

The Case Against Richard Nixon: A

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During the three summers and two winters of what clearly has been the biggest political scandal in the history of the United States, Richard M. Nixon was investigated more heavily and charged with wrongdoing more frequently than any of his 36 predecessors.

From the time of the arrest of the Watergate burglars early on the morning of June 17, 1972, the allegations against the President and his aides built to a tidal wave that — 26 months later — overwhelmed him.

The burglary and its subsequent cover-up were always the center of the wilderness of investigations, but as time went on and evidence accumulated the inquiry seeped over into at least 13 separate areas of Presidential activity aside from Watergate.

Millions of words of testimony and thousands of documents and transcripts were amassed by the Watergate grand jury and special prosecutor, the Senate Select Committee on Watergate and the plethora of subsidiary bodies. For Mr. Nixon, the ultimate forum was the House Committee on the Judiciary, authorized on Feb. 6, 1974, by a vote of 410-4 to conduct an impeachment inquiry.

In six months of examining the evidence of the other investigations, and opening new lines itself, the staff of the committee made a massive synthesis of the charges against the President and the facts to support them. At the end, the committee voted to recommend impeachment of the President for his conduct in the Watergate matter and for involvement in the three other unrelated activities.

The first article charged that Mr. Nixon, "using the powers of his high office, engaged personally and through his subordinates and agents in a course of conduct or plan designated to delay, impede, and obstruct the investigation" of the Watergate burglary and "to cover up, conceal and protect those responsible." The second article said the President "has repeatedly engaged in conduct violating the constitutional rights of citizens" and "impairing the due and proper administration of justice." The third article charged him with having "willfully disobeyed" the committee's subpoenas for tapes and documents. Two other articles, dealing with the secret bombing of Cambodia and Mr. Nixon's income taxes and personal finances, were not approved by the committee.

What follows is an accounting of the charges against Mr. Nixon—based on the Judiciary Committee's documents and proceedings, supplemented by statements that postdated the committee's deliberations—and of his responses to them—based on statements by Mr. Nixon, his lawyers and other defenders.

Watergate

On May 27, 1972, and again on June 17, agents of the Committee for the Re-election of the President broke into the Democratic National Committee headquarters in the Watergate in Washington to install wiretaps and collect other political information. Basically, Mr. Nixon was charged with having used the office of the Presidency over at least the next two years to conceal the responsibility of the White House and the re-election committee for the burglaries.

No direct evidence has been introduced that Mr. Nixon knew in advance of the burglaries. But the committee cited evidence that the plan underlying the burglaries had been approved by John N. Mitchell, the campaign director, and H. R. Haldeman, the President's chief of staff in the White House. The first article of impeachment approved by the House committee charges, however, that Mr. Nixon participated actively in thwarting investigations of the crime and covering up the responsibility of his aides in it.

John M. Doar, the committee's special counsel, wrote that the evidence "strongly suggests" that Mr. Nixon decided shortly after the arrest of the burglars on June 17 to pursue a policy of concealment and containment. He further said that in late March, 1973, Mr. Nixon took over personal direction of the cover-up.

The committee, in its vote, made no direct correlation between the overt acts by the President and the generalized charges in the first article of impeachment. It was clear, however, that the majority accepted Mr. Doar's summation of the specific charges. These broke down roughly into eight areas:

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Catalogue of Charges

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and His Replies

GENERAL PLAN AND POLICY. After the committee hearings, Mr. Nixon admitted that on June 23, 1972, he had instructed Mr. Haldeman to stop the Federal Bureau of Investigation inquiry into the sources of funds for the Watergate burglars (the funds had come from campaign contributions). The President said his aides, to thwart the F.B.I., should use the excuse that the investigation would endanger operations of the Central Intelligence Agency. Despite C.I.A. assurances that this was not so, the aides pursued that course and succeeded on June 28 in stopping the F.B.I. effort to trace the money.

