome agreement and disagreement. But I would hope in this hour we would be able to get away from what has been the characterization of this debate over the last couple of weeks, partisan, full of labels and misinformation.

Frankly, Mr. Speaker, this is a constitutional discussion. Because of that, I would like to begin by reading actually from the Constitution. First of all, I think we can all agree that the Declaration of Independence which declared us independent was actually the promise and the Constitution, working through a very difficult process, was the fulfillment.

Alexander Hamilton in 1775 said:

The sacred rights of mankind are not to be rummaged for among old parchments or rusty records. They are written as with a sunbeam in the whole volume of human nature, by the hand of the divinity itself, and can never be erased or obscured by mortal power.

Frankly, this, I think, captured the document we now call the Constitution, for obviously writing in 1775 and before, we know that now in 1998 those

pages would be parched. But frankly Alexander Hamilton wanted to ensure that these rights would be sacred, that they would last until time was no more. He wrote and he joined others in collaborating and writing and debating and speaking to the Constitution so that it would be a living document. Frankly, as I have said from the very beginning of this process, the President of the United States, who also can claim the Constitution, is neither above nor beneath the law. The Constitution specifically points to us the people. You are not included because you are an elected official or excluded.

And so its beginning preamble says, "We the people of the United States, in order to form a more perfect union, establish justice, ensure domestic tranquility, provide for the common defense, promote the general welfare and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this Constitution for the United States of America."

This is a living document. It is for and by the people. Most of all, I think the Founding Fathers coming from places foreign to us that they felt were despotic, domineering, overwhelming, they wanted a country that fully respected equality. They particularly emphasized the need for the three branches of government. They wanted a strong executive but also the judiciary and the legislative. And in this discussion and in this constitutional impeachment discussion, I remind my colleagues in their debate and tone, let us not incite the American people. Let us not create hysteria. Let us not draw upon the tragedy and the unfortunate events in Philadelphia, where people lifted up in essence physically against each other. We do that, you know, in our words and how we define this.

So first of all, Mr. Speaker, I would like to be able to elaborate on how we got here. First of all, we understand we have got a Constitution. In the wisdom of the Founding Fathers, they established a provision dealing with the removal of the President and Vice President of the United States and other civil officers. In Article 2, Section 4, it reads very simply, "The President, Vice President and all civil officers of the United States shall be removed from office on impeachment for, and conviction of, treason, bribery or other high crimes and misdemeanors." Let me emphasize "high crimes and misdemeanors." Different from the time that we are in today, our Founding Fathers knew that the word "high" meant very serious, very high, very important, very troubling, very difficult. They did not want us to entertain frivolous concerns, because they were particularly concerned about us understanding the value of preserving this sovereign Nation. And so as the debate has been played out in the eye of the American public, there are those who would claim impeachable offenses for the President's allegations, or alleged lying to the American people. I say al-

leged, for some would listen and say, "That's already a given," because the House Judiciary Committee's work has not been done; but yes, it is well recognized that the President's behavior was reprehensible. The President has admitted an untruth and admitted improper relations.

Mr. Speaker, even with that, the challenge for those of us who are given this high calling is frankly to abide by the Constitution and not to presume. Now, I can say tonight that from the minimal work and the minimal documentation, I am very uncomfortable with even believing that there is any premise for reaching the level of this unconstitutional allegations or unconstitutional effort, if you will, to proceed against the President for offenses that may not rise to the level of constitutional offenses.

Let me clarify what I said, for I would never want to suggest that we have reached an unconstitutional level at this point. But if we follow through in the mode in which we are now proceeding, I would think the Founding Fathers would say that we are acting unconstitutionally, because we are rushing to judgment on offenses that on their face clearly do not appear to be constitutionally based as offenses that would warrant a constitutional impeachment.

Martin Luther King, whom I call a legal scholar, trained legally, if you will, in fighting injustices, not one that had a law degree, but certainly received his scholarship from being on the front line in fighting against injustice, said in his letter from a Birmingham jail, which many of us are familiar with, "Injustice anywhere is a threat to justice everywhere. Whatever affects one directly affects all indirectly."

