



6-26-1975

Fragile Coalition Interviews - Hamilton Fish Jr., June 26, 1975

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DFS - This is the first session with Congressman Fish on Thursday the 26th of June 1975, at ten after two in the afternoon.

SL - Father Shea and Lynch are present.

HF - Now there are some I'd just show my ignorance if I was asked. Well I thought there was a couple that I wasn't going to be able to answer very well, but I don't know --- if you are not going to like the answer don't use it.

LAUGHTER

TM - No, not anything like that at all, this is totally yours and the transcripts, when we get them transcribed, we'll get them right back to you to edit and clean up.

HF -- In case something occurred to me since then, that's the idea.

DFS - And it's totally confidential, you know, until you read them over then do with them what you want.

TM - This is your product and we're just assisting you in putting it down.

DFS - And of course our role is really passive because you were the historical actor and figure of the time and your recollections are the historical source, so we are simply here to jog your memory, that's all. Would you like then, Mr. Fish, to start with number one, so to speak?

HF - Yes.

DFS - Fine, we'd like to ask you to recall what was your original prediction about impeachment, let's take for example on the 31st of July, 1973, when Drinan introduced that first resolution, what was your reaction to that? At that early stage?

HF - As I recall the grounds for the Drinan resolution were very specific, were they not, didn't have to do with Cambodia, the fact that we had just learned about the secret bombing in Cambodia two or three years before that?

DFS - That's correct. The resolution itself was a very general one, there was no specifications.

HF - Oh, there was none?

TM - Yeah, it was just a one-liner.

DFS - One line is all.

TM - Richard M. Nixon is hereby impeached for high crimes and misdemeanors.

- 18 - And that's absolutely all, but the occasion of the Star Chamber.
- 19 - Yeah, I remember discussing it with certain people on the committee and there was some sentiment about it and what might happen. Although I think we faced a recess shortly thereafter. But I think the overwhelming opinion on the committee that day was that it was not that significant. I remember certainly having a sense that something terribly serious was being involved in this for a few days and a trauma of the very work involved. But when very shortly it was resolved that the Committee would not discuss its plans and it would go on recess and not take any action on the matter.
- 20 - I noticed in your Lucas tapes and also in your interview in the Hudson Valley Magazine you make particular mention of Veterans Day at Poughkeepsie in the 22nd of October, 1973.
- 21 - Yes.
- 22 - What day you say this was the first time really that the impossible became at least a remote possibility.
- 23 - Right, that was two days after the firing of Archibald Cox and the resignations of Richardson and others and we then knew that even though it was a holiday that the following day in the Congress reconvened, the 23rd, there would be several resolutions of impeachment introduced. I think there was speculation in the press, in the New York Times, I believe, that it would be referred to the Judiciary Committee and this word was around and the occasion was quite a big one in Poughkeepsie that day at the celebration and an astronaut, I guess there were several radio stations that were interested in my comment on the prospects of having this referred to our committee.
- 24 - Just about Agnew, just before he resigned, were you aware that Agnew was thinking of putting his case before the Judiciary Committee?
- 25 - Yes, and I was sympathetic. I didn't know the full story at that time, of course, but it did seem to me that we were a proper forum for this, since he called for it. I was willing to give him the hearing, if he wanted it.
- 26 - Were there any of these other items in number two that we just list purposely at random that are meaningful to you?
- 27 - We did seem to be getting some mail in the month of October that was highly critical of the President and the mail would bulge with episodes. It was the Saturday Night Massacre for example, that created a great deal of mail and strong sentiment for commencing impeachment procedures. It was certainly certainly out there but there were a couple of times when a resolution would occur, that the court decisions during the summer of 1973 when the President did give up some tapes but my reaction at the time was one of relief. He should have given up the tapes initially; I think it was bad judgment on the part of his counsel to even to have fought

