

the daily Collegian

Thursday, October 3, 1974
Vol. 75, No. 53 12 pages
University Park, Pennsylvania
Published by Students of The Pennsylvania State University
Ten cents per copy

Senate adopts first article in Cernusca impeachment

By JIM KUHNHENN
Collegian Staff Writer

The Undergraduate Student Government Senate last night voted 15-11 in favor of adopting the first article for impeachment of USG President George Cernusca.

The orderly meeting was in contrast to Monday's shouting match.

The article deals with Cernusca's failure to comply with an insurance investigation committee subpoena presented to him on Sept. 24 for a tape recording. Because of this Cernusca was ruled in contempt of the committee.

The constitutionality of the vote was questioned by some members of the Senate and by Cernusca.

The USG Constitution states that the Senate may, by a majority vote, impeach any USG executive or judicial officer.

But the Constitution does not state whether the entire Senate or a quorum of the Senate is needed for a majority vote.

Fred Stoner, president pro-tempore and acting chairman of the special Senate meeting, ruled that the majority pertained to a quorum.

The chair's decision was appealed but failed.

Cernusca said he will file a grievance to the USG Supreme Court and ask them for a decision on Stoner's ruling.

He said he is confident the Court will decide in his favor. Such a decision would mean the first article of impeachment would not pass since a majority of the entire Senate is 18 votes.

The question of majority vote did not arise until debate on the article had ended.

It had been previously stated by Cernusca aides that the subpoena presented to Cernusca was not properly worded.

But Committee Chairman Pam Michaels told the Senate that she was told by legal advisors the subpoena was perfectly legal.

Senator Harris Abrams said Cernusca did not give an honest or reasonable explanation for not appearing with the tape within the time period stated in the subpoena.

Cernusca told the Senate he had acted on the presumption that even though the tape was in the possession of his former executive assistant, Eric Richardson, he would be able to present it to the committee.

But he said Richardson refused to give him the tape without legal counsel because of the possibility of legal ramifications. As a result, he said, he was not able to comply with the subpoena.

Town Senator James Cory said Cernusca had to take "a myriad of things" into account before handing over the tape. He said the legal ramifications of such a tape had to be researched before any action was taken and therefore the charge of contempt along with the article was a "farce."

Some members of the Senate also questioned the validity of voting by newly appointed Senator Anita Budinetz.

Senators claimed Budinetz might be influenced by a conflict of interest since she had been student insurance representative to Hignan, Nielson, Whitridge and Reid Insurance company during the height of the insurance matter.

A motion was made to discuss Budinetz's situation but it

failed to pass. Budinetz voted in favor of the first article for impeachment.

After the meeting ended, disorder erupted between committee members and Cernusca.

Cernusca apparently took a letter from one of the committee members that had been presented as evidence during the committee hearings.

But Cernusca said the letter's existence was not divulged to the Senate.

He said the committee was "withholding evidence that was favorable to me."

The letter was from Frank B. Hall Insurance Company offering insurance to cover some of Cernusca's personal possessions. The offer was apparently made with the supposition that the insurance policy would be given without charge.

Cernusca said he never acknowledged the letter.

Cernusca said he took the letter from the committee member in order to make it public. He said that after having revealed its existence he would return to the committee.

Cernusca also said he is being advised to pursue litigation in court concerning the actions of certain committee members. He declined to mention who the Senators were and what the charges would be.

"I am not going to be railroaded out of office by some childish and vindictive members of the Senate," he added.

The Senate will resume its deliberations on the remaining impeachment articles Sunday night.



Photo by Stephan Gerhart

Bundle of Dynamite

SHARON BIDDLE (7th-business) may be small but she packs a wallop. Here Sharon practices one of her katas. (See related story on page 3).

Double jeopardy claimed by Ehrlichman

WASHINGTON (UPI) — John D. Ehrlichman claimed yesterday he cannot be prosecuted on Watergate cover-up charges, saying the principle of double jeopardy invalidates two of the five charges against him in the two-day old cover-up trial.

With jury selection proceeding slowly in the courtroom, Ehrlichman's lawyers filed an "affirmative defense of double jeopardy" with trial judge John J. Sirica claiming their client cannot be prosecuted for the cover-up conspiracy because of his earlier conviction in the Ellsberg burglary case.

Sirica, meantime, warned prospective jurors they could be jailed for contempt of court if they fail to declare their true feelings about the case during the jury selection process expected to last several more days.

After eight hours of preliminary screening yesterday, Sirica excused 80 persons from jury duty on personal hardship grounds and ordered another 80 to return tomorrow for further individual questioning. Sirica will question today another 64 prospects who survived Tuesday's first round of preliminary screening, making a total of 144 held over for more screening.

Ehrlichman, a former presidential adviser and one of five defendants in the cover-up trial, was convicted in July of conspiracy and perjury in the 1971 burglary of Daniel Ellsberg's psychiatrist's office by White House "plumbers."