So it is important for me to share with the American public how we got to where we are today. Frankly, we are operating or operated under H. Res. 525. This was a resolution that came to the floor of the House September 11, 1998. It came after my appearance and several others who appeared in the Rules Committee on September 10, 1998 and argued vigorously that if we were to proceed, suggesting that we should move under Article 2, Section 4, we should move with a very fine standard in the backdrop, and that was that of the Watergate proceedings; chaired by Chairman Rodino, then the Democrats in the minority, then a Republican President, and, of course, Republicans in the minority on that committee. But even with that backdrop, Chairman Rodino, and history paints him well, provided a very fair and even-handed process. Debating, yes. A difference of opinion, yes. Political in some sense, yes. But remember, now, in contrast to where we are today, on October 6, 1998, there had been a Senate Watergate proceedings under Sam Ervin, there had been at least 3 months of review of the materials that had been laid out before the public eye

through those proceedings, even before the House Judiciary Committee considered this thing called inquiry. And so I argued September 10 not as a Democrat, not as a member of the House Judiciary Committee already predisposed, not as a defender of President William Jefferson Clinton. More importantly, I think, I hope that I was defending at that time or at least proceeding to comment both constitutionally and as an American. I argued that fairness dictated that we follow a very good track record, and that was a track record of the Watergate proceedings which moved into executive session and reviewed the documentation that might have been presented then by the special prosecutor and allowed the President's counsel to review, and argued vigorously that we were making a very serious mistake by opening the door to dissemination of materials of which no one had reviewed.

Frankly, the arguments were not wholly listened to, and a resolution came out of the Rules Committee that moved to the House on September 11, 1998. But listen to the language of this rule that would have still given us an opportunity to follow appropriately very evenhanded procedures that were utilized during the Watergate proceedings. H.Res. 525 reads in part, Section 2:

The material transmitted to the House by the Independent Counsel shall be considered as referred to the Committee. That is the House Judiciary Committee. The portion of such material consisting of approximately 445 pages comprising an introduction, a narrative and a statement of grounds shall be printed as a document of the House. The balance of such material shall be deemed to have been received in executive session but shall be released from the status on September 28, 1998, except as otherwise determined by the Committee. Materials so released shall immediately be submitted for printing as a document of the House.

Let me point the Speaker to a very salient point. This material was deemed received in executive session and the authority was given over to the House Judiciary Committee, Mr. Speaker, to carefully, deliberatively and constitutionally to review this material and determine what the appropriate procedures might have been; trust given to representatives of both Republicans and Democrats, representatives of the American people, representatives of both sides of the aisle, trust invested in them as members of the House Judiciary Committee to appropriately review this material and, therefore, give its best judgment to the House as to how it should proceed. Unfortunately, our colleagues, Republican colleagues in that committee chose not to follow what I thought was constitutionally grounded in the very fine proceedings that were offered as a backdrop and as a study or a place of study, the Watergate proceedings, and then did nothing for a period of days but meet to release. Out of that came the hysteria and what now is a challenge to these constitutional proceedings.

The argument made by my Republican friends was that the people's

right to know, America's right to know, and tragically I agreed with my earlier stance, continue to agree with that, was absolutely the wrong premise, for the premise was based upon more of the people's right to know and not the reflection of the somberness of the responsibility that the Founding Fathers gave this that you do not go easily into the day to impeach the President of the United States. This is not a discussion about the Democratic President or the Republican President. It is a discussion about the Presidency of the United States of America, one again where the Founding Fathers refused to take lightly. In fact as they defined high crimes and misdemeanors, they refused to accept the definition of maladministration, something that was done by the President, and I will get into that further, that you did not like or you did like.

So when we voted on September 11, and I voted enthusiastically against the release of these documents, including the 445 pages, we in essence gave authority to the House Judiciary Committee not to do as I believe we should have been doing, which is to deliberate, to study and to review and to move carefully into a process that may result in a very considered vote on an impeachment inquiry. But what we did is to throw into a House Judiciary Committee that seemed hell-bent, if you will, on releasing documents with minimal review. Yes, the staff has indicated that they have reviewed every single piece of paper. Review may be taken in a more general term. They have touched it, they have looked at it. Frankly, I would take great issue in that, Mr. Speaker, because I believe if people of good will had been able to review extensively all of the documents that were released, they would not have released such salacious, pornographic materials not for the Nation to see but for the world to see.

So our first error was to ignore the rule of this House, a rule that I had hoped would have, more than not, sent these materials totally in executive session and asked us to carry on our deliberative work, but the rule that was passed did actually send the materials in executive session and gave to the authority of the Judiciary Committee the right to distribute these materials and, of course, our Republican majority decided that it was more important to flutter and clutter the American airwaves, the international airwaves and to create mass hysteria around allegations by this Office of Independent Counsel, allegations rather than referrals.

□ 1945

Let me go to the next unfortunate circumstance that provides, I think, difficulty in the referral by the Office of Independent Counsel. We must realize that during Watergate there was no such Office of Independent Counsel. It was called a special prosecutor. A man

that I have great respect for was that special prosecutor.