- HF - the thing. Because then you did get for the first time the definitive judicial determination that limited his stand on executive privilege. But I never really in my mind focused on the person of the President, until such time as the resolutions were introduced in October.
- TM - You recall, Congressman, in the early proceedings, the Judiciary Committee discussed what is an impeachable offense?
- HF - Yes.
- TM - And we got a brief from Mr. Doar and his staff and we got a brief from the White House and a brief from the Justice Department. And wherein they took different positions of the narrow view and the broad view. The narrow view being an offense had to be an indictable offense, criminal offense before it becomes an impeachable offense. And the other view being on something very serious but something that would not be necessarily be indictable or criminal.
- HF - We had the committee report on Constitutional grounds for impeachable offense, I frankly don't recall the Justice Department's brief, specifically, my recollection is that it was far closer to the inquiry staff's monograph on this issue and I don't remember it contributing anything new to my thinking and frankly I read that committee monograph very carefully and including the back of it, the last couple of pages, they had their source material. Because I think that it is one of the great documents to come out of the entire inquiry and the trouble is that every sentence carries so much weight, I mean one sentence is the essence of four or five pages of a book by Roal Berger, I remember checking on it. It is so condensed that it takes a tremendous concentration and understanding as you read it, and reread it. But I thought it was brilliant and it was the position that I adopted.
- TM - Did you develop in your own mind an actual position of what is an impeachable offense? In other words it does not have to be an indictable offense?
- HF - Oh, no. It doesn't have to have the element of a crime in it. According to that study, I'll have to get that book out and read it to you but I thought that it had language in there about the offense against the state, the governmental system, very very broad language in that inquiry staff report is what I adopted personally as my standard of what constitutes an impeachable offense.
- DFS - In your opening statement on TV that Thursday evening, you mention there were elements, that it be extremely serious, that it be against the political system -- the constitutional government, but that also it be recognized as such by a broad majority.
- HF - Can I first say that that is not original with me, if you recall it's a very thin book, published by a law professor in June --
- DFS - Black?

HF - Black, this is Professor Black, and this is verbatim maybe with a word or two changed out of Professor Black's book on impeachment. That was published just a month or two before we started on televised hearings. And I thought he was right on the target. As to regards the third element, I'd already come to that conclusion some time before. That was based on a January speech at Anders College by Archibald Cox in which he said that it must have a legal and moral basis acceptable to the American people. But what I think he was referring to then and subsequently in his June '74 Phi Beta Kappa speech at Harvard was the way he went ~~about this~~ was just as important as the ultimate vote. And the credibility of the proceedings -- they could not be partisan. It couldn't be a get President Nixon and therefore to me it translated it shouldn't be a defend the President either. You just have to lay your party allegiance to one side. Because they had to go about it this way because eventually what you had to be was acceptable to the American people. They would not permit us to undo the results of a general election unless there was a moral element and a legal basis to such radical surgery. I think it should be very clear that the distinction between a grounds for impeachment that is morally and legally acceptable to the American People and basing your judgment to impeach or not to impeach upon a popular sentiment if it can be expressed as clear majority. The one, the first is the correct way to approach this and really it's almost needn't be said. Obviously you have to have a legal basis and I think there should be a moral basis as well. But I certainly made it clear, letters in every opportunity that I had to speak, that very early on over the Christmas break in 1973, that I personally come to the decision that you could not conduct this by a poll and popular sentiment had nothing to do with it. It was a very very defined constitutional responsibility which the public had no bearing on it whatsoever. Likewise your party affiliation had nothing to do with it. It was a constitutional obligation.

DFS - Let's say that one has an objectively serious legal and moral offense demonstratable by evidence, but which offense was not so apprehended or understood by the American people. Now would that have stood the test of impeachability?

HF - You mean if it also was very very serious and offended the constitutional system?

DFS - That's right. But not so understood. It simply couldn't be sold -- the American people weren't aware of this.

HF - Well, of course that didn't occur but I think that's important. If they didn't, why didn't they? Then it would be the fault of the process. One of the great credits to Mr. Rodino is that in taking as long as we did, during our inquiry, he was maturing the concept of impeachment. Not only among the members of the Committee, but among the public as large. I think we all started out with impeachment, it sounds a little like cholera. As far as the public is concerned, it's not something you ever studied in civics class, vaguely knew it was there. And so Rodino did mature the thing. But I think you raised a good point. But I think I'll stick to my answer you just can't go around removing the President of the United States in office without the people understanding what you are doing. In this case certainly there was a great deal

HF - of publicity on the point.

DFS - I was intrigued too by your comments to Lucas about the First Amendment possibly protecting not only the right to tell the truth but the right to tell a lie. Now say that Nixon obviously told a lie. Did that have any relation to the First Amendment?

