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“What did the President know, and when did he know it?”
-- Senator Howard Baker, Watergate Committee member

The Senate investigation into the Watergate scandal is one of the best-known examples of congressional oversight. It is a story of how Members of Congress, despite differing parties, opinions, and political ambitions, ultimately came together at a time of crisis in the best interests of the country, showing what can be achieved when principles trump politics. The investigation led to the resignation of the president and legislation to strengthen transparency and accountability in presidential elections and in the operation of the federal government.

On May 28 and June 17, 1972, seven operatives from the Committee to Re-elect the President (CREEP) – E. Howard Hunt, G. Gordon Liddy, James McCord, Jr., Bernard Barker, Virgilio Gonzalez, Eugenio Martinez, and Frank Sturgis – broke into the headquarters of the Democratic National Committee, located in the Watergate complex in Washington, D.C. During the second of the two visits, five of the burglars were arrested while attempting to wiretap telephones and steal sensitive documents. The police had been alerted by security guard Frank Wills.

Over the next year, Carl Bernstein and Bob Woodward of the Washington Post, working with a secret source called “Deep Throat” (identified years later as former FBI official Mark Felt), discovered and disclosed financial connections between the burglars, CREEP, and the White House. Though all seven initially pleaded not guilty, Mr. Hunt, Mr. Barker, Mr. Gonzalez, Mr. Martinez, and Mr. Sturgis changed their pleas at a January 7, 1973, appearance before federal D.C. District Court Judge John Sirica. Mr. Liddy and Mr. McCord were later found guilty at trial.

On February 7, 1973, the Senate responded to public disapproval of the break-in by voting 77 to 0 to establish the Senate Select Committee on Presidential Campaign Activities, known as the Watergate Committee. Members were selected with extreme care by both parties to avoid partisanship,
choosing liberal and conservative members of both parties and taking presidential ambitions into account. Democratic Senator Sam Ervin of North Carolina was named chair of the committee and was joined by Democrats Herman Talmadge of Georgia, Joseph Montoya of New Mexico, and Daniel Inouye of Hawaii. Republican Senator Howard Baker of Tennessee was the vice chair, serving alongside Republicans Edward Gurney of Florida and Lowell Weicker of Connecticut. The committee was charged with investigating “illegal, improper or unethical activities” occurring in connection with the 1972 presidential campaign and determining the need for new legislation to safeguard U.S. elections.

Samuel Dash was hired as chief counsel and Fred Thompson as minority counsel. The committee eventually employed over 120 staffers, including 22 who electronically organized a massive collection of records.

As the committee commenced its investigation, revelations about the break-in and subsequent cover-up continued to emerge. Mr. McCord alleged that during the burglary trial, people had committed perjury at the behest of the White House, and it was uncovered that Mr. Hunt and Mr. Liddy had also broken into the psychiatrist’s office of Daniel Ellsberg, the man responsible for leaking the Pentagon Papers. In addition, evidence emerged that CREEP had engaged in activities focused on undermining the presidential campaign of Democratic frontrunner Edmund Muskie, using “dirty tricks” to prevent him from winning his party's nomination to run against President Nixon in the 1972 election. Tactics included advertising fake campaign events, sending offensive mailers on doctored stationery, and paying Mr. Muskie’s driver to gain access to Muskie files being delivered to a new location. CREEP was successful in sinking his campaign, and Senator George McGovern, who ultimately secured the Democratic nomination, lost the election to President Nixon.

On April 30, 1973, President Nixon announced the resignations of Chief of Staff H.R. Haldeman, Domestic Affairs Advisor John Ehrlichman, and Attorney General Richard Kleindienst from his administration and the firing of John Dean, White House legal counsel. On May 1, Republican Senator Charles Percy of Illinois introduced a resolution that requested appointment of a special prosecutor to investigate the Watergate break-in. Cosponsored by ten Republicans and seven Democrats, the resolution was adopted the same day.