Certainly we all are aware or remember the midnight massacre. Well Leon Jaworski came after that, a special prosecutor, a Texan, a great American, a man who upheld and believed in the integrity and the ethical premise of the law. He did his job, and out of his work came enormous or a number of prosecutions or indictments. His grand jury in fact actually performed, and he presented to the House Committee on the Judiciary not a list of allegations and an indictable document or a document that was to be considered an indictment; he frankly presented to the House Judiciary Committee facts and materials of which they had the responsibility to review and to assess.

Let me tell you what came about through this independent counsel, Mr. Starr. He did not receive or nor did he attempt to receive judicial assent, such as it was, sought by the independent counsel prior to sending the referral to Congress and to do anything to assure fairness.

The contrast to the Watergate experience could not be more striking. In that earlier case it will be recalled the Watergate special prosecution force did not send to Congress an argumentative or inflammatory document, but rather a simple road map which merely summarized and identified the location of relevant evidence. Moreover, this document was submitted for review by Judge Sirica, the supervising judge of the grand jury before it was sent to the House of Representatives. Counsel for President Nixon was given notice and an opportunity to be heard before the report was sent to Congress.

This is not an attempt for cover-up. This is an attempt to appreciate the basic fairness upon which we operate and the constitutional premise of due process.

Judge Sirica carefully reviewed the report explicitly finding that it constituted a fair summary of the grand jury's evidence. It draws no accusatory conclusions, it contains no recommendations, advice or statements that infringe on the prerogatives of other branches of government.

My friends, this is extremely, extremely important because the OIC, the Office of Independent Counsel, is not the judiciary, it is not the legislative branch. In fact, it is not the executive. It is almost a fourth arm of government and bears extensive review itself. It is a frightening element of which this Congress should surely review for its fairness and its properness.

It renders no moral or social judgment. I am continuing to read from Judge Sirica's report. The report is a simple and straightforward compilation of information gathered by the grand jury and no more. The special prosecutor has obviously taken care to assure that its report contains no objectionable features and has throughout acted in the interests of fairness.

In this case, on the other hand, the independent counsel went not to the

supervising grand jury judge, Chief Judge Norma Holloway Johnson, but rather to the special division for the purpose of appointing independent counsels of the United States Court of Appeals for the District of Columbia which had appointed him independent counsel almost exactly 4 years earlier. There was no notice for the President, no opportunity for counsel to be heard on the propriety or fairness of any referral to Congress, nor did the independent counsel submit a report for the special division to review if it had been so, if had been so inclined. Instead, the independent counsel sought and received a blank check from the special division to include in its referral which would not be drafted and submitted to Congress until 2 months later all grand jury material that the independent counsel deems necessary to comply with the requirements of Section 595.

Against this back drop it is critical that the Committee on the Judiciary develop standards that would warrant us understanding what impeachable offenses are, and so against a very even-handed back drop that the Watergate special prosecutor, Mr. Jaworski, participated in, going to the court, allowing Mr. Nixon's counsel to review, making sure that there was an even-handed review, having the judge give credence and approval to the approach, we had a completely contrary perspective or a contrary approach used by Mr. Starr.

This strikes at the very premise of constitutionality and the basis upon which I frankly think that we should proceed.

So what we had was a document presented to us, 445 pages, a document full of allegations, an indictment document, and, by the way, a grand jury that still remains open, that has not acted in any sense, that has not indicted or not in any event made any statements about this other than to have witnesses come forward as it relates in particular to the incidents with Monica Lewinsky.

Let me share with you why I think that the backdrop or the Watergate is a standard that could be utilized. As I proceed, you will have my admit or concede the point that the Republicans now argue, that they are following the Watergate model. But you will also hear me counter that it may be a little too late at this time, too late and certainly not timely for what we needed to have been doing early on.

In the committee's report, the staff report dated February 1974, it was very clear what the staff perceived and how the Committee on the Judiciary would operate. Although staff at that time provided insight, certainly they did not have the final word. But I think this language is very helpful to us as we think about how we should proceed here and how we can get back on the right track.

Delicate issues of basic constitutional law are involved, the staff said. Those issues cannot be defined in detail

in advance of a full investigation of the facts. The Supreme Court of the United States does not reach out in the abstract to rule on the constitutionality of statutes or of conduct. Cases must be brought and adjudicated on particular facts in terms of the Constitution.

Similarly, now the staff has suggesting as the House committee in 1974 was about to proceed, the House does not engage in abstract, advisory or hypothetical debates about the precise nature of conduct that calls for the exercise of its constitutional powers. Rather it must await full development of the facts and the understanding of the events to which those facts relate.