HF - You mean he had the right to tell a lie?

DFS - Did he?

HF - Well he did. He most certainly had a right. Yes. But it is a judicial offense.--Lying repeatedly to the American people.

DFS - Is lying itself, even repeated lying itself impeachable? Or the subject of the lying?

HF - Yes. This came out because in the Ford confirmation hearings as to what you know in the way of national security issues and I think that his position was that you just don't tell the full story. But that you shouldn't lie. Of course I never thought of the lying as a separate indictable offense. I don't think it was ever mentioned in any of the provisions of article one or article two. I just think it was part of the whole picture. In that itself it was not a substantive grounds of an article of impeachment.

TM - The second article talks about the public misrepresentations but that was it. That was the extent of that.

HF - If that was all that had happened, you just could find a lie, but of course it was just part of the coverup, really is what it was. Except that it was done over national television instead of in the oval office. But surely this is merely a continuation of an attempt to maintain the coverup of June.

DFS - Let me ask you as a layman, lawyer-wise, about your statement that "there was no smoking gun, the whole room was filled with smoke." Now does that last phrase imply, or is that another way of referring to circumstantial evidence?

HF - What I really had in mind is -- you know the words smoking gun had been used before against those who could simply not bring themselves short of a confession on tape or otherwise by the President that he was directly involved. That no matter how much evidence you had that as long as it wasn't directly involving him, they were unwilling to take that step, and I think just referring to this room being so full of smoke was not just the circumstantial evidence, it was the whole scene. That there was so much going on, so much we had, and that, and so many attempts to obscure and attempts to obstruct the inquiry, attempts to get us off on side-tracks and to challenge our right to continue as we were. I was pretty sure that we weren't going to find the smoking gun, and I really guess I meant that there was enough smoke to spell out the pattern of events in which you could draw conclusions and inferences from the gaps in the evidence that would be sufficient to warrant voting for impeachment.

- DFS - Let me read you a little quotation by another member of the coalition. "The hearings today, April 4, remind me of the advice of Abraham Lincoln when he said that if you want to stop a church from being built don't attack the religion, but start an argument over where the best location would be." "It appears to me that the strategy of the White House is to start an argument about procedural methods by the committee in an effort to divide the committee and make it appear that it is being unfair procedurally." Do you have any comment on that?
- HF - Well maybe so. I didn't think at the time that the White House was trying to divide the committee but certainly we spent an awful lot of time on procedures and received an awful lot of advice as to what we should be doing and as to what we shouldn't be doing. How we should go on about it.
- DFS - Then how about the standards of proof? For example, Mr. St. Clair's clear and convincing, beyond a reasonable doubt, the Ford standard, how did you stand on that?
- TM - In other words once you've come to your own definition of an impeachable offense, what degree of belief then do you apply to that?
- HF - I eventually went along with "clear and convincing" primarily because it seemed to be the one everybody could live with. I thought it was remarkable, the equanimity of the committee, that did accept it and the counsel as well. But as I recall first of all I ruled out the criminal standard because we weren't dealing with a criminal matter. And since the trial was going to be in the Senate we really were usurping the Senate prerogative, they would be the masters in determining their standard. I guess it goes back to just what we were saying, what was an impeachment inquiry? I decided it was just that. It was unique. It was an impeachment inquiry. That there was some analogy to a grand jury but you shouldn't use a standard of proof applicable to grand juries because we're not a grand jury. A lot of our undertakings are not in secret and there is the President's counsel throughout the entire evidentiary hearings. So the standard of proof applicable to the grand jury clearly would not be applicable. Criminal would not be applicable. And the more stringent ones wouldn't seem to be applicable either. So that certainly "clear and convincing" would be needed anyway to reach the point of public understanding and acceptance that I felt was important. So I was perfectly happy to accept this.
- TM - Were you aware of any effort on the part of the White House to lay that type of device and strategy among the Republicans on the Committee? In trying to encourage and engender debate on procedural matters, were you approached?
- HG - No, I was not aware of it. I think one of the remarkable things was that throughout this time I didn't sense any change in my office's relationship with the executive branch. Now I never had the occasion to ever telephone either Erlichman or Halderman when they were in office. But most of the daily matters that concerned

