

HOUSE PANEL MOVES TOWARD VOTE ON FIRST ARTICLE OF IMPEACHMENT AFTER IT REJECTS A DELAY, 27 TO 11



The New York Times/George James

Charles E. Wiggins of California, second from right on top row, clashes with Paul S. Sarbanes of Maryland, leaning on desk in foreground. Others on top row are, from left, Henry P. Smith 3d of New York, Charles W.

Sandman Jr. of New Jersey, Tom Railsback of Illinois and, at right, David W. Dennis of Indiana. Others at lower table are James R. Mann of South Carolina, left, Wayne Owens of Utah, Elizabeth Holtzman of Brooklyn.

CHARGE DEBATED

It Alleges 9 'Means' by Which the President Obstructed Justice

By JAMES M. NAUGHTON
Special to The New York Times

WASHINGTON, July 26—The House Judiciary Committee formally refused to delay impeachment proceedings today and moved fitfully but inexorably toward adoption of a charge that President Nixon had obstructed justice in the Watergate case.

The committee voted, 27 to 11, to reject a motion calling for suspension of the delibera-

Excerpts from the committee proceedings, Pages 12 and 13.

tions until Mr. Nixon could pledge—no later than noon tomorrow—to surrender White House tape recordings as impeachment evidence.

Then the committee debated, at length, the first of two or more draft articles of impeachment before the panel in the first venture toward a Senate trial of a President in more than a century.

9 Separate 'Means'

The proposed article listed nine separate "means" by which Mr. Nixon allegedly used "the powers of his high office" to obstruct and impede the Watergate investigation.

Republican opponents of impeachment argued, some in harsh and biting terms, that the charge and its supporting list of alleged wrongful acts by the President were vague and, as a consequence, in violation of Mr. Nixon's right to "due process" in preparing a defense.

Backers Call Charges Fair

But Democrats and Republicans, composing an evident majority in favor of recommending the impeachment article to the full House of Representatives, countered with equal vigor that the charges were fair and proper and would be supported by a detailed report containing hundreds of pages of evidence.

The article, a substitute charge introduced by Representative Paul S. Sarbanes, Democrat of Maryland, listed among the nine elements of the alleged offense the following counts:

¶That Mr. Nixon had made

Continued on Page 16, Column 5

Continued From Page 1, Col. 8

"false and misleading statements to lawfully authorized investigative officers and employees of the United States."

¶That the President had withheld "relevant and material evidence or information" from similar investigators in the judicial system or the Congress.

¶That Mr. Nixon had approved or acquiesced in the payment of alleged hush money "for the purpose of obtaining the silence or influencing the testimony" of key Watergate figures.

The article was the first of several pending before the committee or expected to be offered—as additions or substitutes—by various members of the panel before the impeachment deliberations are completed.

A Crucial Development

But the adoption of the first charge against Mr. Nixon by the committee would set in motion the historic train of events that could produce a formal impeachment by the House of Representatives and, if so, the prosecution of the President before the Senate.

Committee members said that the Sarbanes draft had been phrased broadly to permit the inclusion of specific evidence should it become available after the committee or the House had already acted on impeachment.

But the general nature of the charge led opponents of im-

peachment to focus the long deliberations on the form, rather than the substance, of the proposed article.

"What you want to do is give the man no idea of the charges against him," shouted Representative David W. Dennis, Republican of Indiana. "It's unconstitutional. You can't just tear up the Constitution and throw it away."

Representative Trent Lott, a Mississippi Republican, agreed, declaring, "We can't send this mockery to the Senate."

Democrats Press on

But the Democrats insisted, parrying the procedural objections, that it would take volumes to outline all the specifics of the charges and that it was the broad pattern of alleged misconduct that was central to the accusation against Mr. Nixon.

To demand "a parchment scroll of a Presidential delation" ordering a Watergate cover-up "is really not realistic," Representative Jerome R. Waldie, a California Democrat, declared.

He cited, in a series of brief commentaries during the day, items of evidence that, Mr. Waldie and others said, showed Mr. Nixon to have joined, as the article alleged, "directly and personally and through his close subordinates and agents" to withhold the truth about Watergate.

The deliberations, disrupted by one outburst from two spectators in the audience and characterized by frequent hushed conferences among committee members, was typical of the legislative drafting process save for the momentous nature of the resolution involved.

