

RPTS BULKLEY

DCMN MAYER

SANCTION HEARING IN THE MATTER OF

REP. JAMES A. TRAFICANT, JR.

Thursday, July 18, 2002

House of Representatives,

Committee on Standards

of Official Conduct,

Washington, D.C.

The committee met, pursuant to call, at 2:24 p.m., in Room 2118, Rayburn House Office Building, Hon. Joel Hefley [chairman of the committee] presiding.

Present: Representatives Hefley, Hastings, Biggert, Hulshof, LaTourette, Berman, Pastor, Lofgren, Tubbs Jones, and Green.

Staff present: Robert Walker, Staff Director/Chief Counsel; Paul Lewis, Counsel; Ken Kellner, Counsel; Bernadette Sargent, Counsel; Preston Johnson, Staff Assistant; Bari Schwartz, Counsel to the Ranking Minority Member; and Joanne White, Administrative Assistant.

The Chairman. The committee will come to order. This sanction hearing of the Committee on Standards of Official Conduct in the matter of Representative James A. Traficant, Jr., Will come to order.

Late last night the Adjudicatory Subcommittee of the Committee on Standards of Official Conduct held, pursuant to the code requirements of committee rule 10 that nine of the ten counts contained in the statement of alleged violations in the matter of Representative James A. Traficant, Jr., Had been proved by clear and convincing evidence. The Committee on Standards of Official Conduct will manage this sanction hearing pursuant to rule 25 of the rules of the committee.

The purpose of this hearing is to determine what sanction, if any, the committee should recommend to the House of Representatives with respect to the nine counts; the statement of alleged violations have been proven by clear and convincing evidence in the matter of Representative James A. Traficant, Jr.

The order of the sanction hearing will be as follows:

Upon completion of my opening statement and the opening statement of Mr. Berman, I will recognize Robert Walker, Staff Director and Chief Counsel to the committee, and Mr. Traficant, who is representing himself. Each party will have 30 minutes to present any oral submission for the committee's consideration as to the sanction the Committee on Standards should recommend to the House of Representatives.

Upon completion of these proceedings, the committee will meet in Executive Session to consider and vote on a motion to recommend to the House of Representatives that the House take disciplinary action.

The committee will also by majority vote issue a letter of reproof or take other appropriate committee action.

With respect to any proved counts against Representative Traficant, the committee may recommend to the House one or more of the following sanctions: expulsion from the House of Representatives, censure, reprimand, fine, denial or limitation of any right, power, privilege or immunity of Mr. Traficant as permitted under the U.S. constitution, any other sanction determined by the committee to be appropriate.

With respect to the sanctions that the committee may recommend, reprimand is appropriate for serious violations.

Censure is appropriate for more serious violations, and expulsion is appropriate for the most serious violations.

A recommendation of a fine is appropriate in a case in which it is likely that the violation was committed to secure a personal financial benefit.

A recommendation of a denial or limitation of a right, power, privilege or immunity of a member is appropriate when the violation bears upon the exercise or holding of such right, power, privilege or immunity.

These are standards contained in the rules of the committee, but they are intended as guidelines and do not limit the authority of the committee to recommend other sanctions.

Before we proceed, I would call on Mr. Berman for any statement he might want to make.

Mr. Berman. Well, thank you very much, Mr. Chairman. Just before we begin with the presentations, I just wanted to say a couple of words.

Mr. Trafficant. Could you please speak up, Mr. Berman, I have a hard time hearing you.

Mr. Berman. The work of the Adjudicatory Subcommittee has concluded and our decision has been announced. Before we embark on the sanction phase of this matter, I just wanted to take a moment to compliment you, Mr. Chairman, for your stewardship of these proceedings, your patience, your forbearance, your steadfast commitment to fairness, your good judgment have been a credit to the committee and to this institution; and it continues to be an honor and a pleasure to work with you.

And I also want to note that while this assignment is one that none of us have sought, it has given me the opportunity to work closely with members I have previously not known well; and for that, I am grateful. It has been an honor to work with the members who, to a person, have been extraordinarily diligent and conscientious in their work on this matter.

The public and, in fact, our colleagues outside this committee, doubtless do not realize the many long hours the members have devoted to this matter individually and collectively. I salute my colleagues for the seriousness of purpose and the thoughtfulness they have brought to this assignment.

While I did not, of course, serve on the Investigative Subcommittee in this matter. I am confident that the same could be said of the four members who served on that body, as well, two of whom now rejoin us for this afternoon's proceeding.

And finally I want to commend with great sincerity the staff of this committee, particularly Paul Lewis and Ken Kellner, who are counsel for the Investigative Subcommittee; the staff director, Rob Walker; and

Bernadette Sargeant, who served as counsel to the Adjudicatory Subcommittee, who will -- who all performed so well their assigned tasks.

I also want to make a special note both of the chairman's counsel, Ginny Johnson and my own counsel, who has been with me since the time I -- on this committee since the time I took the post of ranking member 5-1/2 years ago, Bari Schwartz. And I certainly don't want to make light of our dear clerk, Joanne White, who helps us in so many ways.