The summation of evidence for the committee also cited numerous instances in transcripts of Presidential conversations in which Mr. Nixon had indicated that he acquiesced in the cover-up. To Mr. Mitchell on June 30, 1972: "Well, I'd cut the loss fast. I'd cut it fast." To John W. Dean 3d, his counsel, on Sept. 15, 1972: "So you just try to button it up as well as you can . . ." To Mr. Dean on March 21, 1973: "It's better just to fight it out, and not let people testify, so forth and so on." To Mr. Mitchell on March 22, 1973: "I want you all to stonewall it, let them plead the Fifth Amendment, cover-up or anything else, if it'll save it—save the plan."

Critics also cited a moral insensitivity in Mr. Nixon's conversations that could indicate his approval of the cover-up. On March 21, 1973, for example, in recorded personal reminiscences, Mr. Nixon gave contrasting assessment of two aides—Jeb Stuart Magruder, who had decided to tell the truth to investigators, and Gordon Strachan, who the President described as "in a straight position of perjury." He called Mr. Magruder "a rather weak man who had all the appearance of character but who really lacks it when the, uh, chips are down," while he found Mr. Strachan "a real, uh, courageous fellow through all this."

Mr. Nixon has never made an attempt to rebut charges involving each overt act of which he was accused. The Judiciary Committee staff made a summation of 243 incidents or series of incidents, and the reply of the President's lawyer, James D. St. Clair, dealt only with 34 incidents with no correlation with the staff summation.

Mr. St. Clair's final statement was, "The President had no knowledge of an attempt by the White House to cover up involvement in the Watergate affair."

In his last account of Watergate, on Aug. 5, when he admitted that he had previously concealed his order on June 23, 1972, to stop the F.B.I. investigation, Mr. Nixon said it was a "serious act of omission for which I take full responsibility and which I deeply regret." He said he had not told Mr. St. Clair of the incident when his lawyer was defending him.

"I was aware of the advantages this course of action would have with respect to limiting possible public exposure of involvement by persons connected with the re-election committee," the President said.

Mr. Nixon, however, reiterated that if the evidence was looked at in its entirety, rather than as isolated incriminating statements, it would show he had made mistakes but had committed no impeachable offense. This was a theme that ran through his defense as the tapes of his conversations were made public.

In the Aug. 5 statement, Mr. Nixon said that "the basic truth remains that when all the facts were brought to my attention I insisted on a full investigation and prosecution of those guilty." He did not mention that, as a result of the investigation, he was named by the Watergate grand jury as a co-conspirator in the cover-up, though no indictment was voted because of his office.

INTERFERING WITH INVESTIGATIONS. Aside from

the attempted use of the C.I.A. against the F.B.I., the House committee staff found a number of occasions when Mr. Nixon tried to thwart or divert duly authorized investigations into Watergate.

Among the instances cited were his repeated refusal to honor subpoenas of evidence, his attempts to influence members of Congressional committees, his efforts to get special treatment for aides before the Watergate prosecutors, and his dismissal of the special prosecutor, Archibald Cox, when Mr. Cox insisted on having tapes of White House conversations.

Mr. Nixon's relations with Henry Petersen, the Justice Department official originally charged with prosecuting the Watergate burglars, also drew criticism. The President repeatedly quizzed the Assistant Attorney General about the progress of the investigation, and then passed the information on to subordinates who were suspects. "I've got Petersen on a short leash," he told John D. Ehrlichman, his chief domestic aide, at one point.

In a telephone conversation with Mr. Petersen on the evening of April 16, 1973, Mr. Nixon elicited the information that Frederick C. LaRue, a campaign aide who helped pass money to the burglars, was talking to the prosecutors. "Anything you tell me, as I think I told you earlier, will not be passed on," Mr. Nixon told Mr. Petersen. Yet, the next morning, the President instructed Mr. Haldeman to tell Herbert W. Kalmbach, another suspect in the money-passing, that Mr. LaRue was talking.

In his defense, the President insisted he had pressed for a full investigation as soon as he was made aware of incriminating facts. In testimony before the Judiciary Committee, Mr. Petersen said he saw nothing improper in Mr. Nixon's relations with him since the President is the nation's chief law-enforcement officer.