My friends and Mr. Speaker, before we can even understand the facts, before we can make any sense out of Mr. Starr's referral, these matters were thrown to the American people. There were no discussions on establishing standards and matching those standards with the facts. Rather it was to create hysteria, and here we had a model and an example of which we could very carefully study so as not to create incidences where American is rising up against American and conclusions are being made primarily because they have found no leadership in this Congress.

Interestingly enough, our own Speaker, NEWT GINGRICH, was charged with lying, and he appeared and had the opportunity to go before the House Committee on Standards of Official Conduct. That committee provided the Speaker with the opportunity to review those materials, to have counsel, to be engaged, and yet their final solution to date is still sealed. Although a fine was assessed, we have yet to throw to the public those documents that provided evidence of this Speaker lying, and in fact this speaker was re-elected to the position of Speaker.

So all I am asking for, Mr. Speaker, is simple fairness, and frankly let me share with you why it is necessary to have fairness. Among the weaknesses of the Articles of Confederation, and this is going back to the impeachment remedy as discovered or designed by those individuals who were coming together in the early part of this Nation who wanted to strengthen and ensure that this country lasted. Might I try to put a better light on this by getting my glasses to read it more clearly?

Among the weaknesses of the Articles of Confederation, and I draw again from Federalist Papers, but I am citing the February 1974 Watergate staff report, Page 8; among the weaknesses of the Articles of Confederation apparent to the delegates for the constitutional convention was that they provided for a purely legislative form of government whose ministers were subservient to Congress. One of the first decisions of the delegates was that their new plan would include a separate executive, judiciary and legislature. However the framers sought to avoid the creation of a too powerful executive. The revolution had been fought against the

tyranny of a king and his counsel, and the framers sought to build in safeguards against executive abuse and usurpation of power. They explicitly rejected a plural executive despite arguments that they were creating the fetus of a monarchy because a single person would give the most responsibility to the office. For the same reason they rejected proposals for a counsel of advice or privy counsel to the executive.

Frankly our Founding Fathers were wise enough to strike a good balance. In striking a good balance they were clearly fearful of giving too much authority to any one branch because they did not want to see one branch topple the other branch. Here lies the foundation of why we must be extremely concerned about where we are with this impeachment process.

We cannot go immediately, Mr. Speaker, to jump to the conclusion that this President or a President should be impeached.

I said earlier, and I say it again. I have not determined and I see no basis, in spite of the counsel for the Republican presenting a very lengthy presentation yesterday in the committee, that we have impeachable offenses. One of the reasons why we cannot conclude there, and I have concluded to the extent of what we have done so far that there are none, is because this committee refuses to acknowledge the importance of determining constitutional standards before we vote on an impeachment inquiry.

Yesterday Mr. Schippers presented us with a document. Certainly I know that he worked very hard on this document, but added other offenses based upon staff's review of the material. In fact, Mr. Schippers presented to us new allegations that for me provide great discomfort because he is alleging conspiracy, conspiracy between the President and Miss Lewinsky, and I might say that in looking at the contacts of which he bases his premise on, I am baffled why we would have leaked to conspiracy with a minimal of contact and no evidence of the two parties now mentioned in a conspiracy that would have not shown any basis of conspiracy or coming together.

But what that adds, Mr. Speaker, is another criminal element. I am not sure if the basis or the reason for Mr. Schippers doing so is because he saw severe weaknesses in the presentation already presented by Mr. Starr.

But you know all of this would have been avoided if our committee under the House Res. 525 had taken those words in executive session and proceeded to deliberate and review materials and through that process come to the House and said we are still reviewing materials and in fact we now want to proceed and define the Constitutional standards so that, as we would come out to the public, we would have been able to match allegations, if that was the case, with Constitutional standards. But yet we found ourselves

in the committee yesterday listening to presentations by counsel only; no witnesses, Mr. Speaker; coming to a conclusion that we are at a point for an impeachment inquiry.

I simply say, Mr. Speaker, we had leaked and spoken before we had thought, and as well we had made determinations before we could even rise to the occasion of being able to explain to the American people that we were constitutionally sound.

I see the ranking member has come, and before I yield to him let me share with those who frankly have maybe come to a conclusion in the direction that the President should be impeached to understand our frustration and hopefully see this not as a defense of one man, but how somber and sacred this responsibility is. We cannot even entertain the concerns about saving Social Security or dealing with the lack of preparedness that our Joint Chiefs have come to this Congress and said that they are concerned about, very troubling issues that impact national security, because we have leaked into a process a dangerous process Mr. Speaker, without rhyme or reason and guidance.

□ 2000

I cannot express the level of my frustration when Democrats who were Americans and are still Americans today gave that committee every opportunity to pull back and to not go in or move this engine in the manner in which it is going so that we can deal in a very somber manner, constitutionally sound, with the issues at hand.