And to all of you and others on the staff I haven't mentioned, thank you for your long hours of work and for the jobs well done.

Thank you, Mr. Chairman.

Mr. Traficant. Can I have a check inquiry at this point?

The Chairman. What is your inquiry?

Mr. Traficant. Do you have anything nice to say about me, Mr. Berman?

Mr. Berman. I do.

Mr. Traficant. You didn't say it. Thank you.

The Chairman. But he hasn't.

Mr. LaTourette. Mr. Chairman, may I make a parliamentary inquiry before we proceed?

The Chairman. You may.

Mr. LaTourette. I understand the counsel is going to talk for up to half an hour and the respondent, likewise. Will there be the opportunity in this open session, if any member of the committee has a question as to why that recommendation is being made? Or if there is a precedent, will that opportunity be afforded during this session?

The Chairman. If you or any member would like that opportunity, we will afford that. This is a hearing and we are happy to do that.

Mr. LaTourette. I would respectfully request the opportunity to do that, if needed, and I thank you.

The Chairman. So noted.

Mr. Walker.

Mr. Walker. Thank you, sir.

Mr. Chairman, Mr. Berman, members of the Committee on Standards of Official Conduct, the Adjudicatory --

The Chairman. Your mike is not on, I believe.

Mr. Walker. -- the Adjudicatory Subcommittee in the matter of Representative James A. Traficant, Jr., Has adopted and transmitted to the committee its report.

The Adjudicatory Subcommittee determined that nine counts of the statement of alleged violations were proven by clear and convincing evidence. Under committee rules, as you are so much aware, it is now your role to determine the sanction to recommend to the House of Representatives regarding those violations.

These proven violations include repeated breaches of the public trust, acts that undermine the integrity of the governmental process and directly dishonor and discredit this institution.

Each of these violations is of the most serious nature, and I submit that each could, therefore, call for the most serious sanction. Taken together, as they are before you, these violations unequivocally call for only one response from you, a recommendation that the House expel Representative Traficant.

The authority of the House to sanction its members is grounded in the Constitution. Article I, section 5, provides that each House of Congress may punish its Members for disorderly behavior and with a concurrence of two-thirds, expel a member. In addition to expulsion, as you have noted, Mr. Chairman, the principal sanctions that may be imposed by the House include reprimand and censure, both of which require the concurrence of a majority.

Precedents of the House state that the power of the House to expel, quote, "seems to be a matter purely of discretion," unquote. However, as evidenced by the need for the two-thirds concurrence, expulsion is an extraordinary measure appropriate, as the committee rules provide, only for the most serious violations.

In its 213-year history, the House has expelled only four of its members. Three of those expulsions occurred during the Civil War and were based on charges of treason. The fourth expulsion was that of Representative Michael J. Myers in 1980 and was based on Representative Myers' conviction on Federal bribery and conspiracy charges arising from the ABSCAM investigation.

It is important to note, however, that the number of actual expulsions from the House needs to be considered and regarded in light of the fact that a number of Members who committed violations of the most serious nature resigned their seats or lost in election before any formal action could be taken.

In the case of Representative Mario Biaggi, the committee unanimously voted to expel the Member, who, however, resigned before the House took up the matter. Representative Biaggi had been convicted on illegal gratuity and obstruction of justice charges.

Representative Raymond Lederer, in 1981, resigned his seat the day after the committee recommended expulsion. Representative Lederer had been convicted on bribery charges in connection with the ABSCAM case.

Representative John Jenrette, also convicted in the ABSCAM bribery matter, resigned before completion of disciplinary hearings being held by the committee.

And in 1857, expulsion resolutions were also reported for three members on bribery charges. All of these three members resigned during House consideration of the expulsion resolutions.

As the precedents I cited from the modern era show, expulsion has been imposed and, I submit, should be imposed in cases involving the trading of official actions and influence for money and other things of value.

Those eight of you who constituted the Adjudicatory Subcommittee found by clear and convincing evidence that Representative Traficant engaged in such trading of his official office and powers repeatedly, in several different ways and with several different people or companies.

This corrupt trading and misuse of his office for personal gain is at the heart of Representative Traficant's conduct in count 1 with the Bucci brothers, in count 2 with Arthur David Sugar, in count 3 with John J. Cafaro and others, in counts 4 and 5 with Raymond Allen Sinclair.

But Representative Traficant's proven misconduct goes beyond the repeated use of his office in connection with receiving personal benefits from others. It also includes in count 7 the misuse of the public's money, monies through his conduct in receiving congressional salary kickbacks from employees and receiving personal labor and services from congressional employees when these employees were being paid for and should have been doing the work of the public.

Beyond even these grave offenses, the Adjudicatory Subcommittee found, in effect, in count 6 that through his efforts to persuade Raymond Allen Sinclair to destroy evidence and provide false testimony to a Federal grand jury, Representative Traficant attempted to conceal his abuse of office from the Federal

agents, attorneys and other entities whose daily charge it is to enforce and uphold the laws made by this body for the protection of the people.