Congressional hearings began on May 17, 1973, and were organized into three phases: “Watergate Investigations,” “Campaign Practices,” and “Campaign Financing.” In his opening statement, Senator Baker stated, “[V]irtually every action taken by this committee since its inception has been taken with complete unanimity of purpose and
procedure .... This is not in any way a partisan undertaking, but rather it is a bipartisan search for the unvarnished truth.”

Although President Nixon had initially said that White House aides would not be permitted to testify due to executive privilege, the committee pushed back. Senator Ervin responded, “That is not executive privilege, it’s executive poppycock.” The ensuing hearings lasted 51 days and were televised across the country, capturing 237 hours of witness testimony including by President Nixon’s top aides, directors at CREEP, and the Watergate burglars. Many testified to destroying sensitive or stolen documents, sabotaging Mr. Muskie’s campaign, paying bribes, and feeling pressured by the White House to commit perjury.

John Dean began his week-long testimony on June 24, 1973, with a 245-page statement that took him six hours to read. He admitted to obstructing justice while serving as White House counsel, encouraging perjured testimony, laundering money, and committing other misconduct. He famously reported that he had told President Nixon “there was a cancer growing on the presidency” that needed to be removed. He outlined six conversations with President Nixon indicating that the president was aware of, or even involved in, the Watergate cover-up; he was the first witness to make that allegation. He also submitted about 50 documents as supporting evidence.

The Watergate Committee had granted Mr. Dean limited immunity in exchange for his cooperation and testimony. Special Prosecutor Archibald Cox refused his request for immunity, so Mr. Dean had not spoken to Mr. Cox or his team. They learned what he knew of the Watergate scandal on television at the same time as the 80 million Americans watching his testimony.

At one point, Senator Baker asked Mr. Dean what has since become a famous

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question in the annals of congressional oversight: "What did the president know and when did he know it?" While his question was perceived at the time to be a factual inquiry, later disclosures revealed that it was not as simple as it sounded. Senator Baker had been an ardent supporter of President Richard Nixon and had met frequently with White House staff during the early stages of the Watergate investigation. His question, rather than an attempt to establish President Nixon's role in the scandal, was later described as part of a strategy concocted with White House aides “Bob” Haldeman and John Ehrlichman to try to get Mr. Dean to confuse dates, names, and times, possibly perjuring himself and discrediting his testimony.

When Mr. Dean instead provided coherent testimony backed up by documents and other witnesses corroborated some of the facts, Senator Baker apparently began to reconsider President Nixon's innocence. Republican Senator Weicker, who served with him on the Watergate Committee, reflected in a 1994 interview, “As soon as Howard Baker realized that much of what was being said about Nixon was true and based in fact, he immediately backed off and became probably the most prominent questioner of witnesses.”

At the conclusion of Mr. Dean's testimony, the committee decided to request copies of certain documents he'd identified. President Nixon claimed, however, that constitutional separation of powers prevented him from releasing those documents. In response, the committee sent him a letter on July 12, 1973, that stated in part:

The Committee feels that your position as stated in the [July 6] letter, measured against the Committee's responsibility to ascertain the facts related to the matters set out in Senate Resolution 60, present the very grave possibility of a fundamental constitutional confrontation between the Congress and the Presidency. We wish to avoid that, if possible.

Four days later, on July 16, Alexander Butterfield, former presidential appointments secretary and aide to Mr. Haldeman, told the committee in testimony that shocked both Congress and the public that President Nixon had recording devices installed in the Oval Office and his office in the Executive Office Building in the spring of 1971. The newly revealed tape recordings offered an unexpected, contemporaneous, and potent source of information about what the president knew and said.

The White House eventually admitted the tapes existed, but President Nixon claimed they were protected by executive privilege and refused to provide copies. After Senators Ervin and Baker publicly called upon the president to release the tapes to the committee, President Nixon sent a July 23, 1973, letter explaining that, although he had

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listened to the tapes and they confirmed what he had told them, he would not release them to the committee for fear that “they contain comments that persons with different perspectives and motivations would inevitably interpret in different ways.”\(^4\) In response, the committee voted unanimously to issue one subpoena for the tapes and another for related presidential records. On July 26, Special Prosecutor Cox also subpoenaed the tapes, asserting that executive privilege could not override a criminal investigation.

