

# Panel Seen Voting Cover-Up Article

## Opponents Fight for Specifics

By Richard L. Lyons  
and William Chapman  
Washington Post Staff Writers

The House Judiciary Committee last night prepared to vote—apparently 2 to 1—to recommend that President Nixon be impeached for obstructing justice in the cover-up of the Watergate break-in.

The committee argued, often bitterly, all afternoon over whether its proposed first article of impeachment was specific enough to meet a constitutional test, with Mr. Nixon's supporters claiming he was being denied due process of law.

But even they conceded, as the committee took a dinner break, that the impeachment forces had the votes to approve the first presidential impeachment article in more than a century of American history.

The President's Republican defenders argued tenaciously that Mr. Nixon was entitled to a specific list of offenses to back up the charge that he had developed a policy of covering up the break-in, a policy carried out by his top aides.

"A common jaywalker . . . is entitled to know when and where his alleged offense occurred," said Rep. Delbert Latta (R-Ohio). "Is the President entitled to less?"

But the impeachment forces, backed up by legal advice from their counsel, said the obstruction of justice article was sufficiently specific and, anyway, would be followed up by a commit-



By James K. W. Atherton—The Washington Post and Associated Press

Rep. Sarbanes, left, offers substitute article criticized by Rep. Sandman, right.

tee, report spelling out specific offenses.

The article in question drafted by a group of Democrats, accuses the President of making a policy of covering up the illegal entry and carrying it out personally and through his subordinates. Among the offenses involved in carrying it out were the making of false statements to investigators, interfering with the FBI investigation, and approving payment of money to silence witnesses.

It appeared likely that all 21 committee Democrats and five or six Republicans would vote for the article. One waverer was Rep. Harold V. Forehlich (R-Wis.), who indicated Thursday he would vote for an obstruction of justice article, but expressed concern last night that the wording of the pending article was too loose.

Meanwhile, it appeared

that the impeachment forces had picked up another Republican vote when the committee considers, possibly today, a second impeachment article that accuses Mr. Nixon of abusing his powers as President.

Rep. Robert McClory (R-Ill.) said he would "probably" vote for one or two other impeachment articles. That would be Article II, charging abuse of powers, and a third one he will introduce accusing the President of defying the committee by refusing to surrender

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tape recordings and documents it subpoenaed.

However, McClory said he could not vote for the obstruction-of-justice article last night because he said it implied a conspiracy that he said had not been proved.

Debate on the proposed

first article of impeachment, charging President Nixon with involvement in the Watergate cover-up, began shortly before 1 p.m. A Democratic drafting committee worked to the last minute refining language in the draft article that was placed before the committee Wednesday night at the beginning of general debate.

The new language, offered as a substitute Article I by Rep. Paul Sarbanes (D-Md.), made little substantive change from the original. It broadened the scope somewhat and made some phrases more specific.

The revision, for instance, included the President's attempting to interfere with the Justice Department's Watergate investigation, rather than being limited to interference as in the original.

Article I as proposed by

Sarbanes states that after the June 17, 1972, Watergate "made it his policy, and in furtherance of such policy did act directly and personally and through his close subordinates and agents, to delay, impede, and obstruct the investigation of such illegal entry; to cover up, conceal and protect those responsible; and to conceal the existence and scope of other unlawful covert activities."

The article then lists eight counts to support the charge. They include making false statements to "lawfully authorized" investigators, withholding relevant evidence, encouraging others to give false statements, interfering with the Justice Department, FBI and special prosecutor's investigations, approving payment of hush money to defendants; endeavoring to misuse the CIA, giving to suspects information on the investigation Mr. Nixon received from the Justice Department, making false statements to the American people, and endeavoring to cause defendants to expect favored treatment for their silence.

Republican opponents of impeachment attacked the proposed substitute article for not listing the specific acts, and dates which the President was alleged to have committed.

Said Rep. Edward Hutchinson of Michigan, senior committee Republican: "To write in such general language, you leave the President trying to find out what he has to answer to. It is fatal on that account."

"The heart of this article," said Rep. Charles Wiggins (R-Calif.), a leading defender of the President, "is that the President made it his policy to obstruct and interfere with the investigation. The President should be given fair notice of what the charge is he must defend against. How did he declare this policy? And specifically when?"

Sarbanes replied there was some evidence that his involvement began immediately after the break-in, and other evidence that it may have begun in March, 1973. "The wording encompasses the entire period."

Sarbanes and other Democrats argued that an article of impeachment need not meet all the tests of a criminal indictment. Rep. George E. Danielson (D-Calif.) said the reason for placing specific dates in criminal indictments was to assure that they meet requirements of statutes of limitations.

Rep. Charles Sandman (R-N.J.) asked if the President wasn't entitled to at least the same due process rights accorded "a common criminal."

Danielson retorted that "due process not only has been observed here, it has been exalted." He noted that the President's counsel, James D. St. Clair, had been present during 11 weeks of examining evidence, had been permitted to call and cross-examine witnesses and had received a copy of every document seen by the committee.

The argument over whether Article I should include all specific incidents alleged continued throughout the afternoon. The committee took a luncheon break during which the Democrats compiled a list of incidents which they read into the record during the afternoon session—meetings of the President with top aides from June 20, 1972, the tapes of which contain an 18½-minute gap, to March 21, 1973, when his counsel, John W. Dean III, told Mr. Nixon about the payment of hush money and the need for more.

Democrats said the details could be placed in the committee report accompanying the impeachment articles, and that the President could obtain a bill of particulars if the case went to the Senate for trial.