- HF - this office with legislative or constituent work are done with people on the operating level in various departments and this went on without any change. We won a few and lost a few. And likewise the amounts of grants that were approved for projects in my district, local government, universities and whatnot there was no change. They didn't suddenly dry up nor did we suddenly get any more of it, and I don't recall any phone calls at all from any of the people in the Nixon White House at any time we were having these hearings, arguing over procedures. However, this doesn't mean that it didn't happen to other people. I knew nothing of what went on in the Democratic side of the Committee and their frequent caucuses. We had our caucuses secretly. But that too was a theme throughout those right up to the list of May in which the majority was very defensive in terms of the President and very partisan, I thought.
- TM - A majority of the minority.
- HF - Yeah, I don't know if anybody ever took notes of those meetings.
- TM - I took a few rough notes, as decisions were being made and we had to prepare things but generally not as to the substance of the discussions.
- HF - If you can bear with me a minute, I wrote some notes on a pad here that I thought by look at your chronology --
- DFS - Very fine.
- HF - But it goes from the very first party line vote on the right to issue subpoenas back in the fall and right through the vote on the 1st or 2nd of May '74 on our response to the President to the edited transcripts we received a day or so earlier. I think it reflected a strong party position here on both sides. The Republicans were simply not willing to go along with a lot of these steps adopted by the Committee.
- DFS - I think as late as the 10th and the 18th of July, Hutchinson expressed himself in a Republican caucus as something to the effect that it was just inconceivable to him to have the Republicans consider impeachment.
- HF - I was there, inconceivable for a Republican Congressman to vote to impeach a Republican President. Well, I think that for the most of us by that time we just were amazed to hear it. And I translated it to mean it was perfectly conceivable for a Republican Congressman to vote to impeach a Democratic President. So I dismissed it as being too bad that he felt this way; it was not an idea that had ever, ever crossed my mind. And that he had been unmoved by almost seven months of participation in this inquiry!
- DFS - Did you feel that you were at all being singled out by a remark like that or that someone else was or that it was just a general remark.

HF - No, no. I remember being in the room and I remember Mr. Hutchinson coming in and a few minutes at the end of the meeting, standing by the door and I had not been talking until he was recognized cause he couldn't stay long and he just said a few words and this was part of it. I did not participate in these discussions among Republicans to any great extent cause I just didn't like the fact that they seemed to want to have a Republican alternative. And I went back to my decision over Christmas was in this to carry out your constitutional obligation here, you had to put partisanship to one side. And so it was just inconceivable to keep trying to forge a Republican position as an alternative to what we were doing in Committee. I imagine that first decision to what response to take to the fact that President not complying to the request to the subpoena to the tapes was on May 1. There was a later time, a few weeks later, you know Bill Cohen was the only one to vote on May the 1st and then a number of us joined him two or three weeks later when the second issue came up. Going back to the question of what constitutes an impeachable offense, I think its interesting here what I wrote--"If impeachable conduct was to be confined solely to the indictable offenses, the standard that we'd set would be so restrictive that it would not reach conduct that might seriously affect our system. Next came the problem of what would be the appropriate burden of proof to apply. Some members of the Committee argued for a standard of probable cause, paralleling our role to that of the House of Representatives to that of a grand jury but here again the comparison to the judicial process only served to confuse the issue. Our business was not uniformly conducted in secret and respondent's counsel was present at every stage of evidentiary presentation. At different stages of impeachment proceedings, the House of Representatives assumes the role of the grand jury, prosecutor, jury and even the judge, most of us concluded that something more strigent than a mere standard of probable cause should be a guide to an issue of this magnitude. To put the President of the United States and the American people through a potentially long and devisive trial demanded a higher burden." Some of us picking up on the argument that an impeachable offense was identical to an indictable offense, argued for a standard of beyond a reasonable doubt. But most viewed impeachment as a two stage process, for the Constitution clearly specifying that the trial be in the Senate which would decide its own procedures including the standard of proof. To impose the highest burden of proof known in our system of law on the House deliberations did not seem to be either advisable or consistant with our role under the constitution. The simple standard seemed most useful for our purposes, they are preponderance of the evidence or clear and convincing. In the end most of the members embraced the clear and convincing standard which again demonstrates a uniqueness and flexibility of the impeachment process. The President's counsel also viewed clear nad convincing as the appropriate standard for our committee's deliberations on the facts. The term has the advantage of being readily understandable by members of the House, many of whom are non-lawyers and more importantly by the American people. It was a workable meaningful standard. It should be emphasized that each member is free to apply the standard of proof that he thought appropriate. Just as with the definition of an impeachable offense. I think that this was adopted by most. But there were those who