Let me share with my colleagues as well additional readings from our early Founding Fathers, but might I just cite this as on page 24 of the staff report. There are a lot of people who said lying and perjury. But our Founding Fathers again, and others who have studied this issue, frankly, understood impeachment, and they understood the elements of it, or at least they understood what they thought they wanted to ensure the sanctity of this sovereign nation.

It reads, "Impeachment and the criminal law serve fundamentally different purposes. Impeachment is the first step in a remedial process, removal from office, and possible disqualification from holding future office. The purpose of impeachment is not personal punishment."

Can I say that again, Mr. Speaker, because there are people who are upset with the behavior of the President of the United States. Can I say something, Mr. Speaker, so am I. So are my colleagues. I do not want to speak for the gentleman from Michigan (Mr. Conyers), my esteemed ranking member. I have great respect for him. But I would not even imagine that he would counter what he has heard about people's disappointment and outrage.

But, frankly, Mr. Speaker, the purpose of impeachment is not personal punishment. Its function is primarily

to maintain constitutional government. Furthermore, the Constitution itself provides that impeachment is no substitute for the ordinary process of criminal law since it specifies that impeachment does not immunize the officer from criminal liability for his wrongdoing.

I will yield to the gentleman from Michigan (Mr. CONYERS), my very esteemed ranking member who had the challenge, if you will, of serving on the 1974 Watergate committee. I think that he will share with us that he was not a wallflower. He was not one who did not view the proceedings vigorously, but more importantly, that he came to the conclusion that Mr. Nixon should be impeached.

I do not think that anyone who was on that committee would shy away from whatever their viewpoint may have been. But, frankly, I think that we can stand here in all honesty and say that the real crux of what we are now challenged to do in 1998 is not a pay back for 1974. This is not "I got you" or "I will get you." This is not a circumstance where we could very well say, "I have waited all these years to get me a Democratic President."

For I hope that there was no one on that committee, Mr. Speaker, my ranking member, included, that had a "get you" mentality after they finished the evenhanded process using the Constitution.

That is the only thing that we are asking today. For I can tell my colleagues, as a younger person in 1974, might I claim very young person, my heart was troubled. Fear rolls up. I did not know whether this country's sovereignty would be maintained. Even then I claimed to be a Democrat.

So, Mr. Speaker, this is not a time that we can cover ourselves from politics that are extremely partisan.

Mr. Speaker, I am happy to yield to the esteemed gentleman from Detroit, Michigan (Mr. CONYERS), the ranking member of the House Committee on the Judiciary, who has taught me the value of removing myself from partisan politics and the real crux of this matter, which is the constitutionality of this process and the preservation of a nation.

Mr. CONYERS. Mr. Speaker, I was listening to the gentlewoman from Texas (Ms. JACKSON-LEE) and felt compelled to come to the floor to join in this tremendously useful discussion that she is having with our colleagues about this very awesome event that is under consideration, the investigation of a sitting President of the United States, and how the Committee on the Judiciary, which has jurisdiction over this matter, should deal with it.

I must say that her discussion was compelling, and it is as thorough as she always is found to be as we work through the complex matters that confront the Committee on the Judiciary. There have been many, but none as towering as the one that we are burdened with at this moment.

So I say to the gentlewoman that I enjoy her discussions, and I am pleased to join in with a comment or two. I do not have any particular purpose but to share this discussion with her.

But it seems from a initial point of view that the American people are of a nearly singular accord to move this question away from the Congress and, as a matter of fact, out of their sight and hearing at the earliest possible moment.

Overwhelmingly, people have asked me, written me, called me, stopped me on the streets and said, please get rid of this matter. I explain to them that it is the objective of most of us here, and I include Republican colleagues in this, who are very concerned that we dispose of this as rapidly as possible and yet keep order.

So the question that originally confronts us is, how do we do that? Well, one way that we do not do it is to dump, I have lost track of how many, tens of thousands of pages of material from the independent counsel on to the American people and in the public, not to the Congress, in particular, and this is very much contrary to the 1974 Watergate impeachment inquiry, not to the attorneys representing the President of the United States who is being investigated so that he might prepare a decent response, but to the American people.

If there is a logic for this, I have not heard it yet. It escapes me as to why these tens of thousands of pages of salacious material that quite frankly border on the obscene, which the independent counsel has gratuitously sought to put into the public domain, in other words, through the government at taxpayers' expense, we have now had the most pornographic government document ever printed in the 209 years of our existence.

The question to Mr. Starr is why? The answer is that the Speaker of the House chose, upon receiving them, to make them public. For what purpose, I do not know. There are many suggestions that there may have been political motivation.