ALTERING OR DESTROYING EVIDENCE. Mr. Doar cited the apparently deliberate erasure of an 18½-minute portion of a tape recording conversation between Mr. Nixon and Mr. Haldeman on June 20, 1972 — three days after the break-in. Mr. Haldeman's notes indicated the conversation was about Watergate, and that the President instructed him to be "on the attack for diversion." The tape was in the possession of Mr. Nixon's personal secretary, Rose Mary Woods, when the erasure occurred.

The staff also cited many material discrepancies between transcripts of tapes prepared under Mr. Nixon's direction and transcripts of the same tapes made by the committee. In some cases, potentially compromising statements by the President were omitted entirely.

For example, on Feb. 28, 1973, Mr. Nixon expressed worry about evidence pointing to Mr. Kalmbach because "It'll be hard for him, he — 'cause it'll, it'll get out about Hunt." The statement did not appear in the White House transcript of the conversation. The reference is apparently to Mr. Kalmbach's help in sending money to E. Howard Hunt Jr., one of the burglars; Mr. Nixon had maintained steadfastly that he did not learn of payments to Mr. Hunt until March 21, 1973.

In a March 22, 1973, conversation, the White House transcripts had Mr. Nixon saying he needed flexibility "in order to get off the cover-up line." The committee transcript made the phrase "in order to get on with the cover-up plan."

The President and his defenders said they did not know how the 18½-minute gap in the key tape had occurred, but left open the implication that it could have been a mechanical fault in Miss Woods's tape recorder rather than a deliberate erasure. Miss Woods said she had accidentally erased a part of the tape when she answered the telephone while transcribing it, but could not account for the entire erasure.

Regarding the discrepancies between the White House and committee transcripts, Mr. St. Clair described them as honest differences in interpretation of tapes of poor quality that did not have material bearing on the matters stated.

HUSH MONEY. Beginning on June 29, 1972—twelve days after the break-in—and continuing for nearly a year,

a total of nearly \$450,000 was paid by aides of Mr. Nixon to those accused in the burglary. The money came from contributions to his campaign, and much of it was routed through his personal attorney, Mr. Kalmbach.

On March 21, 1973, the President talked with Mr. Dean about payments to Mr. Hunt. He contended it was the first time he was informed of the payments, yet in the conversation he made no protest, showed no surprise and indicated familiarity with some details of the pay-off scheme.

Mr. Dean said Mr. Hunt might consume a million dollars in the next two years. "What I meant is, you could, you get a million dollars," Mr. Nixon said. "And you could get it in cash. I, I know where it could be gotten." The same day Mr. Nixon told Mr. Haldeman that Mr. Hunt might "blow the whistle" and that "his price is pretty high, but at least, uh, we should, we should buy the time on that, uh, as I, as I pointed out to John." That night, \$75,000 in cash was delivered to Mr. Hunt's lawyer.

Under persistent questioning before the Watergate grand jury, Mr. Hunt stated unequivocally that when he was demanding money from the White House he was threatening to reveal "seamy things" he had done for the Administration if the money was not paid.

Mr. Nixon's defenders at one point said the President was "joking" in his discussion of \$1-million with Mr. Dean. At all points, the President said, the money paid to the burglars was for legal expenses and support of their families, and not to buy their silence.

Mr. Nixon denied repeatedly that the money for Mr. Hunt was "hush money." His lawyer quoted a passage from an unreleased tape in which Mr. Nixon said, "I don't mean to be blackmailed by Hunt—that goes too far."

EXECUTIVE CLEMENCY. On at least three occasions recorded in the transcripts, Mr. Nixon discussed with aides the possibility and political wisdom of giving executive clemency to Watergate defendants after their presumed conviction. The first discussion, with Mr. Ehrlichman on July 8, 1972, came two months before the burglars were indicted and six months before they were tried.