His lawyers did not say why that conviction would bar prosecution for the cover-up, but it appeared they would argue that the Ellsberg break-in and the Watergate cover-up were all part of the same conspiracy. The constitutional principle of double jeopardy means a person cannot be punished twice for the same crime.

The lawyers said only that Ehrlichman is "constitutionally immune from prosecution" for the first two counts of the indictment against him, which charge conspiracy and obstruction of justice in the cover-up.

He also faces three charges of lying to federal investigators but the double-jeopardy contention did not extend to those charges.

Ehrlichman was sentenced to 20 months to five years imprisonment on the Ellsberg conviction but has appealed and has spent no time in jail.

Federal procedure requires that a complaint of double jeopardy must be claimed at the time of trial. It was unclear whether the trial must be delayed while this legal issue is resolved.

Special Watergate prosecutor Leon Jaworski, meanwhile, filed another legal brief saying the government "may prove at trial" there were others involved in the conspiracy beyond those indicted or named co-conspirators by the grand jury.

Former President Richard M. Nixon is one of nearly two dozen persons named unindicted co-conspirators in the plot.

Jaworski gave no indication who else he may seek to prove was involved.

Jaworski also submitted a brief on behalf of the Central Intelligence Agency seeking to quash partially Ehrlichman's subpoenas for documents to be used in his defense. He said the CIA would provide some material, after certain classified information was deleted, but would refuse Ehrlichman's "blanket request for the production for every piece of paper" in CIA files mentioning various individuals.

In the second day of the search for an unbiased panel to hear the trial of five former Nixon administration and campaign officials, another 82 potential jurors cited hardship in asking to be excused from the case. Sirica began hearing their pleas individually.

"It doesn't look like we can get a jury today," Sirica said.

Ninety had already been excused Tuesday, and Sirica, mindful of pre-trial claims by defense lawyers that their

clients could not get a fair trial in Washington, took pains to impress the need for candor upon the 175 prospective jurors who went through the selection process yesterday.

Wagging his finger at the candidates, Sirica told them they could be held in contempt of court and sent to jail should it develop later that they deliberately failed to admit to any prejudices during the selection process.

"I'm going to repeat it once more so nobody will have an excuse should it happen," Sirica said. "I've been around this courthouse a number of years and I've seen the kind of thing happen that I'm here to prevent."

He said, however, the warning was "not for the purpose of intimidating, coercing or frightening any prospective juror."

The defendants, all former associates of Richard M. Nixon, sat impassively at the defense tables as Sirica delivered his lecture.

They are: former Attorney General John N. Mitchell; former White House chief of staff H. R. Haldeman; former presidential adviser John Ehrlichman; former Nixon campaign official Robert C. Mardian; and former campaign lawyer Kenneth W. Parkinson.

All are charged with conspiring to coverup the June 17, 1972, break-in at the Democratic national headquarters in the Watergate complex and all but Mardian are charged with obstruction of justice.

Sirica, who has guided various phases of the Watergate case through about two years of court proceedings, told the prospective jurors that the indictments against the five defendants are "not evidence of anything." He reminded them they must presume the defendants innocent unless they are proven guilty beyond reasonable doubt.

The trial opened Tuesday in the vast ceremonial courtroom where Sirica began the original Watergate break-in trial 21 months ago. The scene will shift

to Sirica's own smaller courtroom after preliminary screening of jurors is completed, a process expected to take several more days.

The jury selection process for this trial is an especially painstaking task. Besides the need to find 18 unbiased panelists — 12 jurors and six alternates — from among District of Columbia residents, Sirica and the trial attorneys had to find panelists willing and able to undergo the hardships of duty in this case.

Sirica, announced Tuesday the jury would be sequestered for the duration of the trial — cut off from their families, jobs and the outside world in general for perhaps as long as four months, living under close guard in a motel near the courthouse.

The persons excused Tuesday and yesterday successfully argued these conditions would create unfair personal hardships for them.

Eastern Crown Pirated away



AP wirephoto

JUBILANT PIRATES MANNY SANGUILLEN AND BOB ROBERTSON begin the celebration after last night's 5-4 victory over Chicago brought the Eastern Division Crown back to Pittsburgh. The Bucs scored twice in the ninth to tie the game, then again in the tenth to capture their third title in four years. See story page 8.

Presidential pension remains intact

House slashes Nixon allowance

WASHINGTON (UPI) — The House late yesterday voted to provide former President Nixon \$200,000 for his transition to private life, less than a quarter of what was sought, but rejected a move to strip him of his pension.

In a series of votes on amendments to a supplemental appropriation bill, the House pared \$198,000 from an already greatly reduced proposed allowance for Nixon's office and staff expenses and pension in the first year out of office.

The amended bill, which included \$8.4 billion for education programs — some half-billion dollars more than the administration wanted — was approved 317-72 and sent to the Senate.

