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## Not Yet Convinced

Charles E. Wiggins

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# “Not Yet Convinced”

*transcribed remarks of*  
THE HONORABLE CHARLES E. WIGGINS\*

**Introduction by Fred Altshuler, Esq.:** During the hearings of the House Judiciary Committee in 1974, one of the most articulate and thoughtful speakers in opposition to impeachment was Congressman Charles Wiggins, who was then a Republican representative from California. When I spoke with Judge Wiggins last week about appearing on this panel, I voiced my own opinion as a junior member of the impeachment inquiry staff that the committee’s proceedings had seemed relatively less partisan and contentious than the Clinton impeachment. Judge Wiggins politely informed me that he has some rather different views about what transpired, and I am pleased to give him the opportunity to express that now.

**Judge Wiggins:** I welcome the opportunity to be here. This is kind of a forty-five year reunion for me. I took the bar exam in 1956 here at Hastings. I was a southern Californian, and I came up here to Hastings because there was a new building, and I wanted to avoid taking the bar in a crowded hotel room in Los Angeles.

I have to tell you of an incident from that time because it relates to my subject. Nineteen fifty-six was a different year than obviously today, and maybe even the sixties. In San Francisco, members taking the bar were exquisitely dressed in tweeds, hats, and raincoats. I came in jeans and some sort of shirt, but I was not equivalent to the extraordinarily well-dressed people taking the bar here in San Francisco. In any event, during the break, I went out and smoked a cigarette, and there were a lot of people from San Francisco and the San Francisco area out there. I could not avoid listening to them. They were talking about the test that we had just taken, and I thought “I don’t recognize that,” and I listened intently. All of a sudden, it

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\* Judge, United States Court of Appeals for the Ninth Circuit, 1984-2000. Only weeks after he delivered these remarks at the Watergate Symposium at Hastings College of the Law, Judge Wiggins unexpectedly passed away while awaiting heart surgery. See Jason Hoppin, *Ninth Circuit Judge Wiggins Dies at 72*, THE RECORDER, Mar. 7, 2000, at 1. Judge Wiggins’ remarks are, therefore, his last public statement on these issues. His remarks have been edited only slightly for grammatical clarity.

occurred to me that they did not know what the hell they were talking about.

Well, what goes around comes around. I do not know for sure that the people indicting Richard Nixon know what the hell they are talking about here. They do not have evidence that I heard, and I heard it all on the House Judiciary Committee. They are speculating. John Dean just speculated without any evidence on matters which could reasonably lead to the impeachment of the President. Well, I am not yet convinced that Nixon has been treated fairly.

I knew Richard Nixon probably for longer than any person in the room. He ran for Congress in my district in 1946. I met him in 1946; I was in the Army when he had a Navy uniform on. I just met him casually at that time, but I was impressed. He was a good-looking candidate and I was a young Republican. I met him again in 1948, and many times thereafter. I did not know him particularly well. He knew that I was from El Monte, and I knew that he was from Yorba Linda, but that was about the size of it. He was, as far as I could see at that time, an honorable man who was not given to committing the crimes that were later attributed to him. I was mayor of El Monte at one time in my life, and he was a candidate for Governor of the state of California, and he came through El Monte. I met him again on that occasion. Thus, my relationship to Nixon goes back about fifty-five years. I was surprised that he was charged with the offenses that he was charged with later.

The debate occurred in the House of Representatives, in my committee, in the Judiciary Committee. One of the early arguments concerned what qualified as an "impeachable offense," and I raised that argument. I maintained then, and still maintain, that the history of impeachment in the United States has been that it requires a criminal act on the part of the respondent. The Watergate break-in was a particularly important event, and it was a criminal act. Some people perceived that the President had some involvement in that political act. However, in my opinion, if he did not, they should not tolerate his impeachment. And if he did, then he should be thrown out. I thought that the Committee should have focused on the criminal misconduct attributed to the President. I lost that battle.

The Democrats on the Committee, in a partisan vote, elected to expand the scope of impeachment to involve all manner of misconduct. The press invited the public to submit charges. The Democratic Party, unions, and many private organizations were responsible for submitting charges. There were some fifty-odd charges formally investigated by the Judiciary Committee. Most of them were frivolous, but they were investigated primarily because of their public relations value.