It is one thing for me, as your counsel, to sit before you and suggest that you recommend imposition of the ultimate sanction on one of your peers. It is another far more exacting matter for you who bear the power and burden to make that recommendation to the House as a whole.

In the case of Representative Whaley in 1913, the committee that conducted that investigation concluded that the extraordinary power to expel, quote, "must be fairly intelligently and conscientiously made with due regard to the propriety, honor and integrity of the House and the rights of the individual Member affected," unquote.

I respectfully submit that throughout the process leading to this sanction phase, the committee and its subcommittees have met this difficult test.

I also respectfully submit that in light of the long train of abuses of his office for personal gain, through which he reflected great discredit on the House, violated the spirit and the letter of the rules and acted to evade the laws and legal regulations of the United States, this committee should recommend to the House that Representative James A. Traficant, Jr., Be expelled.

The Chairman. Mr. Traficant.

Mr. Traficant. I ask unanimous consent that Mr. Walker's recommendation be removed from the record and denied in total.

The Chairman. I think there would be an objection to that.

Let me deal with one matter before you get started. I have before me a request that we dismiss or stay these proceedings, your latest request.

Mr. Traficant. There is more than that, and I would like to take it up in my statement; since the 10 o'clock meeting I had this morning, I got more information, and I would like it not to come out of my 30 minutes.

The Chairman. Proceed.

Mr. Traficant. I have been notified by staff that the Cafaro Company has made a statement that they did have a relationship with the husband of Judge Wells, and that fees had been paid.

Now, there is a mishmash since John J. Cafaro was to be tried by Judge Oliver, but the prosecution that prosecuted me moved that the Cafaro case be moved to Judge Wells. Supposedly, Judge Wells made some contacts. I had signed no waiver and had no knowledge that the Cafaro family had a relationship with a member of the household of the judge.

Now, USC, section 28.455, clearly states, it is not the burden of a defendant to discover this. This should have been provided to me on discovery and, in fact, should not even be a discoverable item if anybody is familiar with the law.

She should have recused herself.

Now, let me say this, because I know you are saying and you are getting from counsel, this isn't relevant. This is very relevant, because this judge should not have presided over this jury, in addition to the writ of mandamus that exists on the jury selection plan.

Now, having said that, it is not a question of notifying the defendant. The judge must inform themselves if there is a conflict and must remove themselves. Having not done that, and further being amplified and embellished by the fact that she allowed Cafaro to pay for Al Lange's testimony, throws this matter into the legal courts in Cleveland.

I will file the following motions tomorrow in Federal court: number one, the prosecutorial misconduct that came out as evidenced by Mr. Detore seeking a privacy waiver from a Clarence Broad, who confided in attorney Mark Colucci, that I wanted you to subpoena, because Colucci will not violate an attorney-client privilege. But Broad told Colucci he was asked to lie in the Traficant case.

Now he came up with a second one. You look at the Innella -- hear me.

The Chairman. Mr. Traficant, are you going to wind this up, or we are going to take this out of your time, your summation time?

Mr. Traficant. I think this is important for you to hear, because it deals with what you are voting on here and what Walker has recommended. And he is only dealing with a transcript on hearsay presided over by a judge who should have been removed. That was an illegal trial that may, in fact, have to be revisited.

The Chairman. If you would like to use your 30 minutes for this, that is fine.

Mr. Traficant. I didn't want to use it for that.

The Chairman. Well, I don't think you did, and I think we need to move on to your -- the committee has acted on the charges against you. Now this is --

Mr. Traficant. This is new, Chairman.

The Chairman. -- to deal with the sanction, if any, and I want you to deal with that. Basically, your motion is very similar to what we have --

Mr. Traficant. It is not a motion. It is information, Chairman.

The Chairman. Well, you are giving information, but I have before me a request that we stay our proceedings, and I need to act on that request. And that request is denied, because it is very similar to the circumstances that you have --

Mr. Traficant. Even with this new information, you are not going to deliberate?

The Chairman. Even with this new information, I think you may have an excellent point for an appeal, to try and appeal, but that is not for this particular setting.

Mr. Traficant. Tell me when the meter starts running.

The Chairman. Mr. Traficant, if you would proceed -- we won't take that out of your time, but if you would, proceed with your 30 minutes to deal with the sanctions.

Mr. Traficant. Mr. Walker talked about a number of members. I think there were four. Biaggi, they had videotapes, they had admissions and recordings, they had the transfer of stocks of hundreds of thousands of dollars in his name.

The ABSCAM people were all captured on videotape.

Representative Myers was captured on videotape from FBI undercover agents posing as Arab sheiks.

Ladies and gentlemen, there is no physical evidence. The only tapes in this case came from me. Bucci, his own sister-in-law, his own partners, his fourth plea agreement. Sugar, Manganaro, he lied in court so his son and daughter wouldn't be indicted.

