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The House Judiciary Committee prepared last night to approve a second article of impeachment accusing President Nixon of using his powers repeatedly to violate the constitutional rights of citizens.

As the committee recessed for dinner, it appeared likely the vote would be 28 to 10 against Mr. Nixon. This margin would be wider by one vote than the one by which the committee voted on Saturday to recommend impeachment of the President for ob-

structing justice in the Watergate cover-up.

The additional impeachment vote was expected to come from Rep. Robert McClory (R-Ill.), who asserted that the President had repeatedly violated his oath of office by failing to "take care" that the laws be faithfully executed. McClory did not vote for impeachment Saturday.

It was clear that the committee has at least one more full day of work. Other articles—including ones charging Mr. Nixon with secretly ordering the bombing of Cambodia in 1969 and with personal income tax evasion—still lie ahead, although probably these two

will not be approved by the committee.

The article discussed yesterday accused the President of using such agencies as the FBI and the Internal Revenue Service to violate persons' constitutional rights, through unlawful wiretaps and discriminatory income tax audits.

The pro-impeachment forces, arguing in favor of a five-count charge, said the evidence shows a consistent pattern of presidential conduct in using those agencies to violate constitutional rights.

President Nixon's supporters countered with arguments that in some cases the President acted in the inter-

est of national security and that in others only his aides were at fault.

For a while, it appeared that Rep. Wiley Mayne (R-Iowa) would join the opposition and vote to impeach the President on the grounds that interference with the Internal Revenue Service amounted to "political prostitution" of the tax system. Later, however, he said that he could not vote for the article because other sections of it did not amount to impeachment offenses.

The Article II debated yesterday charges that Mr. Nixon misused his powers, and "repeatedly engaged in conduct" violating citizens' constitu-

tional rights, impairing the administration of justice, and breaking laws governing agencies of the executive branch.

Although the specific violations were much the same as in an earlier draft, the language debated yesterday was broader in scope. It relied heavily on the charge that Mr. Nixon disregarded his "constitutional duty to take care that the laws be faithfully executed."

The emphasis on the "take care" clause of the Constitution was a concession that won the support of Rep. Robert McClory (R-Ill.), Mr. Nixon violated his oath of office when he repeat-

edly permitted aides to commit illegal acts, McClory, the committee's second-ranking Republican, argued.

The specific charges are that Mr. Nixon or his subordinates:

- Tried to obtain confidential information in tax returns from the Internal Revenue Service and caused tax audits to be made "in a discriminatory manner."
- Misused the FBI and Secret Service by authorizing wiretaps not related to national security or other legal functions and concealed some of the FBI wiretap records in the White House.

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- Maintained a secret investigative unit—the "plumbers"—which engaged in covert, illegal activities and tried to prejudice the right of Daniel Ellsberg to a fair trial.

- Failed to act when it was known that presidential aides were trying to impede investigations of the Watergate break-in.

- Interfered with the FBI, the justice Department's Criminal Division, and the Watergate Special Prosecution Force and the Central Intelligence Agency "in violation of his duty to take care that the laws be faithfully executed."

The revised article dropped a charge that Mr. Nixon was in contempt of Congress in refusing to turn over subpoenaed tapes and documents. McCleary planned to make that a separate article, which the committee will take up later.

The President's foremost defender on the committee, Rep. Charles E. Wiggins (R-Calif.), challenged the article as "imprecise" and said it laid out new standards for impeachment not requiring a specific violation of law.

Whether or not the President abused his powers was a subjective judgment of the committee and would mean that no future President could be sure when he had committed an impeachable offense, Wiggins contended.

"Abusive conduct," he added, "is an empty phrase, having meaning only in terms of what we pour into it. It must reflect our subjective views of impropriety as distinguished from the objective views enunciated by society in its laws."

"The argument of ex post facto legislation is now before us," Wiggins said. "If we are to declare punishable that conduct which is not illegal under our laws, in so doing, Mr. Chairman, we ought to recognize the momentous nature of such a decision, because we are taking a step toward a parliamentary system of government in this country rather than the constitutional system which we now have."

"We are in effect saying . . . that a President may be impeached in the future if a Congress expresses no confi-

dence in his conduct, not because he has violated the law, but rather because that Congress declares his conduct to be abusive in terms of their subjective notions of propriety . . . How will any future President know precisely what Congress may declare to be an abuse, especially when they have failed to legislate against the very acts which they may condemn?"