But the point of the fact is that we now have many citizens, many parents, and even young people themselves saying why did they do it? What are they trying to prove? What does this have to do with any inquiry on the Congress, much less an impeachment inquiry by giving all of this material to the public, and, incidentally, not giving one page to the President of the United States or his representatives.

So the referral that has been referred to and the releases that have come afterward, and we just made some more this week, another several thousand pages, all have to do with the relationship of the President with one other person.

In the fifth year of his investigation, which we are still not sure if it is concluded or not, and to that end, the gentleman from Illinois (Chairman HYDE) and I jointly sent a letter to him asking him in effect, for goodness sakes, if

there are any other materials, you could not be holding them back at this date in your fifth year. This is not a game. This is not a poker escapade. This is not casino or roulette wheel.

If you had dozens of attorneys and investigators and members of the Federal Bureau of Investigation working, and you come up with nothing, nothing on Whitewater, nothing on Filegate, nothing on Travelgate, nothing on China, nothing on campaign finances, nothing about Vince Foster's suicide, only the President and one person, we must presume, contrary to the Speaker of the House, that that is all they have.

I have never heard of members of the bar releasing something that is second or third importance and not saying that they had something more significant. So it is only reasonable for us to assume that this is it. But if this is not it, would the Office of the Independent Counsel be polite enough to let the Members of Congress know that that is the case. I am sorry to report that, to this moment, we have not had a response from our letter.

Now, the question of why the Speaker chose to do it this way is after the horse has left the barn. He did it. People resent it. Now they want to know what it is the Committee on the Judiciary is going to do now that, according to the independent counsel statute, Mr. Starr has referred the matter to the Speaker who has, in turn, referred it to the Committee on the Judiciary.

So yesterday we met to discuss what it is we should do, the Committee on the Judiciary, on a vote, in which all of the Republicans voted to move forward on a resolution recommending an inquiry that is glaringly deficient in one major aspect. The resolution does not call for a threshold decision to be made that describes what the grounds and standards for impeachment should be, and this is still left to be determined.

In other words, as the gentlewoman from Texas and the gentleman from California (Mr. BERMAN) noted during the committee, and I quote him, "The majority party has an obligation to recognize that high crimes and misdemeanors has a meaning. It was not just carelessly flung into the Constitution. And at Article II Section 4, it is described that an impeachment proceeding is an appropriate act for the President, the Vice President, and other certain high officials when there is involved treason, embezzlement, and other high crimes and misdemeanors." Well, not even Mr. BARR has suggested that treason is involved.

□ 2015

No one has suggested that embezzlement is involved. So the question that gripped our full committee is, are there other high crimes and misdemeanors?

Now, note the Founding Fathers' phrasing: Treason, embezzlement, and other high crimes and misdemeanors. So treason is a high crime and misdemeanor, embezzlement is a high crime and misdemeanor. But they said there are others.

Well, the threshold question, if we look at the Starr referral, is marital infidelity, if there is any, a high crime and misdemeanor. Is personal misconduct that does not deal with the violations of the office or the abuse of the powers of the President, is that a high crime and misdemeanor?

Mr. Speaker, I must say that I have commissioned our attorneys on the Committee on the Judiciary to find out not only in American jurisprudence, and we have only had 13 cases of impeachment, most of them were with judges, and there were none that ever included or involved themselves with marital infidelity, personal conduct, or sexual relations of any kind, none of them; so the question is, perhaps in the English common law out of which this whole notion of impeachment came, maybe there is something there. We find nothing there. In other words, just as a common sense threshold inquiry, I say to my colleagues, there is nothing within the report of our distinguished former Judge Kenneth W. Starr that even touches within the parameters of Article 2, Section 4.

Ms. JACKSON-LEE of Texas. Mr. Speaker, reclaiming my time, the gentleman is making such an enormously important point, and the reason why that point is so important is because as the gentleman will recall yesterday in committee, and the gentleman eloquently challenged in a constitutional manner Mr. Shipper's presentation, for it was a recounting, of course, of the report of Mr. Starr, Mr. Shipper being the counsel for the Republicans, to be able to make such a report, and as I said, to leap from that point to conclusions when there had not been any intervening definition of constitutional offenses that would warrant impeachment, and I cite for the gentleman issues that the Republicans' counsel seemed to emphasize: Lying and conspiracy.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. BRADY of Texas). The gentlewoman will suspend.

The Chair will remind Members to abstain from language that is personally offensive toward the President, including references to various types of unethical behavior and references to alleged criminal conduct.