President Nixon continued to defy the subpoenas throughout the summer and fall, despite widespread public opinion in favor of their release. On August 29, 1973, in a case brought by the special prosecutor, Judge John Sirica ruled that the White House must surrender relevant tapes to the court for a private review to determine whether they should be given to the grand jury. On October 12, the D.C. Circuit Court of Appeals upheld his ruling, finding that the federal court had jurisdiction to resolve the dispute, that presidents are not absolutely immune to grand jury subpoenas, and that courts may rule on matters related to executive privilege.

In the meantime, Mr. Ehrlichman and Mr. Haldeman had testified before the committee, defending themselves and President Nixon while attempting to paint Mr. Dean as the mastermind of the cover-up. In September 1973, Mr. Ehrlichman and Mr. Liddy, along with two accomplices, were indicted for the separate break-in at the office of Mr. Ellsberg’s psychiatrist. On October 10, 1973, bribery allegations unrelated to Watergate against Vice President Spiro Agnew led to his resignation.

A few days later, in light of the court order to produce the tapes, President Nixon offered to transcribe them and allow Senator John Stennis of Mississippi, Senate Armed Service Committee chair and Nixon loyalist, to listen to the tapes to verify the transcripts’ accuracy. Special Prosecutor Cox held a press conference explaining why he could not accept the “Stennis Compromise,” noting in part that the transcripts would not be admissible at trial under federal rules of evidence.

In response, President Nixon ordered Attorney General Elliot Richardson to fire Mr. Cox. The Attorney General refused and resigned immediately. When President Nixon gave the same order to Deputy Attorney General William Ruckelshaus, he also refused and resigned. President Nixon issued the order a third time to Solicitor General Robert Bork who complied by firing Mr. Cox and abolishing the office of the special prosecutor. The press dubbed the events, which took place on Saturday, October 20, 1973, as the “Saturday Night Massacre.” The impropriety of a president firing a sitting federal prosecutor conducting a criminal investigation still resonates to this day.

President Nixon greatly underestimated the repercussions of his actions. An NBC News poll showed that 75% of the public disapproved of his actions. The House began receiving 30,000 telegrams per day\(^5\) supporting impeachment, and Western Union and the Capital switchboard had to hire more staff to handle all the calls and telegrams flooding Congress.

Representatives responded to the public outcry. Democrat Jerome Waldie of California, a member of the House Judiciary Committee, stated, “The President is gambling. Gambling that the Congress doesn't have the courage to impeach. I think the President will lose that gamble, because I think the people, in their anger and outrage, will insist upon impeachment.”\(^6\) Another committee member, Representative Pete McCloskey of California, who was the first Republican to call for impeachment, declared, “The public is going to demand that we impeach. Congress, in this kind of a case, is representative of the American people. We will react to the American people’s demands.”\(^7\) Majority Leader Thomas “Tip” O'Neill of Massachusetts announced on October 23, “In their anger and exasperation, the people have turned to the House of Representatives. The case must be referred to the Judiciary Committee for speedy and expeditious consideration.”\(^8\) House members overwhelmingly agreed, voting 410 to 4 to authorize the Judiciary Committee to open an impeachment inquiry.

The House Judiciary Committee was chaired by Democrat Peter Rodino of New Jersey and was composed of 21 Democrats and 17 Republicans. The gravity of the task before the committee led members to proceed in a bipartisan way. Democratic Representative Elizabeth Holtzman of New York, the newest and youngest member of the committee, recounted in a 1994 interview:

Peter Rodino was brilliant and wise. I think he understood the stakes. Peter Rodino knew that impeachment would never work if it was seen to be partisan. So, Rodino looked very hard and far and wide to find a Republican to be Chief of Staff of the House Judiciary Committee’s impeachment inquiry. And he found a Republican, John Doar. That was the first signal of how serious this was.\(^9\)

The Judiciary committee members each received a black book with statements of fact and supporting evidence, and attended closed sessions to review the materials. The statements of fact were read aloud by committee lawyers, who were specifically told by

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\(^7\) Ferguson, C. (2018).