But another Californian, Rep. George E. Danielson (D), countered with the argument that the allegations described specific crimes—crimes which only a President could commit.

"The offenses charged against the President in this article are uniquely presidential offenses," Danielson said. "No one else can commit them . . . Only the President can abuse the powers of the office of the President."

"These are high crimes and misdemeanors, meaning that they are crimes or offenses against the very structure of the state, against the system of government . . . This is uniquely a presidential offense . . . and the most important thing that we have in this hearing."

After his point of order was overruled, Wiggins introduced an amendment that would have required a finding that the offenses were committed with Mr. Nixon's knowledge or pursuant to his instructions.

The President could not be impeached unless it is proved that he at least knew of the offenses committed by subordinates, Wiggins said.

The amendment, which was defeated by a vote of 28 to 9, would have substantially narrowed the grounds for impeachment, some members felt. In several cases, it would be difficult to prove Mr. Nixon knew specifically of acts that were violations of law or abuses of his power.

Danielson observed acidly that Mr. Nixon undoubtedly wasn't specifically informed, for example, when Donald Segretti "ordered 400 pizzas for Musk- ie's party"—a reference to one of the so-called political "dirty tricks" that Segretti engaged in.

The test is whether Mr. Nixon "knowingly set forces in motion that resulted in illegal acts," Danielson said. Wiggins' amendment would have restricted the nature of proof required if an impeachment trial is started in the Senate, Danielson said.

Wiggins was asked if his amendment would rule out presidential responsi-

bility if he learned of an offense after it was committed and, in effect, ratified it. Wiggins said that would not be ruled out.

It was then that Wayne, a conservative Republican who has consistently supported the President on other issues, shocked the audience by indicating that he thought the record of interference with the IRS was indefensible.

The President, he said, "has a responsibility . . . to have enough idea of what is going on in his administration to be very sure that this kind of political prostitution of the Internal Revenue Service does not occur."

"There is nothing in this record which to me is more disappointing or more of cause for concern of the continuation of free government than the way in which the Internal Revenue Service was attempted to be used for this purpose."

Mayne said that "the tax system will be destroyed unless it is clear that it is not being used to "harass political opponents."

Throughout the debate, Democrats and pro-impeachment Republicans were furnished with staff-prepared memoranda to support each paragraph of charges in the article asserting Mr. Nixon had abused his powers.

For example, a paper containing 21 separate incidents was used to support one charge that the President authorized wiretaps unrelated to national security or any function of his office.

Republicans who support the President, meanwhile, were getting some help from the White House. Mack Howard, and associate counsel on Mr. Nixon's legal defense staff, was stationed next door to the committee chambers in the minority staff office, providing memoranda to any GOP member who wanted them.

"I can't comment at all," Howard said at first, when asked about his role.

"I'm just basically here to answer questions that any members might have," Howard said.

Rep. Wiggins said that Howard has been "handing memorandums to anybody who's interested." He added: "Incidentally, I don't regard that as improper at all."

An attempt by Wiggins to limit the scope of the "failure to take care" count to a single incident was defeated, 24 to 14. But Wiggins did suc-

ceed in persuading sponsors to specify five incidents and drop a catch-all phrase that would have permitted including as proof any other incident.

The count as introduced charged Mr. Nixon with "failing to take care that the laws were faithfully executed" by failing to set when he knew his close subordinates had tried to obstruct the Watergate investigation "and concerning other matters."

Wiggins wanted to delete the last four words, Rep. David W. Dennis (R-Ind.) agreed, saying the committee "owes it to say what you are talking about."

Rep. Ray Thornton (D-Ark.) protested that the amendment would "too narrowly confine the article" to the single offense stated. Rep. Robert McClory (R-Ill.) also opposed Wiggins, saying the Watergate incident was "only a small part of the misconduct . . . We are talking about a pattern of misconduct."

Rep. Lawrence J. Hogan (R-Md.), called this continuing argument over specificity, which consumed much of the debate last Friday and Saturday, a "red herring."

"We are trying in a most general way to give a summary of what supports the article," said Hogan. "We are not presenting the evidence."

But several members who support impeachment supported Wiggins, and Rep. William Cohen (R-Main) finally came up with a compromise specifying four incidents in place of the indefinite words. This was approved by a voice vote.

Cohen's list included the President's alleged knowledge that his nominees for Attorney General, Richard G. Kleindienst, lied to the Senate Judiciary Committee; electronic surveillance of private citizens; the break-in of the office of Daniel Ellsberg's psychiatrist, and campaign financing practices of the Committee for the re-election of the President.

Wiggins was then defeated, 28 to 10, in his effort to delete a paragraph charging the President with misuse of the FBI in ordering wiretaps of citizens for purposes unrelated to national security or any other legal purpose, of using information obtained improperly and of concealing FBI records of the

taps in the White House. Wiggins said the taps referred to included 17 wiretaps instituted in 1969 to try to plug leaks, taps of the President's brother, Donald Nixon, and of columnist Joseph Kraft, and three taps ordered by top White House aide John D. Ehrlichman of three White House employees. Wiggins said the President had then and has now authority to tap telephones in the name of national security. The question, said Wiggins, is whether national security was used as a subterfuge.

Rep. Carlos Moorhead (R-Calif.) said the 17 taps were instituted in 1969 to try to find and plug leaks that produced a news report about U.S. plans for troop withdrawals from Vietnam. There are no grounds to impeach the President for his efforts to save lives of American troops, said Moorhead.

But Rep. Don Edwards (D-Calif.) said the taps had nothing to do with a story about troop withdrawals, but rather were instituted in response to a report in The New York Times about secret bombing of Cambodia.

The taps turned up no security leaks, said Edwards. No one lost a job. But summaries of 104 tapped conversations that were sent to the White House contained political information useful to the President, Edwards said.

One summary informed the White House that Clark Clifford, Secretary of Defense under President Johnson, was preparing an article for Life magazine criticizing Mr. Nixon's conduct of the Vietnam war, Edwards said.

Edwards said the White House used this advance notice to marshal a counter-attack against Clifford. Edwards quoted Ehrlichman as calling this "the kind of early warning we need more of." The information obtained by the 17 taps was "political and personal" and bore "no conceivable relevance to national security," said Edwards.

Hogan said his Republican colleagues were playing a "shell game" on the wiretap issue. The impeachment article is concerned with illegal wiretaps, said Hogan, not any that may have been instituted for legitimate national security purposes. He said the tap of Kraft's phone was illegal as was that made of the President's brother by the Secret Service in 1970. Hogan said the President was involved in fabricating a denial that the taps were made when he learned Time magazine was writing a report about them, and that Alexander M. Haig Jr., new White House chief of staff, instructed the FBI "on the highest authority" to keep no records of the taps. They were delivered to the White House.

Rep. Barbara Jordan (D-Tex.) conceded the President's right to tape telephones for national security reasons, but added: "A climate of leaks does not justify violation of Fourth Amendment freedoms."

"The Nixon White House made the secret police a reality in the United States," said Rep. Joshua Ellberg (D-Pa.).

Mayne led the Republican attack on the charge that the President authorized creation of the "plumbers unit, which engaged in covert, unlawful activities, and attempted to prejudice the right of Daniel Ellsberg for a fair trial.

Mayne said the plumbers unit was created because serious leaks of national security information had to be uncovered and stopped. A news leak to The New York Times in 1969 revealing the U.S. estimates of Soviet first-strike nuclear capacity and the publication of the Pentagon Papers in 1971 caused the President to resort to a secret investigative unit, Mayne said.

Mayne said he did not agree with that decision and believed the FBI should have handled the job, but asserted that it was unfair to judge Mr. Nixon's decision retrospectively.

Others, however, disputed the contention that preserving national security secrets was the goal of the plumbers.

"The bugaboo of national security will no longer suffice to intimidate Congress or scare the American public" into condoning such activity, said Rep. John Conyers (D-Mich.).

Conyers referred to notes of former White House aide Ehrlichman that quoted the President as saying in 1971: "Put a non-legal team on the conspiracy." The "conspiracy" apparently was a reference to Ellsberg's leaking of the Pentagon Papers to newspapers. Ehrlichman's notes, obtained by the Judiciary Committee, also contained the statement: "Espionage not involved in Ellsberg case."