The sharp cuts in the proposed allowance were triggered in part by a determination some \$316,000 was known to have already been spent on Nixon's transition to private life, plus an undetermined amount — possibly large — provided him in the form of services by government employees.

House members were angered when government officials could not provide a comprehensive total of spending on the

transition, and one member introduced a resolution — still pending — that would direct the White House to come up with one.

President Ford had asked for \$850,000 for Nixon's first-year expenses, but a House Appropriations subcommittee trimmed that to \$398,000.

The House further reduced the committee's recommendation by \$145,000 on a 342-47 vote, then made an additional \$53,000 cut on a 321-62 vote.

A move to strip Nixon of his pension was soundly defeated 344-46, and move to provide him only his pension and no transition funds was defeated 277-107.

The money is to cover Nixon's \$5,000 a month pension plus the hired help, equipment and supplies needed to process his mail and tie up the loose ends of his administration.

But Rep. Joseph P. Addabbo, D-N.Y., sponsor of the cut, and other members argued that the \$398,000 was an excessive amount because the Nixon transition already has received \$316,000 in federal funds since he resigned the presidency on Aug. 9.

That sum did not include substantial payroll and other expenses for assistance to Nixon that various federal agencies have provided, and whose total is unknown.

The full Senate Appropriations Committee planned to take up today its own subcommittee's recommendation for \$320,000 in transitional funds.

The Addabbo amendment to a supplemental appropriation bill was voted after the House turned down by a 169-228 vote an effort by Rep. Louis Stokes, D-Ohio, to reduce the funds by \$245,000, the amount Nixon would receive for the first six months out of office.

The committee had recommended \$245,000 for the first six months out of office covered by the Presidential Transition Act of 1963 and another \$153,000 for the second six months covered by the Former Presidents Act of 1958.

In arguing for the Addabbo proposal, Rep. George Danielson, D-Calif., told his colleagues that the proposed purpose for the money lacked specifics. "We are just buying a pig in a poke," he said.

His constituents want to know, Danielson said, "What did we buy for our money? I want to know what we are buying."

Other members pointed out that there was nothing in the law to prevent Ford from financing Nixon's transitional costs even without a congressional appropriation because he simply could provide the services under White House operating funds. Rep. Elizabeth Holtzman, D-N.Y., called the appropriation, in effect, "open-ended."

Rep. Howard Robison, R-N.Y., argued against the cuts, saying, "There is a valid national purpose to be served by providing a reasonably adequate amount for transitional services."

Opponents of the cuts said past presidents had been granted expenses for taking care of the mail they receive long after they leave the presidency and other expenses that go along with being a former President. There was no reason, they said, to deny the funds to Nixon just because he had resigned instead of fulfilling his term.

Butera charges Shapp lied about taxes

HARRISBURG (AP) — House Republican leader Robert Butera yesterday accused Gov. Shapp of lying about the amount he had paid in state income taxes.

A Shapp aide said the charge was "vicious, erroneous and a deliberate misrepresentation of the facts. It is disappointing to see the majority leader make such irresponsible statements."

Butera said Shapp's statement was "a direct lie" when he told newsmen a month ago he believed he had paid about \$60,000 in state income taxes "when in fact he paid only \$31,000 in the three years since the state tax has been in effect."

Shapp disclosed the \$31,745 figure himself on Sept. 24 with a statement from his accountants that his total

federal, state and local tax bill for the last eight years was nearly \$3 million.

The governor told The Associated Press Tuesday he never paid state taxes on a \$1.9 million profit he made from the sale of a Williamsport cable TV firm because he sold it before enactment of the income levy.

The exemption came under a regulation which prohibits taxing the proceeds of a contract made prior to June 1, 1971, when the income tax became effective. The Williamsport firm was sold a month earlier with payments to be made over three years.

Butera, from Montgomery County, which is also where Shapp lives, said at a news conference he knew nothing about the regulation drawn up by the State Revenue Department until recently.

"I am not questioning the governor of illegality," Butera said, "but I am questioning the legality of the regulation."

The governor himself knew about this regulation, this loophole. This is misfeasance on his part not to bring this to light, and not to do something to determine whether this is proper or not."

Shapp said the current income tax was the second measure passed by the legislature, noting that the first version which was effective Jan. 1, 1971, was declared unconstitutional by the state Supreme Court because it provided exemptions for low income earners.

"I fought for the original tax and I wanted it to remain law," Shapp said. "I would have been glad to pay the tax on

my Williamsport sale if it had remained legal."

Butera also blasted the governor for what he called his "concentrated effort to thwart" the work of the House Select Committee to Investigate State Contract Practices headed by Rep. Patrick A. Gleason, R-Cambria.

Butera said the committee, which has heard allegations of contractor kickbacks, "will not end its work Nov. 5," which is election day.

Weather

Partly cloudy and cool today, high 48. Clear and very cold tonight, low 27. Mostly sunny and warmer tomorrow, high 56.