Ms. JACKSON-LEE of Texas. Mr. Speaker, as the gentleman well knows, these issues that were being discussed, there was contravening documentation which was not presented in the report given. I think those speak, in particular, to whether or not we have been able to look at this matter in fullness. We have just noted that we cannot even discuss these matters on the floor of the House out of respect for the executive. Frankly, tragically, these matters were spread across the land, but the executive had no ability to respond.

Mr. CONYERS. Mr. Speaker, if the gentlewoman will yield, this begins to further outline the travesty. Every

young person with a computer in his house has now seen the very things that the Speaker at this moment precludes us from discussing because they are pure allegations and they are, in effect, untested. There have never been any cross-examination of who may have alleged them. Mr. Starr has never been before the committee. We do not know where or how he got them. And yet, while they are common fare for citizens and young people, this material has now been served up by the Republicans in this body to everybody in America.

I know that one 2-year-old has asked his father, who is Monica Lewinsky? Mr. Speaker, 2 years old. I know another teacher who has been asked by a third grader, teacher, what is an orgasm? This is offensive to parents, teachers, mature people who realize that this being put on the Internet has absolutely no salutary purpose.

By the way, I was reminded recently from a call from Memphis, Tennessee from a person in the music industry that these are the same people, I say to the gentlewoman, that have criticized rap artists for their obscenity and for their profanity, and now, they have outdone them tenfold by spreading thousands of pages of salacious, obscene, pornographic material, for no purpose. This is not the Committee on the Judiciary's finding, these are merely allegations which were not even necessary to support whatever conclusions the Office of Independent Counsel came to.

Mr. Speaker, I go back to an observation by our friend, the gentleman from California (Mr. BERMAN) who said that whatever the Rules of Procedure are that we adopt, our first order of business should be to resolve, if the events and allegations portrayed in the Starr report, rise to the level of an impeachable offense.

Now, not only do lawyers and constitutional authorities agree, but common sense and American citizens would think that we would take that simple precaution before we rush to vote out and recommend to this House, which will vote on Friday of this week, an inquiry of impeachment without ever having one instruction about what is this great constitutional language, high crimes and misdemeanors, the only thing in which these allegations can apply. Is perjury an impeachable offense? Well, I am not sure. Is lying an impeachable offense? I doubt it seriously. Fortunately, Members of Congress are not subject to impeachment proceedings, or the whole legislative branch of government could be brought to a standstill, possibly. Is concealing a personal affair an impeachable act?

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. If the gentleman will kindly suspend, again, the Chair reminds Members to abstain from references to various types of unethical behavior and alleged criminal conduct.

The gentleman is recognized.

Mr. CONYERS. Mr. Speaker, may I respectfully point out that I did not attribute that to the President of the United States.

Now, we have the report. The Starr report is not only a matter of public record, it is a matter of congressional notice.

I am a little bit at a loss as to why I cannot refer to what is in the government report that probably the gentleman voted for to have released, and now is telling me and suggesting that there is something inappropriate about me discussing it on the floor of the House.

We are not the children of America.

The SPEAKER pro tempore. If the gentleman will suspend, the Chair would remind the Members that the House rules regarding proper decorum in debate were announced to the House earlier on September 10. Both the Speaker and the minority leader, in concurrence, supported this announcement. It said:

When an impeachment matter is not pending on the floor, a Member who feels a need to dwell on personal factual bases underlying the rationale in which he might question the fitness or competence of an incumbent president must do so in other forums, while conforming his or her remarks in debate to the more rigorous standard of decorum that must prevail in this Chamber.

With that understanding, the Chair will recognize the gentleman.

Mr. CONYERS. Mr. Speaker, may I inquire respectfully of the Speaker, may we refer to the Starr report referred to the Congress of the United States?

The SPEAKER pro tempore. In general terms, yes.

Mr. CONYERS. In general terms, yes. And may we quote from the Starr report referred to the House of Representatives?

The SPEAKER pro tempore. Sir, depending upon the exact verbiage being referenced, yes.

Mr. CONYERS. Mr. Speaker, in other words, we can talk about it in the Committee on the Judiciary, Mr. Starr can dump it into the public domain; but on the floor of the Congress it is not discussable because of what? I am sorry, I do not follow the distinguished Speaker's logic.

The SPEAKER pro tempore. If the gentleman will suspend, the difference is what the specific reference is, and whether an impeachment resolution is actually pending. The House rules regarding proper debate are well established and cooperation is expected of all Members.

The gentleman may continue.

Mr. CONYERS. I thank the Speaker, and I will not talk about the Starr report anymore, because nobody knows what is in the Starr report; nobody knows about how disgusting it has been to many Americans; nobody knows what the allegations are, and we do not want to talk about it in advance for any reason.