A Moment of Humor

Questions posed by one Representative to another were aimed less at eliciting answers than at making parliamentary points. And, as if the eyes of the nation were not focused on the debate through the national television coverage of it, there was even a typical moment of humor from Representative William L. Huntgate, Democrat of Missouri.

Referring to some Republicans' objections to the inferential nature of the case against Mr. Nixon, Mr. Huntgate said:

"If a guy brought an elephant through that door, and one of us said it was an elephant, some doubters might say, 'That could be a mouse with a glandular condition.'"

Laughter resounded in the hearing room. Later, however, Representative Carlos J. Moorhead, Republican of California, objected that the issue at hand was too serious to permit laughter, that the President's right of fair process under the Constitution was directly at stake.

"Let's follow the Constitution we've talked about," Mr. Moorhead said. "I believe in the Constitution more than anything else in this world. I'll fight and defend it any way I can."

Warning by Republican

One of the seven Republicans leaning toward an impeachment vote on one or another of prospective charges, Representative Harold V. Froehlich of Wisconsin, warned that he might not be able to support the article as presented by Mr. Sarbanes.

Eventually, in an unavailing attempt to override the proced-

ural objections, the panel's chairman, Representative Peter W. Rodino Jr., Democrat of New Jersey, asked committee lawyers for their views on the propriety of the draft.

John M. Doar, the special counsel, said the article would "meet the test of specificity" under the Constitution and law. Albert E. Jenner Jr., the associate special counsel, agreed. But Samuel A. Garrison 3d, who replaced Mr. Jenner last week as special Republican counsel at the behest of most in the committee minority, suggested that past impeach-

ment practice had been to include "an enormous amount of actual detail."

While the debate went on, and during the recesses, Democrats and Republicans worked privately on the formulation of two other proposed articles likely to be acted upon by the committee.

One article would allege a wide and varied assortment of actions taken by the President in abuse of the constitutional limits of his authority. Another would charge Mr. Nixon with contempt of Congress for having defied committee subpoenas for White House tapes and documents.

Any of the articles ultimately approved by a committee majority could be reconsidered and rejected by the panel in the next several days—an unlikely prospect. But the charges still must face the test of scrutiny by the 397 other members of the House and, potentially, the President's defense in a Senate trial.

The Judiciary Committee's action marked the first time that formal charges had been drawn against a President since the House Reconstruction Committee, on Feb. 22, 1868, approved a resolution to impeach Andrew Johnson for alleged defiance of Congress for dismissing his Secretary of War. Behind the specific article, however, was a struggle over his conduct of the Reconstruction program after the Civil War.

The case against President Johnson 106 years ago moved swiftly through the full House but failed, by one vote less than the required two-thirds majority, to obtain a conviction after a Senate trial.

Unlike the decorous and dramatic general debate of the Judiciary Committee, which ended last night with all 21 Democrats and seven of the 17 Republicans having registered their approval of some form of impeachment resolution, the drafting today of the bill of particulars was more nearly typical of the House at work in its legislative process.

Meeting Late in Starting

The meeting began 54 minutes late, largely because of efforts by various Democratic and Republican supporters of impeachment to arrive at a consensus draft of the proposed articles.

Then the committee argued at length whether to reject—as it ultimately did—the motion to suspend debate and give President Nixon until noon tomorrow to signal whether he would yield 63 of the 147 recorded White House conversations the panel had subpoenaed and never obtained.

Representative Robert McClory of Illinois, the second-ranking Republican, sought the delay, he made clear, less out of conviction that Mr. Nixon would comply with the subpoenas than because of a belief that continued defiance would strengthen the case for a separate article of impeachment charging the President with contempt of Congress.

He said that the committee should give Mr. Nixon one final opportunity to produce potentially exculpatory — that is, exonerative — evidence, even though, as Mr. McClory put it, "I have the strong feeling there is no intention

to make this material available."

But all but one Democrat, Representative James R. Mann of South Carolina, and nine other Republicans agreed with the committee chairman, Representative Rodino in deciding that the McClory proposal would be "an idle, futile gesture."

Even without such a resolution, Representative John F. Seiberling, Democrat of Ohio, said, the President could "walk in and deliver to us every piece of evidence we've subpoenaed" should he choose.