On March 21, 1973, talking with Mr. Dean about when clemency could be granted, Mr. Nixon said, "You can't do it till after the '74 elections, that's for sure. But even then . . . Your point is that even then you couldn't do it."

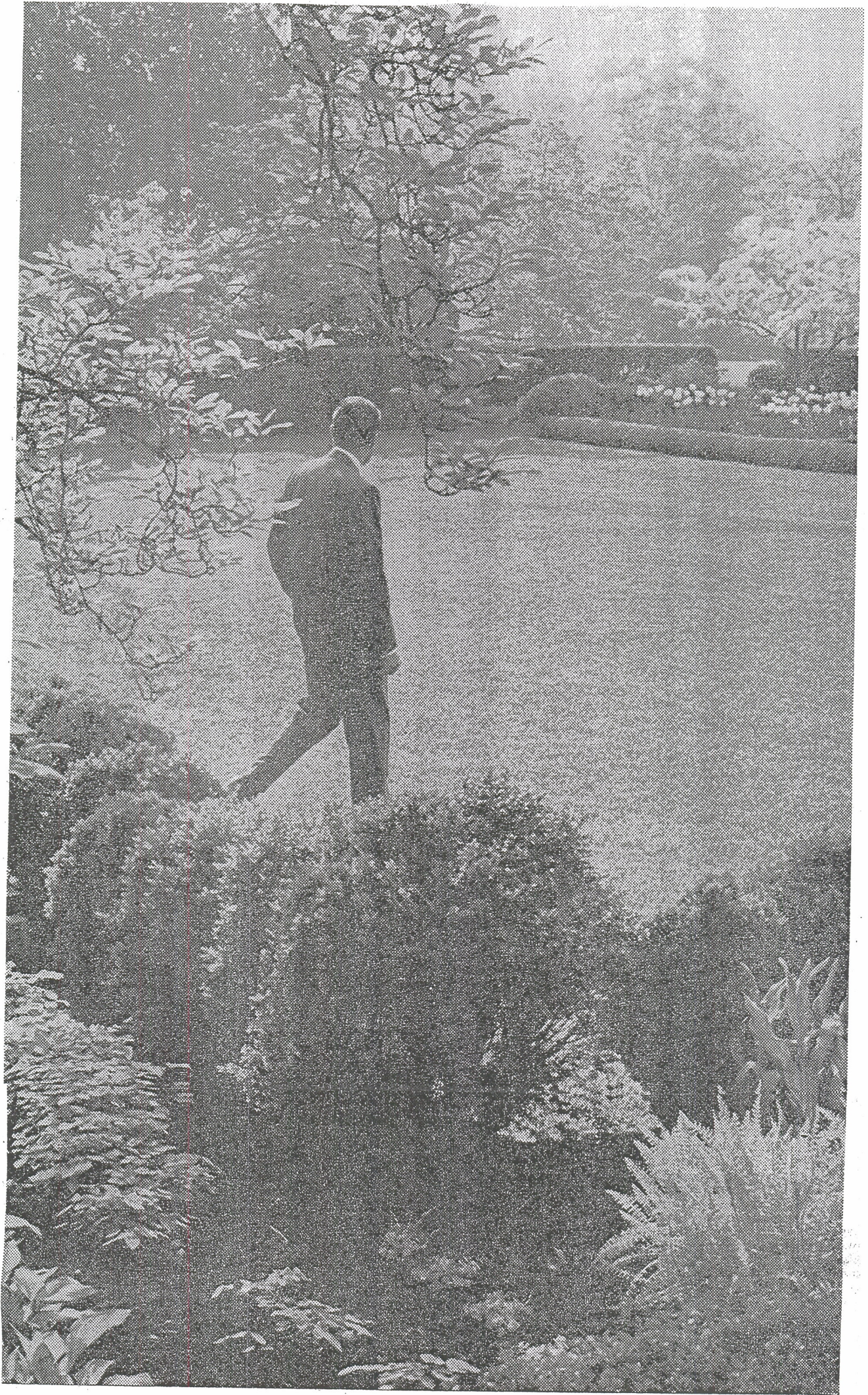
On April 14, 1973, Mr. Nixon spoke with Mr. Ehrlichman about how he could give signals to Mr. Magruder that leniency could be expected. The President suggested he mention "lovely wife and all the rest" and how painful it was to deliver the message.