Representative Rodino to read in a flat, monotone voice so that members would not be influenced by any emotions in the reading of the texts.

The White House continued to maintain that it was not required to turn over any evidence to Congress, but the new Special Prosecutor Leon Jaworski, appointed on November 1, 1973, after Mr. Cox's dismissal, took the stance that, because impeachment was the sole responsibility of the House, the Judiciary Committee should have access to the few tapes they had been able to obtain. Judge Sirica granted him permission to turn over the tapes as well as grand jury reports showing evidence of criminal acts. The most important tape recording concerned a conversation on March 21, 1973, between President Nixon and John Dean, in which they discussed paying off the Watergate burglars, and Mr. Dean told the president that some of his aides, himself included, could go to jail for obstruction of justice.

In February 1974, in an opinion later affirmed by the D.C. Circuit, Judge Sirica finally ruled on the Watergate Committee's request for copies of the tapes. The court determined that the committee had not made a sufficient showing of need for the tapes, since tape transcripts had already been produced, the House Judiciary Committee already had copies of some tapes, and the committee did not show how the tapes were essential to drafting legislation related to presidential elections.

On March 1, 1974, Special Prosecutor Jaworski indicted seven Nixon aides, including Messrs. Haldeman, Ehrlichman and Mitchell, for obstruction of justice, conspiracy, and other crimes. President Nixon was named as an unindicted coconspirator. To conduct the upcoming trial, the special prosecutor subpoenaed additional tapes and materials from the president who, again, refused to provide them. The special prosecutor sued, and on July 23, 1974, the Supreme Court ruled 8 to 0 that President Nixon must turn over 64 tapes, rejecting his claim of executive privilege. Archibald Cox, when asked about the ruling, tied it to the still unfulfilled subpoena issued by the Judiciary Committee, "I think the decision goes a long way to vindicate the subpoena issued by the House Judiciary Committee and to establish the proposition that non-compliance with the House subpoena was itself a cause for impeachment."\(^\text{10}\)

In a press conference on the day of the Supreme Court decision, House Judiciary Committee member Republican Lawrence Hogan of Maryland offered this analysis:

> After having read and reread and sifted and tested this mass of information which came before us, I've come to the conclusion that Richard M. Nixon has, beyond a reasonable doubt, committed impeachable offenses, which in my judgment, are of such sufficient magnitude that he should be removed from office. The evidence convinces me that my president has lied repeatedly, deceiving public officials and the American People. He has

\(^\text{10}\) Ferguson, C. (2018).
withheld information necessary for our system of justice to work ... he concealed and covered up evidence and coached witnesses .... He tried to use the CIA to impede the investigation of Watergate by the FBI. He approved the payment of what he knew to be blackmail to buy the silence of an important Watergate witness. He praised and rewarded those whom he knew had committed perjury. He personally helped to orchestrate a scenario of events, facts, and testimony to coverup wrongdoing in the Watergate scandal and to throw investigators and prosecutors off the track. He actively participated in an extended and extensive conspiracy to obstruct justice.\textsuperscript{11}

The next day, debate on impeachment began in the House committee. It was the first congressional impeachment debate to be televised live. Judiciary Chair Rodino stressed the following in his opening remarks:

Make no mistake about it: This is a turning point, whatever we decide. Our judgment is not concerned with an individual, but with a system of constitutional government .... This committee must now decide a question of the highest constitutional importance. For more than two years, there have been serious allegations by people of good faith and sound intelligence that the president, Richard M. Nixon, has committed grave and systematic violations of the Constitution .... We have taken care to preserve the integrity of the process in which we are now engaged. We have deliberated, we have been patient, we have been fair. Now, the American people, the House of Representatives, the Constitution, and the whole history of our republic demand that we make up our minds.\textsuperscript{12}