The press had a field day on these charges against Richard

Nixon. However, there was no support for them. The essential inquiry in that investigation was what qualified as an "impeachable offense," what is an "impeachable offense?" I can fully appreciate Mr. Woods suggesting that the impeachable offense should be defined broadly.<sup>1</sup> I understand that. But I thought in the political situation in which we were involved in 1972 and 1973, that impeachment should be supported only if the President was involved criminally in the matter.

I have been asked to comment about the partisanship on the committee. I want you to know that I have met half a dozen people here in this conference that represented to me that they had some role on the impeachment committee. I never met them once. I had a role on the impeachment committee; they knew who I was, but I did not meet them once. They obviously are well-intended people, and they may have had the public interest at heart, but it was very, very partisan. It was partisan to such an extent that the impeachment of Clinton is, in comparison, uneventful. The partisanship shown by the committee during the Nixon impeachment was just as intense as was shown during the Clinton impeachment inquiry. I think six Republicans sided with the Democrats, and the Democrats were united in impeaching President Nixon. The issue was not whether you were a Republican or a Democrat; the issue was whether you were for or against the impeachment of Nixon.

Well, I think the evidence shows that the Nixon White House was guilty of misconduct, and indeed the President himself was guilty of misconduct on the smoking gun tape. But the charges against the President related to charges against the White House. The White House is an organization of something like two or three thousand people that have access to stationary of the White House. You heard charges that Bud Krogh and this man and that man all engaged in misconduct. Steve Trott described the misconduct of a number of people during the Ellsberg break-in, but he didn't describe the misconduct of President Nixon. The President has to be indicted and charged for his personal misconduct.

The evidence of the President's personal misconduct was very, very slim. Let me tell you what it was and I will conclude. As far as I know, the following is the only evidence of President Nixon's personal misconduct. He engaged in a conversation with Haldeman in the White House, I think it was June 18, 1972, or something like that.<sup>2</sup> It was a long conversation. Haldeman at one point in the

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1. See Joseph A. Woods, Jr., *How High the Crime?*, 51 HASTINGS L.J. 753 (2000).

2. H.R. "Bob" Haldeman served as White House Chief of Staff from January 1969 to April 1973. Deeply involved in the Watergate cover-up, he later served eighteen months in prison after being convicted of conspiracy and obstruction of justice. See JOHN DEAN,

conversation said to the President, and this was just the two of them, "We're back to this Watergate thing." Bob Haldeman said that John Dean and John Mitchell had had a conversation and reported that conversation to Haldeman. The conversation dealt with tracing the Watergate burglars' hundred dollar bills down into Florida. The money came from some Midwestern investors as I recall, who gave twenty-five thousand dollars to the Republican party. This was all reported by Haldeman. Bob Haldeman told the President that he had talked to Mitchell, and Mitchell had said that it was important to divert the inquiry away from the pursuit of the money. While Haldeman is speaking, the President all the while is grunting. That is all he does, he just grunts a little bit. The recommendation evidently originating from John Mitchell, through Haldeman, was that Haldeman and Ehrlichman divert the inquiry into the money pursuit in Florida by going to the FBI and saying that it involved CIA activities, covert activities involving Cuba. In any event, the President ultimately said: "Well, I'm not going to second guess John Mitchell. We have given favors to Helms in the CIA in the past with respect to the Cuban situation, and if John Mitchell recommends it, go ahead." That was the personal comment of the President. That was the only evidence, the only evidence that I can attribute to the President as misconduct. He joined a conspiracy to obstruct justice.

To his credit, about two weeks later, Pat Gray, the acting director of the FBI, called the President and said that some people in his administration were trying to mislead the CIA and the FBI. And the President said to Pat Gray: "Pat, you conduct your investigation properly. Let the chips fall where they may." I think that is cogent evidence that the President had withdrawn at that moment, from a conspiratorial agreement that he had made two weeks before.

Now that was the only evidence that the President performed personal misconduct. And for that, the American people chose to drive President Nixon from office. I think that he has not been treated fairly. He is a good man; he was a good man. He was a God-fearing man. And I was proud that he served as my congressman, my senator, my Vice President and I was pleased to serve under him in Washington. Thank you.