Now, the one who gets me is Cafaro. You heard Mr. Richard Detore. This man was subject to great jeopardy, and he told it exactly the way it was. If you will recall, in the trial transcript, I urged the Cafaros not to fire him because he was the only hope for U.S. Aerospace. He was the only qualified person, and quite frankly, they paraded the 20-year-old daughter out with mini-skirts in front of people that I was

visiting with, and even advised the Cafaros not to do that because they said the company lacked credibility. And they got mad at me for it.

Then we find out they have meetings and she is going to run for Congress against me.

I find it incomprehensible that you would throw out count 10, that dealing with the RICO, but leave in count 3, which is the substance and predicate that leads to the RICO. What are we going to do here? Is there going to be RICO charges on Kiwanis members for colluding to send their money to the March of Dimes instead of the Red Cross? I, for God's name -- if this is funny, Mr. Berman, I advise you listen very carefully.

The Chairman. Mr. Traficant, the committee is not commenting on your demeanor, and I want you to stop commenting on the demeanor of the committee. You have done that several times. I have let it pass. But enough of that is enough.

Now go on with your statement.

Mr. Traficant. The nonverbal demeanor of a member of the committee has a reflection on the gallery, is a reflection on me, and I resent it.

I expected to come down here to be expelled, because I think Congress doesn't like difficult positions, but this committee has been made up of people who have some understanding of law enforcement, an adjudicator.

You didn't allow most of my witnesses that I didn't subpoena, and the only subpoenaed witness you allowed was Detore. None of the tapes I gave you, or transcripts I gave you, were introduced as evidence in court. I was even prohibited from discussing a vendetta against me. I was able to present no defense.

Now, this 2001 business with the indictment is a facade. When the government clearly stated they started an investigation in 1996, well, they started the investigation in 1983, if you listen to Kerchum, as soon as I beat him in the RICO case.

'96 through 2000 was Janet Reno. Mr. Detore alluded to the fact that Janet Reno's name was brought up and that I was the target of the administration. I have been the target of the administration for a long time, because I disagreed with President Clinton.

I think he should have welcomed an urge to Congress to investigate that Chinese money. Now, I can't prove this, but it is evident that quite the contrary happened, and I was the only Member that was brazenly

outspoken, because I thought it was an affront to America and a danger to our future. And because of my big mouth, I have been targeted.

But, you know, when you put somebody in jail for the rest of their life, and he is a fellow Member of Congress who had been targeted, no less, you should have some evidence. Now, you can provide all the paper trail you want, and you can derive all of the insinuation you want, and you can have people come in there and parade in there and say this was the reason and that was the reason. There are only several key witnesses in this case, and they have either lost their livelihood and freedom, or their family. That is what I faced in Cleveland.

Now, as prudent people that have an understanding of law enforcement, and let us assume that you have this crook and you really want to get him, are you trying to tell me they couldn't get an admission? Now, the American people throughout the country are resonating disgust over these hearings, because they watch television. They have wiretaps, video cameras, hidden microphones, a microphone that you can disguise in your ballpoint pen. They could pick up a conversation 2,500 feet.

But I was a quote, unquote, "touchy-feelly guy." I had a superintellect and was so smart, they would never catch me. They are afraid to tape me. I might discover the tape.

Come on. No FBI investigator out of 60-plus took the stand. Only a rookie who took so-called physical evidence to a lab that came out and said out of a thousand documents, no prints. The judge almost swallowed her tongue when she heard that.

The only IRS investigator wasn't an investigator. He simply took the numbers the prosecutor gave him, added them up, and said I violated the law. I didn't even have a chance to cross-examine the investigators who brought my adversarial witnesses against me.

Now, you members laugh. You have staffs. They put in 40 hours a week. Technically, it is 32. If you look at the trial transcripts, all of my staff worked the hours they were to work. The one key issue was Bucella, and I didn't even ask him the question at trial, because I didn't want to hurt him and his family.

Now I am facing about 12 years with an upward departure in jail. And George Bucella has told me by, Jim Price, a former fellow, Weathersford Township trustee, that George Bucella told him in the parking lot that he had taken \$2,500 to give to Judge Bailey, later convicted for fixing cases, to fix a DUI case for a

family I will leave unnamed unless you request it, and I will give it to you in writing, from Mineral Ridge, Ohio.

The problem happened when the case seemed to be dropped, but the young man was picked up a year later and found there was an outstanding warrant for DUI. Evidently what the judge did is just threw it in file 13, hoping they would never see it again. I am talking about even a staff member friend of mine. I love him and his family. He was subject to harm.

I never forced anybody to work on my farm, my family's farm. It was my business at that farm. And if you don't farm farm property, you pay much higher taxes. And I have a love for the American Saddlehorse, and I lost money on them. They are not like racehorses.

So the point I am trying to make is, Anthony Traficanti testified that Rovnak, when he got hired, was in the office every day. Rovnak, who is a friend, tried to get the jury to disbelieve him by saying he spent 16 days straight, 16 hours a day, and even slept there, hoping the jury wouldn't believe him, not wanting to hurt me but afraid to lose his disability.