- HF - felt that they were the prosecutor and now we weren't the grand jury but what we were was the district attorney who had to decide in the confines of his own office whether or not to take the case to the grand jury which really meant he had to decide the issue of guilt or innocence because you wouldn't take it to a grand jury unless you did feel strongly yourself that the party was guilty. Because that was a very tough thing, I think you were putting yourselves in the shoes of the Senate. But there is of course that role, there is the prosecutor role, there is the grand jury role. But of course if you start off saying that it's not a criminal proceeding, then you shouldn't look upon yourself as a district attorney. And that is what some committee members, Carlos Moohead for example, told me that's the standard he applied -- which makes it very tough, to particularly when you're not getting the evidence before you to go on the kind of evidence we had and to decide guilt. It really wasn't our responsibility.
- DFS - Did you ever consider the so-called Ford Standard? You recall in the Douglas situation, some years ago?
- HF - Oh yes, --What ever Congress wants -- Well that is not in regard to the burden of proof that is in regard to impeachable offense?
- DFS - That is correct.
- HF - No, I didn't take him seriously. I imagine there's quite a lot of truth in what he said but fortunately we had benefit of a cracker-jack counsel to our committee as well as this impeachment inquiry staff that was put together. Really people of high caliber with two extraordinary gifted men heading it up. I think that is probably correct. Just like Rodino did not force the committee or ask the committee at any one time to sit down and discuss the issue of what constitutes an impeachable offense. We simply accepted the inquiry staff work product and we had this contribution by the President's counsel and the Justice Department and members were free to accept any or none of it. So in that sense he's right. It's whatever Congress says it is. We did have before us this document prepared by John Doar and staff and that I find totally convincing.
- DFS - Would you want to comment just at this juncture on Doar, St. Clair, Jenner, Garrison -- how you thought they performed in light of what they were expected to do?
- HF - Well, I think they all performed well. We didn't have that much association with Mr. St. Clair. He was a silent participant in the evidentiary proceedings as I recall. But I thought that John Doar did a tremendous job, terribly painstaking, man of great poise yet never seeming to be ruffled, even though we knew he was physically exhausted. Jenner was a great constitutional lawyer in my books and really thought through these problems. And you know among the Republicans, some faulted Jenner for not disagreeing with Doar. To me this fact that the two of them sat down and worked things out and came to us in a common front gave strength to everything that the inquiry staff did. That these two giants agreed. And they certainly did in their give and take amongst each other effect a compromise that it wasn't solely one man's view or the

- HF - other; it was the combination of the two individuals that each had a high regard for the other. And to me to have that come in without the committee having to resolve disagreements between these two is tremendous asset to the whole proceeding. But I found that Mr. Jenner in just a very few words could capsulize things. It was certainly one of the more influential factors on me throughout the proceedings.
- DFS - You were out at Cohen's home on Sunday morning with Cates. What prompted your using Cates for that function?
- HF - I'd heard that he had given a presentation that ran some 5 hours to a Democrat on the committee and I had discovered that he was the principal person on the inquiry staff that had supervision over the aspect of the break-in and the cover-up and that he had a very strong case and was very frank about his views and he had a theory of the case and I wanted to hear it. At that time, I think Mrs. Cohen was in Maine so Bill was the babysitter that Sunday and we went out there. Who was there? Frank Polk?
- TM - I think Frank did go. I remember I couldn't make it, I was out of the city that weekend.
- HF - But Frank and a couple of other fellows from the inquiry staff and he went on for about four hours and then he hadn't finished so we met again in a little room on the ground floor of the Capitol a couple of evenings later so he would finish his full presentation. And that was a big influence on me too because what he did in effect was to take all the material that we had. It was nothing new, it was just a way of putting together the material that we had presented to us in May on that issue. Eventually it became article one. He just put in a theory where he had an explanation for the gaps in his judgment. It was a plausible estimate or guess as to what happened in the missing parts of our evidence based on just clustering known facts to arrive at some decision as to what was the most likely thing to have happened. And to me it was a very rational, it was obviously just a theory of the case -- a very sensible, rational theory by a highly trained trial lawyer who had done exhaustive work in research in facts in this matter. I found it convincing.
- SL - How would you rate Mr. St. Clair's performance?
- HF - As I say he didn't really have much of a role during the evidentiary presentation of the tapes, of the times we were just listening to the reading of those books and comments on them. His questions of witnesses was very good, a very fine trial lawyer but I didn't think much of his brief or the quite short argument that he gave us at the very end. I thought that he would go on for considerably more time.
- SL - What was your reaction when he pulled out the new transcript? That they had never seen before? At the very end, he pulled out two pages of the March transcript and said we've taken a second look and these might be of use.

