



U.S. SENATOR
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From the office of Senator Robert C. Byrd (D-W.Va.)

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Mr. President, throughout the past few days there has been an increasing intensity of calls for the resignation of President Nixon. Talk of resignation has escalated sharply, and, late last week, the halls of Congress were swept with rumors of forthcoming resignation.

I have been a constant critic of the tactics employed by the President throughout the Watergate crisis. I deplored the inadequate investigation of the Watergate break-in by the Justice Department and the FBI. I worked with my colleagues on the Judiciary Committee to establish an independent special prosecutor. I was appalled at the firing of Archibald Cox and spent an entire day, during public hearings, to extract, under oath, pledges of independence for the new special prosecutor, Mr. Jaworski, from Attorney General Designate William Saxbe. I have been critical of every delaying tactic employed by the President and his attorneys to impede the investigations by the Special Prosecutors and the House Judiciary Committee.

To the President's charges that the Congress was dragging out Watergate, I responded that the most expeditious way for the country to get Watergate behind it would be for the President to be forthcoming with the production of tapes and documents necessary to the proper conduct of the investigations going forward under our constitutional form of government.

I take the time now to reiterate my constant position on Watergate and related affairs, for I do not wish to be misunderstood in what I am about to say about the whirlwind of resignation talk. The United States has been justly proud of being a government of laws, and not of men. We have been scrupulously fair in our determination to preserve the principle that a defendant is innocent until proved guilty. It should be borne in mind, in this connection, that the President of the United States is not yet even a defendant--except in the court of public opinion. If a President of the United States should be drummed out of office by intense pressure from the media, Members of Congress, indeed, by public opinion itself--before articles of impeachment, based on evidence formally presented, have been voted--I fear the impact such an event would have on the constitutional bedrock of our system. Ours is not a parliamentary form of government under which an administration may be swept away by a "no confidence" vote and a new election called for by that vote. The President of the United States serves a set term of four years under our Constitution--through periods of high public confidence and low public confidence. The office is protected from what Walter Lippmann termed "the will of the transient majority," which he described as manifesting itself in pre-World War II Germany,

when the German Reichstag, in one hysterically fanned vote, voted away its prerogatives for the next thousand years.

If calls for resignation and the fanning of resignation rumors create a flash fire of public opinion that stampedes a President into a forced resignation, this would change our system from one of fixed tenure to one in which a President would remain in office only by popular approval. Our Constitution gives the mechanism by which a President may be removed from office if his acts have made him unfit to continue to exercise the public trust. That mechanism is being employed. Even now the House Judiciary Committee is hearing evidence to determine if articles of impeachment should be drafted to be sent to the Floor of the House for a determination by that body as to whether the President should stand trial in the Senate. It will only be through the operation of this mechanism that enough evidence will be presented to the Senate and the American people that they may make a reasoned judgment on the culpability of the President.

There may very well come a time when the evidence and the circumstances are such that consideration of resignation would be justified. My concern now goes to demands for resignation of the President before the evidence has been formally acted upon by the House.

I recognize the concern for the agony the country may endure through an impeachment proceeding in the House and a possible trial in the Senate, which has prompted many to call for the resignation of the President so that the nation may be spared such an experience. I submit, however, that in the highly-charged atmosphere that now exists throughout the country, nothing is more important to the nation than the exercise of sober judgment. Nothing is more dangerous than capitulation to mass emotionalism, which takes so little to deteriorate into mass hysteria. But, if the President were to resign due to such pressures as are now engulfing the country, and, by so doing, terminate the impeachment inquiry now under way in the House, a significant portion of our citizens would feel that the President had been driven from office by his political enemies. The question of guilt or innocence would never be fully resolved.

The country would remain polarized--more so than it is today. And confidence in government would remain unrestored.

Future generations would hesitate to use the constitutional mechanism of impeachment if they saw that it had such an impact on us that a wave of public outcry drove a President out of office rather than allowing the mechanism to run its proper course. An impeachment proceeding is a constitutional remedy of last resort. As agonizing as it may be in its use, the country will survive its application.

I have carefully read the transcripts of the President's meetings which were recently released. I find little comfort for the President in them. Indeed, I feel they are damaging to him. I share the view of the House Judiciary Committee that the transcripts cry out for the best evidence to be produced, that the actual tapes themselves be studied to determine if some events are as ambiguous as they might appear to be in an edited transcript of the words themselves. I believe that not only these tapes, but also the tapes and documents still being withheld by the

President from the Special Prosecutor and the House Judiciary Committee ought to be produced and studied before a sound judgment can be made, based on all of the best evidence, of the culpability of the President.

I submit that resignation, brought about by such events as we have seen in the past few days, could do serious and permanent damage to our constitutional system. Rather, I would hope that the storm would subside and that the President would produce the best evidence which still remains in his possession and that the Congress proceed calmly and with judicial prudence with its impeachment inquiry. The result of such action would assure the American people that, whatever the final result, it had been reached carefully and in the spirit of detached fairness that is so necessary to prevent a scar from being left upon the American system that could take generations to heal.