But Rep. Joseph Maraziti (R-N.J.) insisted that it is basic to the U.S. system of law that a person be presented with the charges against him and that should be done now. "To whom did the President make false statements, when and what was said? Who was paid money, how much, when?"

Counsel John Doar and associate counsel Albert Jenner said it was their legal opinion that the article need not be "totally" specific, and that the article as worded met any reasonable test. Minority counsel Samuel Garrison said law might not require that every detail be specified, but that it has been the practice in past impeachments to list specifics, such as dates, places and amounts of money.

Jenner, who headed a Judiciary Conference committee which drafted federal rules of evidence, said criminal rules no longer require the specificity required in the past.

Rep. Don Edwards (D-Calif.), continuing to tick off the detailed events charged, said the principal need for the Watergate cover-up was to hide the activities of con-

victed Watergate conspirator E. Howard Hunt, Jr. and particularly his supervision of the break-in of the office of Daniel Ellsberg's psychiatrist's office in 1971.

Danielson argued against more specificity on grounds that this might limit the trial in the Senate to proving each single incident charged.

"Of course," retorted Rep. David W. Dennis (R-Ind.) "That's the whole purpose. You just want to list a few charges and then bring in That's not constitutional. It's not fair. Just because you're a congressional committee, you can't tear up the Constitution and throw it away."

Rep. William L. Hungate (D-Mo.), the storyteller from Mark Twain country, said: "If they (the President and his lawyers) don't know what we're talking about now, they wouldn't know a hawk from an handsaw."

And to the argument that the committee should not draw inferences to fill gaps in its evidence, Hungate had this to say: "If someone brought an elephant through that door and I said that's an elephant, someone would say: That's an inference. It could be a mouse with a glandular condition."

Rep. Joshua Eilberg (D-Pa.) said the article should not be so "frozen" in detail that evidence developed later could not be considered.

But Rep. Charles Wiggins (R-Calif.) argued that specificity will be needed if the case goes to trial in the Senate. "All we ask is, get about it."

Froehlich repeated his statement that he was "ready to vote for an article if it is put in proper shape," but said he could not vote for Article I as it stood without specifics.

Froehlich also asked who would write the committee report that Democrats said would contain the specifics. Would it be the staff?

Chairman Peter W. Rodino (D-N.J.) replied that the staff would, as is customary, help draft it, but that the report would be circulated to members for approval and that the result would be a committee report. Members who disapprove the report or parts of it are entitled to submit minority views.

At the start of yesterday's session, delayed nearly an hour for a final redraft of Article I, Republicans made a half-hearted effort to delay the proceedings for 10 days if President Nixon would promise by noon today to turn over "forthwith" 63 tape recordings of his

Watergate conversations which the committee had subpoenaed. These were among the tapes of 64 conversations which the Supreme Court ruled Wednesday the President must give the Watergate special prosecutor.

The motion was made by Rep. Robert McClory (R-Ill.) who had tried last winter to impose an April 30 deadline on the impeachment inquiry. McClory said the committee should make one final effort to obtain evidence that might prove the President's guilt or innocence. McClory admitted he would have pressed his motion more vigorously had he been able to obtain in advance any assurances from the President's lawyers that Mr. Nixon would comply with such a request.

The motion was rejected, 27 to 11, with only Democrat James Mann of South Carolina joining 10 Republicans, after Chairman Rodino called it an "idle, futile gesture" to delay the proceedings further. Rodino noted that the committee has been trying since Feb. 25 to obtain tapes and that the President had told the committee in May that he would turn over no more Watergate material.

"The President has no intention of complying," said Rodino. "We know full well we have the President's full response." The second draft article includes the President's defiance of committee subpoenas as one ground for impeachment.

Rep. Charles Sandman (R-N.J.), an opponent of impeachment, also opposed any delay, but on the different ground that since the committee had refused to call convicted Watergate conspirator E. Howard Hunt Jr. as a live witness there was no point looking for taped conversations about paying him hush money.

"You have the votes," said Sandman. "Move the resolution and let's go home."

This brief flurry was interrupted twice by voices from the audience. "Why isn't the President being impeached for war crimes?" asked a young man.

A few minutes later he repeated: "Mr. Chairman, I demand an answer," and a young woman said: "We must speak for the people of Cambodia. . . ." They and another person were escorted from the room.

Escorted by plainclothes guards to an elevator, two of them identified themselves as Nancy Dorst, 19, and Sal Scaffidi, both of Baltimore.

While the committee for-

mally debated the ingredients of the first article of impeachment, a series of closed meetings was being held to redraft the second article which accuses the President of abusing his powers.

It charges, among other things, that he used his executive power to authorize illegal surveillance and misused the Internal Revenue Service to obtain confidential information.

A group headed by Mann was working to tone down some of the language to make it more moderate. He told reporters it would stress that Mr. Nixon had failed to take care to faithfully execute laws—as the

Constitution requires—instead of abusing his powers.

“We want a moderate, provable type of article,” Mann said.

He was seeking to include in his redrafted article II the ideas of McClory, second ranking Republican on the committee. McClory said there are too many “inflammatory expressions” in the original draft and said that he wanted to return to constitutional language concerning the President’s failure to faithfully execute the laws.

McClory, whose vote has been in doubt throughout the proceedings, indicated he would support such an article if it is redrafted to meet his specifications.

McClory also said he will propose a third article to consist of one charge—that the President be impeached because he defied the committee and refused to turn over taped conversations and documents. This count is presently included in Article II, but McClory wants it made into a separate article.