Sandy Ferrante was there. I gave a figure of \$3-, \$4,000 on the Buccis, because they did begin to bring in a big grader to do that one grading thing. I don't know how much it cost, how long it was there, and I tried to be fair. They owed me money. They are on their fourth plea agreement.

But now let us come down to the facts. I was tried by a jury that was not only not of my peers, but not even of the peers of the people who testified against me. The judge had a responsibility under law to remove herself, and she did. The prosecutor moved that the Cafaro case be moved from another judge to my judge.

Now, if you could throw out count 10, how could you leave in count 3? Why didn't you bring Susan Bucci in? Why didn't you bring her and her family, whether he stole her money. He took her husband to Florida, and the next thing you know, the count was missing. Where is it?

What about the circumstantial evidence of a guy who supposedly makes a total of \$100,000, but all of a sudden over a 2-year period spends \$300,000 on a house, two new cars and \$60,000 for media advertising, buys a building and remodels it, an office building to boot.

Now, where is the circumstantial aspect of a body of intellectual people, as yourself, to review these aspects?

You are not here to try me. You were here to look at the elements of that trial which led to these proceedings, and you have a responsibility to do two things: number one, set politics aside. Yes, I have been a big critic of Democrats. I know there are a lot of Democrats who want me the hell out of here. I hope there is some hope for the Democrats, but I want to say this isn't a matter of Democrats and Republicans. Forget that I am a Congressman, and I was Joe Six Pack.

How in God's name can you find these counts? Some of you were prosecutors, had run for State supreme court. One thing we know that the target, as such, is Jim Traficant. They would want that admission. Now, you are either naive or you are politically afraid to stand there, because they had tapes, they had wiretaps, and they had nothing.

Quite frankly, I even question the propriety of that jury, and one of my motions will be, Mr. LaTourette, that all I got was a trial transcript. They failed to deliver to me the process of the jury and the jury selection. There were two jurors I was going to strike with my alternate strikes, but was told I was prohibited to strike below 42 and raised a complaint at that time.

Now, look, I am continued in an embroiled legal situation. You can possibly expel a Member that gets a new trial and makes you look like a bunch of fools. And quite frankly, if I don't get a new trial, there is a travesty of justice that occurred.

Now, I am here, and I am sure as hell not resigning, because there was never any intent to break any law. I didn't break any law, and there was no proof to substantiate I broke that law; and I am not going to stand for it.

Now, if this is happening to me, how many Americans does this happen to, and why are they beginning to even knock Congress down for letting the FBI and the Justice Department and IRS prey upon them? You get mail. They get screwed regularly.

Well, this guy is not. I am prepared for your expulsion, and I truly expected it. But I think if there was a modicum of common sense, if there was a balance and temperance of justice in the last resort that the American people could appeal to, that being the Congress, especially the People's House, that you should allow the meter to run for me to seek those issues of justice that concern me as an American citizen that affect, as a microcosm, all of these people and citizens of the United States.

I want to go on record as commending Chairman Burton. Thirty years Mr. Salvati was in prison for murder. He was convicted with a second fellow who died of old age in prison, and FBI documents surfaced that the FBI knew he didn't kill the subject, but had their informant, who did the killing, lie.

What do we need here? Do we go on the words of people?

See, I think there should be some corroborative physical proof, and failing that, I don't see how you can really rule on a hearsay transcript. You didn't even get nor would you listen to the learned scholar handling my appeal on Congress' own 1967 jury selective service plan. The courts have turned that into their own particular ball game. I wonder if Members of this committee know what the 1967 jury service and selection plan says, and if you don't, you'd better rewrite it and reform it.

Now, for legal purposes, all of these alleged acts that Mr. Walker says were so grievously committed, of which he has absolutely no knowledge other than a transcript, were purportedly committed in Youngstown, Ohio. There is a Federal district court in Youngstown, Ohio.

Now, on the jury service and selection plan, are we tried by peers or tried by lottery? It is not that I wasn't tried by peers. That jury plan that didn't even allow one member from the Youngstown district, one of my peers who would have known Cafaro or known Sinclair or known Bucci, they were excluded.

What is the basic tenet of America's freedoms? Innocent till proven guilty, right to a speedy trial, to be tried by a jury of your peers.

This jury lied when they said they didn't know of me. They know of me. The Freudian slip was after it was all over and they said, we knew he was flamboyant, but most of those Members are crooks, and he got caught; we don't like the way he treated the judge.

The common thread was they said they didn't know me. Come on. Mr. LaTourette is familiar, Ms. Jones is familiar with my popularity in the general Cleveland area.

You are going to expel a Member on no physical evidence. How much time do I have, and who is running that?

The Chairman. Mr. Traficant, you have 10 minutes left.

Mr. Traficant. How much?

The Chairman. Ten minutes.