"Also, I would first put that in so that he knows I have personal affection," said Mr. Nixon. "That's the way the so-called clemency's got to be handled. Do you see, John?"

Mr. Nixon's response to the charge was that, in any discussion of clemency, he was acting out of motives of compassion rather than trying to win favor with the defendants. He pointed out, for example, that Mr. Hunt's wife had been killed in an airplane crash shortly before his trial and that any consideration of clemency would be on that basis.

The President cited a point in a conversation about clemency for Mr. Hunt in which he said "It would be wrong." However, in the context of the conversation, the statement appears to refer to the political feasibility rather than the morality of granting clemency.

SUBORNING PERJURY. The staff cited a number of statements by the President in which he advised potential witnesses to lie or give incomplete answers, and others in



which he coached witnesses to give answers that would match the testimony of those who had gone before.

On March 21, 1973, he gave this advice to Mr. Dean about talking with prosecutors:

"Just be damned sure you say I don't . . . remember, I can't recall, I can't give any honest, an answer to that, that I can recall. But that's it."

On April 14, 1973, Mr. Nixon directed Mr. Ehrlichman to coach Mr. Strachan on his forthcoming testimony so that he could cover the same points that Mr. Magruder made to the prosecutors. On April 17, Mr. Nixon discussed with Mr. Ehrlichman what he could say to investigators that would corroborate what Mr. Kalmbach had told them and impugn what Mr. Dean had said.

Mr. Nixon's defenders, discussing these passages, said it should be remembered that the President and his aides were discussing the range of options on how to act, and not recommending a specific course of conduct. Mr. Ziegler said that, in the transcripts, Mr. Nixon could often be found playing the "devil's advocate"—that is, eliciting statements by taking a position without really advocating it. His defenders also pointed out that on numerous other occasions Mr. Nixon had urged aides to tell the truth.

FAILURE TO ACT. Some of the major charges that Mr. Nixon failed to see that the laws were faithfully executed were based on his failure to report wrongdoing to the authorities when he learned of it.

As early as July 6, 1972, L. Patrick Gray 3d, then head of the F.B.I., says he warned the President that his staff was giving him a "mortal wound" through interference in the Watergate matter. Mr. Gray said the President never questioned him about the statement.

On March 21, 1973, by Mr. Nixon's admission, Mr. Dean told him of the extent of the cover-up. His counsel also charged that Mr. Haldeman, Mr. Ehrlichman and Mr. Mitchell were implicated in the obstruction of justice. Mr. Nixon did not inform any authority of the charges, though he spoke at least three times in the next ten days with Attorney General Richard G. Kleindienst about the Watergate case.

The President's response to the charge was that as soon as he learned of the cover-up he had immediately "personally ordered those conducting the investigation to get all the facts and to report them directly to me." (All major witnesses deny receiving such instructions.) Mr. Nixon said he "felt it was my responsibility to conduct my own investigation" and the White House asserted that the President himself was a "civil authority" empowered to receive reports of wrongdoing.

MISLEADING THE PUBLIC. The Judiciary Committee staff produced massive evidence, based on the tapes and Mr. Nixon's public statements, that the President had lied repeatedly in speeches and news conferences about the extent of his knowledge of the complicity of his aides.

Immediately after the break-in, Mr. Mitchell and Ronald L. Ziegler, the President's press secretary, issued statements that neither the re-election committee nor the White House was involved. On June 22, Mr. Nixon affirmed those statements and repeated them for the next 10 months, though, the staff said, he had no basis for believing they were true and probably knew they were false.