- HF - I really hadn't thought about that in so long. Did we accept it? Now I remember being annoyed but I don't really have too good a recollection now of it. But Garrison did a good job. I thought he was suddenly thrown in and had only a few days to put together an argument and he just kept a few narrow issues and made people like me go back and test for a couple of days of what he had said and St. Clair had said in his argument against the evidence. Against what evidence was there. But I did give both of them very careful scrutiny. I had help from the regular staff of the committee to go over it and so we could just take each one of their arguments and discuss what the counter argument should be and see how much weight we are going to give them.
- DFS - Now of all the information and evidence that you heard and had gone through, which did you at the time find most helpful, or to put it in positive negatively, most damaging to the President? Witnesses or tapes or whatever?
- HF - No, I find great difficulty in singling out anything. The tapes were certainly dramatic the first time we listened to them too. But they gave me headaches and particularly the long ones; I had terrible times, always had some aspirin with me, cause I just got these splitting headaches and I get headaches in movies too. I thought it was the fact that watching the movie, now I realize it must be from listening. You know the tapes were like listening to old time radio, the crackling voices and the uneven quality. Now I think the tapes were not in themselves all that damaging, it was really just part of a whole scene -- a whole pattern. I certainly think that the presentation by John Doar starting the 9th of May on those 38 volumes that they gave to us. That in itself was the most impressive. It was really overwhelming. That's why Cates was a help -- someone to pull it together. And having such familiarity with it that he could pull it from all over the place and weave a plausible story. The least helpful to me was, surprising enough, the live witnesses. And I had been very much for having a great many witnesses. I wanted to have Haldeman and Erlichman, for example, despite what their counsel said. I thought it would be significant to me that they refused to answer any questions. I just wanted to not be told that they wouldn't answer but to actually see that they didn't answer. Because there we had witnesses that had testified in the Senate, and we knew what they said in the Senate, we had a pretty good idea that they were lying all the time in the Senate and it would have been worthwhile in the framework of our inquiry, that we knew that the Senate didn't know that once we did have these people. Really I got so bogged down in this stuff with the Bittman case and all those other people and I don't think we got the story from many of them anyway so it just wasn't that helpful. Butterfield was a very very good witness
- DFS - One of the other members put it this way. He said that he thought that whereas Ford in his appearing before the Committee to be confirmed as Vice-President had brought his life, Nixon had brought his lawyers. And the latter turned him off so to speak. Did you ever have that dichotomy?