Mr. Traficant. There is widespread evidence of prosecutorial conduct to get their target. I have placed on the record absolute crimes of convictions and associations of organized crime figures in my area in the FBI. I have put together evidence handled in Judge O'Malley's court that one of my constituents was raped on a felony 1, one Anthony Speranza, who threatened they would get me, and the FBI agents, who threatened they would get me, for jacking them around.

Well, let me tell you what. I investigated them, because Youngstown has carried a bad reputation for a long time. It is been called Mobtown USA. And you know what? I wouldn't live anywhere else. It is as good a town as you come from, and the Youngstown mobsters pay tribute to Cleveland and Pittsburg who control them. But because they had total acquiescence with the IRS and FBI in Youngstown, much of the important business from Cleveland and Pittsburg was conducted in the general Youngstown area, and as sheriff, I broke that up. And I went to trial.

And you could look back at the evidence. I had a false confession that was proven by forensic science offered as evidence against me, or I wouldn't be sitting here. And I had a glass table put underneath, and guess what we found out. The last four lines contained 33 percent more spaces, 20 percent more words, and any word that was repeated from the first 13 sentences and rewritten in the last four was 3-16th of an inch smaller. So they had orchestrated a confession.

And then when they found out that this guy was going to trial, representing himself, they even put on an addition, and their own expert who testified before the Warren Commission had to admit it.

I have had it. Don't push me around. I will go to jail. I will have Members of Congress put me in jail, but I am going to tell you this. This isn't Jim Traficant talking now. This is the United States citizens, and you are the Congress of the United States, and you have allowed this to happen in our country.

I am a trophy. They said they had a course down at Quantico called the Traficant course -- nicknamed, of course -- called the Traficant course. They have built a monument to get me, Reno and the administration, get the guy.

I told the advisers that if Al Gore and Democrats hear it, if he comes to my district and campaigns, I will endorse President Bush on the courthouse steps.

Now, look, I will be damned if I will be targeted, I will be convicted on no physical evidence, I will be brought into a hearing like this and expelled from Congress without even having an opportunity to contest

the salient points of judicial misconduct and prosecutorial misconduct, and a violation of the 1967 jury service and selection plan of the United States Congress; and if necessary, appeal it to the Supreme Court.

I think this committee has a responsibility, irregardless of what the committee unanimously decided upon, that there should be a stay, pending my rights for appeal, my rights to seek justice, my right to look these people in the eye. And I think if you rush to judgment, you will fail America, because the only reason I am even getting an opportunity for this forum is, I happen to be a Member of Congress.

How about all those people out there, like Russell Sadey, Jr.? He didn't have that same chance, where I know now that there was perjury that convicted Russell Sadey, Jr. My God, what have we come to?

In closing, I make 1-minute speeches. When Federal judges removed God from the pledge of allegiance, Federal judges welcomed Satan. We have an aristocratic judiciary who is only concerned about it being investigated by the FBI and the IRS. They cater to them. They are scared to death of them. And you'd better put that in order.

I broke no laws. You expel me, I will go down in history as an expelled Member. But you know what? I have a very clear conscience. I am proud to be an American. I hate the government and love America, and the part of the government I hate is what I told you earlier, that executive branch that scares the American people.

And let me close by saying, no American should be afraid of our government. It is our government, and you should help take it back. I think the Republicans can do that. I think the Democrats want to do that, and I think they are going to take back the House, and somebody better sure as hell do that, because the American people are beginning to distrust, not just fear. From fear and distrust comes hate and, God almighty, where are we going to end up? Very few people vote in America as it is.

I commend you for listening to me. I know it is tough for you to make these decisions you made. There's some of you Members that I know very personally, and I know that it was unanimous.

And I want to say one last thing in closing, again. Mr. LaTourette, I want to thank you for being my friend. You have been objective. I want to thank you for helping my district, and if I am out of here, I want you to work with whoever succeeds me and help my people. I want all of you to do that.

And, Mr. Hefley, I want you to authorize military housing at the Reserve air force base in my district. I can get the appropriation, and anybody will get it, but you must authorize it; and it is desperately needed.

And it will also help Mr. LaTourette and Ms. Jones, because it will bring and coordinate jobs to northern Ohio.

With that, I am going to ask you to reconsider. I am going to ask you to look at the salient points of law, which I face in the motions of which I will be submitting; and the decisions will be coming from the writ of mandamus and those motions for new trial, subject to the revelations that have recently occurred since recent testimony, and stay your decision, at least until we get some action from either the courts or the Sixth Circuit. And then you can just go ahead and throw me the hell out, and I will accept it.

If I have offended anybody -- Mr. Berman, if I have offended you; Chairman -- and this isn't patronizing -- you already threatened to throw me out, you Coors drinker, I want to apologize. And I want to say that I think that Doc

Hastings -- I just read through the documents, and I guess he was a key figure in the beginning. Doc Hastings is a very fair man.

Thank you for any consideration you have given me.

The Chairman. Thank you, Mr. Traficant.

Any Members who have questions -- Mr. LaTourette, I think you may have a question or two.