Several times, Mr. Nixon cited "reports" or "investigations" by his aides that, he declared, cleared the White House. There is no evidence that such reports were ever prepared. On March 21, 1973, when Mr. Dean was talking about making such a report, Mr. Nixon said "Understand (laughs) I don't want to get all that goddamned specific." That day, Mr. Dean had told him that at least three of his aides had committed perjury in questioning by the prosecutors.

Mr. Nixon's contention in response to the charges was that his aides had misled him, or that he had told the truth as far as he was aware of it at the time. After the cover-up fell apart in April, 1973, the President's statements denied much that he had said before. Each major speech involved retraction of previous assertions.

Abuse of Power

In addition to the article of impeachment dealing with Watergate, and an article condemning the President for refusing committee subpoenas in connection with it, the Judiciary Committee voted for impeachment on four other specific matters:

INTERNAL REVENUE SERVICE. The committee staff collected evidence that Mr. Haldeman and other aides had put pressure on the I.R.S. to punish Mr. Nixon's opponents by auditing their tax returns and to reward friends by not auditing. There was testimony from both of Mr. Nixon's first two Commissioners of Internal Revenue that they had offered their resignations in the face of pressures from the White House to take improper actions.

According to the evidence, a principal target for auditing was Lawrence F. O'Brien, the Democratic National Chairman in 1972. There was also a charge that Mr. Nixon's aides obtained tax information on Gov. George C. Wallace of Alabama and leaked it to the press. Regarding favors, it was alleged that the I.R.S. yielded to pressure not to audit the returns of the President's friend, C. G. Rebozo, in 1968 and 1969.

Mr. Nixon made no direct response to the specific charges but stated generally that he had not misused the government agency. The White House acknowledged it kept a list of "enemies" but asserted the list was to make sure that opponents received no favors, and not to subject them to persecution by arms of the Government.

WIRETAPS. Between May, 1969, and February, 1971, the President authorized F.B.I. wiretaps on four newsmen and 13 Government officials in an effort to stop leaks of confidential material to the press. The wiretaps were placed without a court order. Two of the subjects of the wiretaps went to work for Senator Edmund S. Muskie, a potential opponent of the President's in 1972, and three others were White House staff members. The committee staff found evidence that information from the wiretaps went to the President, that it did not lead to the discovery of any leaks, that some of the wiretaps were installed for political purposes, and that the White House tried later to have the F.B.I. destroy records of the taps.

Mr. Nixon has said the wiretaps were installed to prevent dissemination of national security information that would damage the nation if revealed. He said it was his right to take such action. Mr. St. Clair said that, at the time the action was taken, court approval was not required.

PLUMBERS. In 1971, Mr. Nixon authorized creation of a special investigation unit within the White House called the "Plumbers." The unit was assigned to plug leaks of classified information. Facilities of the Central Intelligence Agency, prohibited by law from domestic activities, were used for several of the unit's operations. In several cases, members of the unit acted to quell potentially embarrassing situations for Mr. Nixon. On Sept. 3, 1971, agents of the unit broke into the Beverly Hills, Calif., office of Dr. Lewis J. Fielding in an effort to get psychiatric information about Daniel Ellsberg.

Mr. Nixon said the unit was created because of threats to national security. He said he had not approved the burglary of Dr. Fielding, and did not learn of it until March 17, 1973. He did not relay the information to judicial authorities until April 25.

KLEINDIENST NOMINATION. In 1969, the Justice Department brought three antitrust suits against the International Telephone and Telegraph Corporation. On April 19, Mr. Nixon telephoned Deputy Attorney General Richard G. Kleindienst and ordered him to drop an appeal in one of the suits with the words "The order is to leave the goddamned thing alone." In March, 1972, Mr. Kleindienst was undergoing Senate approval of his appointment as Attorney General, and he testified under oath that he had never received any White House directives about the I.T.T. case. Mr. Nixon took no action in regard to the perjury.

Mr. St. Clair, in his brief for Mr. Nixon, said there was no reason why the President should have known of Mr. Kleindienst's statement under oath, and that there was no legal duty to respond to the testimony.