Democrat Barbara Jordan of Texas gained national attention for her passionate opening remarks:

I am not going to sit here and be an idle spectator to the diminution, the subversion, the destruction of the Constitution .... The Constitution charges the

\textsuperscript{11} Ferguson, C. (2018).
president with the task of taking care that the laws be faithfully executed, and yet the president has counseled his aides to commit perjury, willfully disregard the secrecy of grand jury proceedings, conceal surreptitious entry, attempt to compromise a federal judge, all while publicly displaying his cooperation with the processes of criminal justice. A president is impeachable if he attempts to subvert the Constitution.13

While some Republican members of the committee defended President Nixon, others spoke out against his actions. Republican Representative Robert McClory of Illinois noted, “The only materials which we have received have come from the grand jury and from the special prosecutor. It seems to me the President’s failure to comply threatens the integrity of our impeachment process itself. His action is a direct challenge to the Congress, and the exercise of its solemn constitutional duty.”14 Republican Representative Caldwell Butler of Virginia said, “A power appears to have corrupted. It is a sad chapter in American history, but I cannot condone what I have heard. I cannot excuse it, and I cannot, and will not, stand still for it.”15

Following debate, the committee voted on five articles of impeachment:

- Article I, relating to obstruction of justice, was adopted by a vote of 27 to 11;
- Article II, relating to abuse of presidential power, was adopted by a vote of 28 to 10;
- Article III, relating to contempt of Congress, was adopted by a vote of 21 to 17;
- Article IV, relating to concealing facts from Congress about bombing operations in Cambodia, was rejected by a vote of 12 to 26; and
- Article V, relating to emoluments and tax fraud, was rejected by a vote of 12 to 26.

Despite the committee votes in July 1974, the Articles of Impeachment never received a vote by the full House membership. On Thursday, August 7, Senate Minority Leader Hugh Scott of Pennsylvania, Senator Barry Goldwater of Arizona, and House Minority Leader John Rhodes of Arizona visited President Nixon at the White House to inform him that, were he to stand before the Senate for an impeachment trial, he would be convicted and removed from office. At 9:01 pm on August 8, 1974, President Nixon addressed the nation live on television from the Oval Office and announced his resignation, effective at noon the next day. Representative Gerald Ford, who had been sworn in as Vice President on December 6, 1973, following the resignation of Spiro Agnew, took the Presidential Oath of Office and became the 38th President of the United States.

One month later, on September 8, 1974, President Ford issued Richard Nixon a pardon and gave the former president control of the White House tapes recorded during his tenure. The decision was unpopular with the public and outraged many in Congress after their long battle to obtain access to the tapes. President Ford was called before the House Judiciary Committee, and asked by Representative Holtzman:

I know that the people want to understand how you can explain having pardoned Richard Nixon without specifying any of the crimes for which he was pardoned. And how can you explain having pardoned Richard Nixon without obtaining any acknowledgement of guilt from him? How can this extraordinary haste in which the pardon was decided on, and the secrecy with which it was carried out, be explained? And how can you explain the fact that the pardon of Richard Nixon was accompanied by an agreement with respect to the tapes, which in essence, in the public mind, hampered the special prosecutor’s access to these materials?16

To stop the turnover of the tapes to former President Nixon, Congress overwhelmingly passed the Presidential Recordings and Materials Preservation Act of 1974, giving control of the tapes and other materials relating to Watergate and abuse of power to the National Archives. Although that law pertained only to Nixon-era materials, Congress subsequently passed the Presidential Records Act of 1978, to preserve all presidential, vice presidential, and White House records going forward.

The Watergate investigation led Congress to take other steps as well to prevent presidential and government abuses. Key legislation included the following.

- Federal Election Campaign Act (FECA) amendments: FECA was amended in 1974,

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to create the Federal Elections Commission, as recommended by the Senate Committee on Presidential Campaign Activities in its final report on Watergate. FECA also set contribution limits to political campaigns and required candidates to disclose all funds raised and spent.