Mr. LaTourette. I do. Thank you very much, Mr. Chairman.

Mr. Walker, at the beginning of this hearing, the chairman mentioned the standards, or the three types of offenses -- serious, more serious and most serious -- and in your presentation to us, you talked about those who were actually expelled, or that there had been a vote or a proceeding to expel, or then resigned and lost an election before expulsion, and so I assume that the discussion there relative to those convictions -- for bribery, I think, in most instances -- were found by those committees to be the most serious.

Do you have, just for my edification, examples over the last 20 years of cases that were reported out of this committee for which the committee found the conduct of the Members to be more serious rather than most serious?

And then, lastly, the same question: For the last 20 years in which there was a reprimand and the conduct upon which the Member stood, by clear and convincing evidence, to have committed that, would have led those committees to have concluded that that was serious violation of the rules of the House?

Mr. Walker. I have some information to that effect, sir. By the charges or violations considered more serious, that would involve -- it would have involved the sanction of censure for the House. And since 1967, in effect the modern era, there have been four censures. They were the matters -- two of them arising from what was known as the House page scandal, and there was the matter of Representative Charles Wilson, which did involve receiving somewhat over \$10,000 from a person with direct interest in legislation.

That was found to discredit the House -- to be discredit to the House and to be a violation of the gift rule. There was not -- in that case, it was not found that Representative Wilson was actually influenced by receipt of that --

Mr. LaTourette. Can I ask you to back up just for a minute? I don't need you to name the names of the Members informed if you don't feel that is appropriate, but I am not familiar with the House page scandal. Could you tell me what conduct there was found by the committee to have violated the rules of the House ?

RPTS STUART

DCMN BURRELL

Mr. Walker. Well, there were two members who were censured arising from that matter. And they were found to have had -- one was found to have had a sexual relationship with a 17-year-old female page, and another was found to have had a sexual relationship with a 17-year-old male page.

These matters were both in 1993.

Mr. LaTourette. Thank you.

Mr. Walker. There was also a censure imposed in the matter of Representative Charles Diggs in 1979. He had been convicted in Federal Court of mail fraud and false statements. He admitted to the House to personally benefitting by misusing approximately \$40,000 in Clerk-hire funds. That was found to be a discredit to the House, basically in violation of clause 1 of the Code of Official Conduct.

There was somewhat of a twist in that matter in that the full extent of the conviction or the information about Mr. Diggs had already come out at trial prior to, I believe, the primary election in which he was running unopposed. It may have been the actual election, I think it was the primary.

And so therefore after, in fact, the public knew all of the matter that had come out in the trial, he was reelected, basically because he unopposed, and the investigative and sanction proceedings did not occur until after that fact.

So I think it is arguable that that was conduct which under other circumstances may well have and likely would have, although who can say, led to at least the recommendation of expulsion in that matter.

Mr. LaTourette. Relative to the issue of reprimand, which I believe the rules call serious conduct.

Mr. Walker. There have been since 1967 eight reprimands, and the most recent of which was the former Speaker of the House in 1997, which involved certain conduct involving misleading statements to the Standards Committee and failure to seek advice -- to follow legal advice in certain tax issues related to entities with which he was associated.

There was a matter involving Representative Frank in 1990 involving allegations that he acted improperly in -- involving a series of contacts which resulted in a letter bearing his signature being received by a prosecutor and reviewing the probation of Representative Frank's assistant, and some other matters.

There was the matter of Representative Austin Murphy in 1987 who had allowed another person to cast his House votes and permitted his law firm access to official resources, and he maintained an employee on the committee payroll who was not performing duties commensurate with pay.

In 1984, there was the case of Representative George Hansen, who filed false financial disclosure statements between 1979 and 1982.

In 1978, there was the matter of Representative Edward Roybal, who failed to report a \$1,000 contribution from a Korean lobbyist and who had converted the same contribution to his own personal use and gave false testimony concerning that contribution.

There was the matter of Representative John McFall in 1978, who received \$3,000 from a Korean lobbyist and failed to report it as a campaign contribution. There was another matter of Representative Charles Wilson in 1978, who made false statements to the committee concerning the receipt of moneys from a Korean lobbyist, and there was the matter of Representative Sikes in 1976, who used his office to further personal financial interests and failed to disclose stock holdings on his financial disclosure statement.

Mr. LaTourette. With the Chair's indulgence, has there been any Member convicted of a felony in State or Federal court for which an ethics investigation was launched and that the committee did not find the sanction of expulsion?

Mr. Walker. There have been a number or some. Let me get some materials from Mr. Lewis.

Mr. Trafficant. Mr. Chairman, can I make a request? It is personal. I have to go to the rest room. I don't need to talk to anybody. I would like a 5-minute break.

The Chairman. The committee will grant a 5-minute break.

[Recess.]

The Chairman. The committee will come back to order. Mr. Walker or Mr. LaTourette, who was speaking when we recessed, would you -- I think you were, Mr. Walker. Would you continue?

Mr. Walker. Yes. And, Mr. Chairman, I just want to correct something I said. The censures arising from the House page scandal were in 1983. I think I said 1993.

Paul Lewis and I are able to think of three principal cases that meet the description you are talking about, about Members who were convicted of crimes and who remained, at least for some time, in the House.

There was the case of Representative John Dowdy in 1971, who was convicted on charges arising from acceptance of a bribe, and he was sentenced in 1972 to 18 months in prison and fined. He acquiesced to a resolution, approved by the Standards Committee, preventing him from voting in committee or on the floor. He did not seek reelection after that.

The case of Representative Hansen is another case that fits that description, and he was defeated for reelection.

And then there is also the case of Representative Diggs that I believe I outlined earlier. And in that case, again, although there was not a specific dispositive finding, the fact that he was reelected after the conduct was fully known but before the action was taken, although there was not a finding that that was the reason why or a sufficient basis not to seek expulsion in that matter, it certainly was. And the reports on this matter consider it to be and described as a factor in the decision to censure there.

And so those are matters that I can think of that meet that description, all of which I submit can be readily distinguished from the case before you here, both in scope, in duration, and seriousness.

Mr. LaTourette. I appreciate your answer and your comment.

The last question I would have, I am familiar within the criminal justice system that a person deciding upon a penalty or a sanction considering not only the seriousness of the event that has been proven beyond a reasonable doubt in the courtroom or here by clear and convincing evidence, but there are also other factors contemplated by the Rules of Criminal Procedure that a judge may take into consideration in arriving at a sanction.

And my question to you is, do the Rules of the House or the rules relative to this committee contemplate things such as remorse, previous bad acts, other times that a Member may have run afoul of ethics rules? Are those included in the rules?

Mr. Walker. No. Those factors are not included in the rules, per se. But certainly there have been matters where a Member's response to the fact of an investigation, willingness to come forward, admission of involvement in the charges, and true remorse, that meaning where the offenses are admitted to and there

is remorse in that case, there is certainly nothing to prevent those being factors, and they have been factors in connection with the investigations and sanctions.

And also I should point out that, you know, what I am describing and what you are asking about are certainly precedents. But the underlying authority of the committee to make a recommendation and that has to impose a sanction is really kind of , you know, at least theoretically, wide open and ultimately discretionary. I think it is important to pay attention quite closely to the precedents, and they have been traditionally adhered to.

In this case, again, I would submit that the clear outcome of the hearing to them would be a recommendation of expulsion.

Mr. LaTourette. The very last question -- I deceived the chair -- is, is quality of evidence a consideration that is contemplated under the rules?

Mr. Walker. Again, not in the rules, per se. And I would argue that it really ought not to be, both as a theoretical and practical matter ought not to be a consideration at all.

The standard of proof for an alleged violation, or a proven violation, to go on to the next phase, the sanction phase, is proof by clear and convincing evidence. It doesn't say it must be clear and convincing tape evidence or clear and convincing fingerprint evidence or clear and convincing testimonial evidence. It is clear and convincing evidence, looking at the evidence taken as a whole, in the judgment of the particular Adjudicatory Subcommittee meeting to review that evidence.

And I would simply say again, clear and convincing evidence is clear and convincing evidence, and ought not to be -- and the so-called quality of evidence is decided at that point when that decision and that determination is made by the eight members of an Investigative Subcommittee.

Mr. LaTourette. I thank you very much.

Mr. Traficant. Mr. Chairman, can I have one quick question before we break for your vote?

The Chairman. No, we are still asking members if they have questions. Any other members have questions?

If there is no questions, what is your quick question?

Mr. Traficant. I want to know if the sex involved with the two pages 17 years old ultimately resulted in expulsion.

Mr. Walker. As I indicated, those were cases leading to the sanction of censure.

Mr. Traficant. They were not expelled?

Mr. Walker. They were censured.

Mr. Traficant. Under D.C. law is sex with a minor 17 years old a rape?

Mr. Walker. Well, at this point, Mr. Chairman --

Mr. Traficant. And a felony I, sir?

The Chairman. Mr. Traficant, this is the wrong line of questioning. The committee stands --

Mr. Traficant. Mr. Chairman, I think it is important. I want to know if they were -- a rape falls in the felony range.

The Chairman. Look it up, Mr. Traficant.

The committee will now recess and reconvene in Executive Session to deliberate about the sanction.

Mrs. Tubbs Jones. Mr. Chairman, just for the record, all of the offenses of which Mr. Traficant were convicted of, as well as -- in this instance were all felonies, were they not? Mr. Walker?

Mr. Walker. Yes, they were, although the committee found violations of House rules based on the same facts that were the basis for the 10 felony convictions in Mr. Traficant's trial.

Mrs. Tubbs Jones. Thank you.

Mr. Traficant. Were there other members --

The Chairman. We will now deliberate and determine what the sanction should be. We will release the results of that in the written report to the House, through the media, and to Mr. Traficant.

The committee stands in recess.

[Whereupon, at 3:40 p.m., the committee was adjourned.]