So I, with great reluctance, return the balance of time to the gentle-

woman from Texas and thank her very much for her important contribution.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I thank the ranking member of the Committee on the Judiciary very much, as I notice his very eloquent recounting of where we are. I see my good friend from New York on the floor of the House. I am hoping that we will be able to conclude this within a few more minutes.

But let me just speak to where we are as we started out constitutionally. I argued the case that we are attempting to frame this in a constitutional manner. The gentleman has made a very valid point. If any distinction can be made, what we are talking about is one, we have alleged facts, but we have no constitutional standards. On Friday or Thursday, we will present to this House a resolution by a chairman who has already said, the gentleman from Illinois (Mr. HYDE), that he too would like to see this end before January 1999, but yet, the resolution will now be an open-ended, anything-goes, White-water, Filegate, Travelgate, allegations against Mr. Foster, as well as the Monica Lewinsky-Gate, and no definitive time in which we would finish.

Mr. CONYERS. Mr. Speaker, will the gentlewoman yield?

Ms. JACKSON-LEE. I yield to the gentleman from Michigan.

Mr. CONYERS. Mr. Speaker, I just want to tell the gentlewoman that the Speaker of the House has said just the opposite. He has said that this might go into the millennium. In other words, he has no intentions of working with the Committee on the Judiciary to bring this to a reasonable close within the end of the year. I thank the gentlewoman for yielding yet again.

Ms. JACKSON-LEE of Texas. Mr. Speaker, as we look at that point, and the gentleman is very right, we are faced with the dismal lacking of presentation by constitutional scholars who have said to us that high crimes and misdemeanors denote for the Founding Fathers the critical element of injury to the State. It was public and not private.

So we are leaping now to the floor of the House on Thursday to present an impeachment inquiry vote, quite contrary to Watergate, by doing so with no limitations and, of course, on the issues of a private incident.

I understand the Speaker is gaveling me. Might I turn to my good colleague, because we have much to say to conclude.

□ 2030

ISSUES SURROUNDING THE IMPEACHMENT PROCEEDINGS

The SPEAKER pro tempore (Mr. BRADY of Texas). Under the Speaker's announced policy of January 7, 1997, the gentleman from New York (Mr. OWENS) is recognized for 60 minutes.

Mr. OWENS. Mr. Speaker, I yield to the gentlewoman from Texas (Ms. JACKSON-LEE) for her conclusion.

CONSTITUTIONAL ISSUES REGARDING IMPEACHMENT

Ms. JACKSON-LEE. I thank the gentleman from New York for his very fine kindness. What I wanted to emphasize is I started out this evening by offering a constitutional explanation as to where we are. And so I wanted to put into the RECORD the noted words of the legal scholar from Yale University, Professor Charles Black. And I want to pick up on what the very fine gentleman from Detroit, Michigan (Mr. CONYERS), the ranking member, has so eloquently emphasized. That Americans are asking us to get a handle on this. Republican colleagues are asking us to get a handle on this. And we can do this if we collaborate.

Charles Black says to us: In the English practice, from which the framers borrowed the phrase, "high crimes and misdemeanors" denoted political offenses, the critical element of which was injury to the state. Impeachment was meant to address public offenses committed by public officials in violation of the public trust and duties. Because Presidential impeachment invalidates the will of the American people, it was designed to be justified for the gravest wrongs, offenses against the Constitution itself. In short, only serious assaults on the integrity of the processes of government and such crimes as would so stain a President as to make his continuance in office dangerous to the public order.

Mr. Speaker, this is the reach that we should be reaching to understand whether Mr. Starr has presented anything of substance to this committee. Not the reach in 24 hours to Thursday to an impeachment inquiry with no standards and, might I say, one meeting that would warrant the determination of constitutional standards that we now understand may be set by the chairman.

As I finish, let me simply say there is much to say here about how we proceed, but I certainly hope as we engage in this debate that we engage in it not classifying people for their party affiliation, for what part of the country they may have come from, but for nothing more than preserving this Constitution.

I hope that everyone will perceive this as an American issue, attacking the very sovereignty of this Nation. And might I simply say that there were many voices on this committee that joined the gentleman from Michigan in 1974, many fine persons; Father Drinan, in fact, who has written articles to suggest that his experience shows no impeachable offenses. And he admitted that he raised the Cambodian issue and that the committee in its goodwill in 1974 refused to put that as an article of impeachment. They refused to put the tax evasion that was alleged as an article of impeachment.

Mr. Speaker, might I just offer the words of my predecessor, Barbara Jordan. Many would want to say how she would be handling these events. I would offer to say her words exactly: