

House Committee, 21
to 17, Adopts
Impeachment Article
Charging President
Defied Its
Subpoenas

3D COUNT IS VOTED

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But a 4th Proposal on Cambodia Bombing Loses, 26 to 12

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WASHINGTON, July 30 —
The House Judiciary Committee, dividing nearly along party lines, voted narrowly today to charge President Nixon in a third article of impeachment with unconstitutional defiance of committee subpoenas.

The 21-to-17 vote this afternoon appeared to draw the limits of the case on which the full House, and the Senate

Debate is on Pages 14 and 15;
committee votes, Page 14.

if the House voted impeachment, will decide whether to strip the President of his high office.

Early this evening, in a decisive rejection of a fourth article of impeachment, Democrats and Republicans voted 26 to 12 against a proposal to bring Mr. Nixon to trial for waging a bombing campaign in secret in Cambodia.

The committee members were demonstrating little support for an article charging Mr. Nixon with willful evasion of Federal income taxes and unconstitutional use of Government funds to improve his Personal property in Florida and California.

Pace Is Quickened

The Judiciary Committee, quickening the pace of its deliberations, voted early this afternoon to add the third article to the bill of impeachment.

But only three of the 10 Republicans and conservative Southern Democrats who had endorsed one or both of the two prior charges against Mr. Nixon joined the majority in adopting the subpoena charge.

The narrow margin, along with the warning of some Republican advocates of impeachment that the majority was bent on "political overkill," foreshadowed a bitter debate and close decision on the third charge when it reaches the House floor next month.

Supporters of the Cambodian bombing charge and the accusation centered on the President's personal finances was expected to try to add them to

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the bill of impeachment when the full house passes on the committee's recommendation.

As approved by the committee and sent on to the full house, the third article declared that Mr. Nixon had "willfully disobeyed" eight separate judiciary committee subpoenas, thus "assuming to himself functions and judgments necessary to the exercise of the sole power of impeachment vested by the Constitution in the House of Representatives."

Two Republicans—Representative Robert McClory of Illinois, who sponsored the third Lawrence J. Hogan of Maryland—joined 19 Democrats in approving the formal accusation of defying committee subpoenas on a roll-call vote that ended at 3:28 P.M.

But four other Republicans, who voted Saturday to accuse Mr. Nixon of obstruction of justice in the Watergate case and again last night to charge him with repeated violations of his oath to uphold the law, contended today that no additional articles would be warranted in the bill of impeachment.

The four Republicans, who had helped to draft the first two articles, were Representatives Tom Railsback of Illinois, Hamilton Fish Jr. of upstate New York, M. Caldwell Butler of Virginia and William S. Cohen of Maine.

The third article, Mr. Railsback said, would represent "political overkill. Add a fourth and fifth centered on the Cambodian bombing and the President's personal finances, he warned the committee's Democratic majority, "and you watch what's going to happen to your fragile bipartisan coalition."

Move Held "Too Much"

Two of the three conservative Southern Democrats, Representative Walter Flowers of Alabama and James R. Mann of South Carolina, agreed that, as Mr. Flowers put it, "I just think this is too much."

A committee majority pressed ahead, nonetheless, with the third charge, agreeing, in effect, with Representative Don Edwards, Democrat of California, that it would "destroy this safety valve" of impeachment if Mr. Nixon was permitted to defy subpoenas for recorded White House conversations and other impeachment evidence.

All 17 committee Republicans and 9 of the 21 Democrats combined, 26 to 12, to reject the article proposing to impeach Mr. Nixon for having concealed the Cambodian bombing campaign from the public and all but a few members of Congress.

The article, offered by Representative John Conyers Jr., Democrat of Michigan, charged that Mr. Nixon had deliberately violated the "power of the Congress to declare war, to make appropriations and to raise and support armies."

Mr. Conyers contended that the President's concealment of the bombing was of a piece with "all of the acts that have been debated thus far."

But even some Democrats who had opposed Mr. Nixon's Vietnam policies acknowledged that Congress was unlikely to remove Mr. Nixon because of them. Representative John F. Seiberling, Democrat of Ohio, added that, even though four of

his constituents had died at Kent State University while opposing the President's policies, "we should not use out impeachment power to impeach this President for acts that others have done and for which this Congress is partly responsible."

The committee's decision to include the third article occurred shortly before the White House turned over to Judge John J. Sirica of the United States District Court here the first 20 of 64 recorded White House conversations that the Supreme Court ruled last week could not be withheld by Mr. Nixon from the Watergate special prosecutor.

Mr. McClory said that Congress had at least as powerful a legal argument as the prosecutor had for requiring the President to comply with its subpoenas in a matter where Congress was attempting to judge the President's conduct in office.

If Mr. Nixon is to be the "sole arbiter" of what evidence shall be used to assess his conduct, Mr. McClory asked, "then how in the world could we conduct a thorough and complete and fair investigation?"

"Well, we just could not," he answered.

He called the President's disregard of the impeachment inquiry's subpoenas "the prime example of 'stonewalling'" by the White House in the scandals bred by the Watergate case.

But opponents of the third article asserted that it would weaken the Presidency to impeach Mr. Nixon on the subpoena issue, and that the committee had failed, in any event, to seek redress either through the courts or by seeking a House citation for contempt of Congress.

"This really is overkill at its worst," charged Representative Charles W. Sandman Jr., the New Jersey Republican who had sought unsuccessfully to block the adoption of the two earlier articles.

"There are enough votes

here to pass anything," he said. "I know it, and you know it."

Representative Henry P. Smith 3d, Republican of upstate New York, said that it would have been preferable for the committee to seek the assistance of the Supreme Court as an "umpire" in the collision with the President over the subpoenaed tapes and documents.

Fairness Questioned

Moreover, he asked, "is it fair" to ask Mr. Nixon "to hand over what he hoped will be your confession?"

Several Republican opponents of the subpoena article charged that adoption of it by the committee and the House, or conviction on it by the Senate, would lead to constant peril to future Presidents if they tried to withhold material from an opposition Congress on proper grounds.

The committee voted, 24 to 14, to adopt an amendment refining the language of the third article to make clear that a President might be held impeachable only if he withheld evidence in an inquiry into his own conduct.

The amendment was sponsored by Representative Ray Thornton of Arkansas, the only one of the three conservative Southern Democrats to vote, later, for adoption of the article.

"What this really comes

down to," insisted Representative John F. Seiberling, Democrat of Ohio, "is, does this committee mean what it says about conducting an impeachment inquiry, and mean it about the powers of Congress—or, when we are really faced by a stonewall in the White House do we just say 'poof' and collapse?"

Representative Wayne Owens, Democrat of Utah, opposed the restrictive language of the Thornston amendment, asserting that the Constitution gave the House the "sole power" of impeachment but no way to enforce it against a recalcitrant President save through impeachment itself.

"The President is the only individual in this country who can refuse to honor a subpoena," Mr. Owens said calmly, "and that is quite simply because he is the commander in chief of the armed forces, and he is the head of the executive branch, and we have not the physical ability to overcome his resistance to a Congressional subpoena."

Some of the advocates of impeachment who opposed the third article said that they believed Mr. Nixon's refusal to honor the subpoenas ought to be included among the matters to come to trial in the Senate but not as a separate article.

Will Seek Amendment

Representative Cohen said said that he would try on the House floor to amend the obstruction-of-justice article, or the omnibus article alleging a number of abuses of Presidential power, to guarantee that the the issue come before the Senate if the third article was deleted by a House majority.

Mr. Thornton said that he would join in Mr. Cohen's effort. Mr. Flowers said that, while he would give some thought to inclusion of the subpoena issue in other broad charges against the President, he could not endorse it by itself.

"Let's not kid ourselves," he said. "If this article were standing alone, would we seriously be thinking about impeaching a President of the United States for this alone? I honestly think not."

Reconsideration Urged

"Perhaps we've been too infused with our newfound power," Mr. Flowers told his colleagues. "Please," he implored, "Reconsider what you're doing here."

Minutes later, however, after accelerated debate the committee chairman, Representative Peter W. Rodino Jr., Democrat of New Jersey, called for the ayes and noes.

When the roll-call was ended—and both Mr. Fish and Mr. Mann, who had been undecided on the issue, voted against the third article—the tally was announced: 21 to 17.

And the case against the President, the product of a nine-month-long inquiry into the aftermath of the June 17, 1972, Watergate break-in, had apparently been drawn.

The House will begin debate around Aug. 19 before deciding whether to accept the committee's judgment. The Senate, to which the articles of impeachment will go if approved by the House, will determine the duration of the 37th Presidency.