- **Freedom of Information Act** amendments: In 1974, Supreme Court Justice Earl Warren wrote: “If anything is to be learned from our present difficulties, compendiously known as Watergate, it is that we must open our public affairs to public scrutiny on every level of government.”\(^\text{17}\) As part of the Watergate reforms, Congress enacted several laws to increase government transparency, including a bill strengthening the Freedom of Information Act (FOIA). The Nixon administration had often failed to grant FOIA requests, claiming that documents were “classified” by the executive branch, although they were not actually deemed “classified” materials. Congress amended the 1967 law in 1974, so that only officially “classified” documents addressing national security concerns could be withheld and gave judges the authority to evaluate specific documents. The law also imposed time limits on agency responses to FOIA requests and required an annual report on overall FOIA requests and denials.

- **Privacy Act of 1974**: In response to President Nixon’s abuses of tax information held by the IRS and illegal surveillance of Americans by the FBI, Congress enacted legislation establishing a Code of Fair Information Practice that federal agencies must follow when collecting and using certain personally identifiable information. It requires the public to be notified of systems containing these records, and forbids agencies from disclosing certain types of personal information without written consent from the individual.

- **Tax Reform Act of 1976**: Responding to actions taken by President Nixon to obtain copies from the IRS of tax returns filed by certain individuals, request IRS audits of persons on an “enemies” list, and enable multiple agencies to request tax returns from the IRS, Congress enacted Section 1202 of the Tax Reform Act of 1976, imposing strict limits on the IRS’ ability to disclose tax information to the President, government agencies, and Congress itself. For the first time, the law required federal tax returns to be treated as “confidential” rather than “public” documents.

- **Ethics in Government Act of 1978**: This law created the federal Office of Government Ethics and required certain government officials to submit financial disclosure forms, including the president, vice president, members of Congress, officers of the executive branch, and others. It also restricted lobbying by former members of Congress and set limits on outside earned income and employment by individuals working for the government. In addition, it established a process for appointing “independent counsel” to investigate government misconduct, a

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provision later allowed to lapse. An early version of this bill was named the “Watergate Reorganization and Reform Act.”

In addition to legislative reforms, information uncovered about President Nixon’s use of the intelligence community for unlawful purposes helped spur creation of the Church Committee, which led to the Foreign Intelligence Surveillance Act and other important changes.

The Senate Select Committee on Presidential Campaign Activities issued its final report on June 27, 1974. It ran 1,250 pages, with an additional 907-page volume of supporting exhibits.

Ultimately, 48 people were convicted of crimes related to the Watergate scandal including for conspiracy, obstruction of justice, perjury, burglary, wiretapping, and distributing illegal campaign literature. Twenty corporations pled guilty to making illegal campaign contributions. Federal courts issued key precedents establishing that presidents are subject to grand jury subpoenas and limiting the scope of executive privilege.

Following his resignation, President Nixon and his wife, Pat, returned to their home in San Clemente, California. In 1977, he participated in a series of televised interviews with David Frost, drawing an audience of 45 to 50 million. Over the years, he published ten books, including his memoirs in 1978, which became a bestseller. In 1990, he oversaw the opening of the Richard Nixon Presidential Library and Museum. He traveled the world, met with foreign leaders, and was a popular guest speaker until his death in 1994.

For more information on the Watergate investigation:

- Congress Investigates: A Critical and Documentary History, Volume Two, Chapter Eight by the Robert C. Byrd Center
- “Gavel-to-Gavel”: The Watergate Scandal and Public Television
- History Channel documentary: Watergate
- Watergate Files Exhibit (Ford Library Museum)
- Watergate Hearings: 45 Years Later
- Watergate hearings videos (American Archive of Public Broadcasting)
- Watergate trial tapes (Richard Nixon Presidential Library and Museum)
- Impeachment Inquiries into President Richard Nixon