Finally, at 12:33 P.M., the technical process of shaping articles of impeachment into their final forms began. Mr. Rodino instructed the committee's associate general counsel, Garner J. Cline, to read the draft of two proposed articles submitted Wednesday night by Representative Harold D. Donohue, Democrat of Massachusetts.

"Resolved," Mr. Cline began, in a tone so understated that it barely conveyed the import of the moment, "that Richard M. Nixon, President of the United States, is impeached for high crimes and misdemeanors, and that the following articles of impeachment be exhibited to the Senate."

Substitute Offered

The reading was interrupted by Mr. Sarbanes's insistence in offering his substitute draft of the first, obstruction of justice, article.

Committee members, all 38 of them lawyers, quarreled, interrupted and whispered among themselves as to the propriety of the procedure. Eventually, Mr. Sarbanes had his draft read aloud, articulating in general terms the basis of the charge.

"False or misleading statements" by Mr. Nixon were alleged; also, "counseling witnesses" to commit perjury, "interfering or endeavoring to interfere" with the Watergate investigations, and "approving, condoning or acquiescing in the surreptitious payment of substantial sums of money" to silence the Watergate burglars.

The style, less than the substance, of the charges became the focal point of the technical debate in yet another illustration of the manner of the legislative process.

Flaws Alleged by Foes

Opponents of impeachment charged that the draft article was flawed by its failure to specify dates and details of the events forming the basis for the allegations.

Representative Edward Hutchinson of Michigan, the senior Republican, said that the article had a "fatal" error in that it would leave "the defendant"—the President—"grasping around trying to find out what it is he has to answer for."

The obstruction article gave no "fair notice" and, accordingly no due process to Mr. Nixon, Representative Charles E. Wiggins, Republican of California, said.

Posing a series of questions to Mr. Sarbanes, Mr. Wiggins demanded to know when and where the President had, as the article alleged, "made it his policy" to delay and obstruct the Watergate investigation. Mr. Sarbanes and other sup-

porters of the impeachment charge countered that such specificity was not required in the article itself and that the details of evidence on which it was based would be provided in the formal report to the House that will accompany the committee's recommendation.

"The pleading before us," Representative Geroge E. Danielson, Democrat of California, declared, "does clearly establish" that the alleged wrongdoing occupied, in the words of the draft, "prior" to and subsequent to the Watergate burglary on June 17, 1972.

Sandman's Contention

Representative Charles W. Sandman Jr., Republican of New Jersey, insisted, as he peered over the top of his reading glasses, that the specific details should be in the articles because the President had the same rights as a "defendant in a criminal proceeding" to shape a defense on particular charges.

Mr. Danielson, swiveling in his leather chair to face Mr. Sandman, replied that the committee had been more than fair with Mr. Nixon in permitting his defense lawyer, James D. St. Clair, to take part in all of the closed hearings on the evidence.

"Due process has not merely been observed here, it has been exalted—and I'm proud of it," Mr. Danielson said.

Mr. Sarbanes said to Mr. Sandman that, if the formal charges had to contain all the details of the case, "the article of impeachment would be 18 volumes."

So it went, with the committee taking an unusually long afternoon recess to engage in private redrafting of the second central charge — alleged abuse of Presidential authority — and to caucus over strategy for bringing the process to a conclusion soon.

Committee Members Tired

Many of the committee were verging on exhaustion. One bipartisan group was up late last night tinkering with the language of the various draft proposals. John M. Doar, the special counsel on impeachment, worked through the night at his office in what once was the Congressional Hotel, and now is a House office annex, to shape phrases for possible inclusion in the bill of particulars.

Although there was an air of anticlimax in the slow, discordant working of the legislative mechanism, the deliberations in the hearing room were but the beginning of the fateful process.

Adoption of any one of the proposed articles of impeachment was sufficient to bring before the full House, and potentially to a Senate trial, the examination of Mr. Nixon's conduct and the determination of the length of his Presidency.

Promotion for Nixon Aide

WASHINGTON, July 26 (AP) — President Nixon has nominated Air Force Maj. Gen. Brent Scowcroft, his deputy assistant for national security affairs, for promotion to Lieutenant General, the Pentagon announced Wednesday.