- HF - No, I tell you I did feel though a certain tenseness with Mr. St. Clair the prosecutor. That was my fault, I guess, I felt we shouldn't be, I didn't like the associate that he brought with him, I forget his name. The fellow who sat next to him all the time.
- SL - McHale?
- HF - McHale. But he was always looking at us as a defense counsel should, I suppose. He was staring at us and they both used the minority staff. And I just decided in this particular instance that there shouldn't be a Republican or Democratic side. I viewed our counsel as Mr. Jenner and he was there to help us seek the truth which was the sole purpose of this inquiry, but St. Clair was there as an advocate and we never really got particularly chummy with him.
- SL - If the tapes had never existed at all, do you think there would have been a clear and convincing case?
- HF - Yes, I do. It would have been much more difficult. It probably would have taken longer. It certainly would have been more controversial. I think we would have to rely then more on live witnesses than we did. I think we would have approached the whole case slightly differently. It was still there. I think the evidence we had was surrounded with the break-in, the next several says, alot of that was not from tapes but from testimony, LaRue's testimony, just what happened when they were all out there at Beverly Hills and breakfast on Sunday morning and the phone calls came in and the way it was explained to us, the positioning of where the President was and where Erlichman and where Mitchell was and what everybody said and did and the conversations after that. Almost on a daily basis the events that really led you to the conclusion that the President had to be in on it. Even though you didn't have the tape of the 23rd...
- SL - Since we're discussing the evidence, if I may I'd just like to quote here Theodore White and what would be your reaction to it?
- DFS - That's in his new book.
- HF - Which I am not going to bother to buy after reading that excerpt.
- SL - He said in his final sentence referring to you, "But he had he said an entirely open mind until sometime in May when the evidence and facts and testimony began to build and build in a pattern of lawlessness that somehow went to the heart of the conservative philosophy was all about, law and order."
- HF - Yeah, I spendt about 40 minutes in this office with someone he sent around and that was the total interview. That was the total contribution and it wasn't like having had talks with the people who wrote for the New York Times, The New Yorker, and the in-depth stuff. I think it was a very cursory meeting and that's the only

HF - association, I never saw White at all in the preparation of that book. I don't know if that's the only reference to me in that book but it is in your notebook. And I think it displays a preconception that he had of me. He had no business assuming that and really shows the lack of scholarship on his part. I mean if he had done any research at all in the Congressional Quarterly, he would have discovered for example, that my record in support of the President had fallen below 50%. And the Congressional Quarterly listed me as a moderate liberal -- that was me. It was just a silly comment. I don't know why he put it in there unless it was his knee-jerk assumption of what anybody named Hamilton Fish would feel like. That's all that I said, it's not a question of being not true, it's just no help.

DFS - How about the personal factors influence? For example, your father, your wife, close friends, what role did they play say during the increasingly crucial months of May, June, July?

HF - Well of course I knew what my father was doing out there, raising money through newspaper ads and calling for fairness to the President. It didn't bother me, I didn't have any contact with him personally. I was for fairness to the President too. It was a little like his press secretary would come out and say that he was not the protector of the President. Oh dear, anyway, I felt that was one of our jobs too. That's what the committee was doing. But I'm used to that so that didn't bother me very much. I'd say that most of my friends favored impeachment; my wife really didn't express any opinion on this until July. She wasn't in on it really before that as far as expressing any personal opinions.

DFS - Children?

HF - Oh, I think yes. My oldest boy was convinced in favor early on of impeachment. The rest of the children did not express themselves. The question also asks constituents. As I say I had to rule them out as far as their concerning myself with what their views were. District politics. No, it would be the same thing. The two are combined. Couldn't worry about that either.

DFS - As you said, your district pretty well split right down the middle.

HF - Yes, I thought so. It was definitely a no-win situation. So the only possible approach for me that just gave validity to the approach I took was that it couldn't be a factor. Obviously you're going to lose, somebody said it's not a no-win, it's a lose-lose situation.

LAUGHTER

HF - The mail of course was most-heavily for impeachment. And there were no threats that I know of.

DFS - Did you keep your staff pretty well out of the decision making process?

- HF - I do that normally in Judiciary Committee work because we have the staff over there and it's all they can do in this office is to keep up with the mail and the matters before us in the House floor. Also my legislative aide only came on about April of '74 so he really wasn't in on any of the matters before the Committee before that time.
- SL - We really haven't mentioned yet, is what is your reaction to the leaks?
- HF - I was very disappointed. Issued a press release at the time and I thought it was very very bad that we couldn't be trusted in going through all this and had rules of confidentiality and our staff had taken great pains to negotiate with Judge Sirica and others and we had gotten classified material of other committees and we had gotten secret grand jury testimony and everything else and then to for any purpose whatsoever to leak it, was to me totally uncalled for and hurt. Hurt the Committee at the time that we were subject to justified criticism in that we had been at this for months and months and months. By the people who already made up their minds one way or the other plus pot-shots of the President's press secretary every other day telling us what the confines of our proper jurisdiction was and everything else. And then we just lost some prestige, I think by some members leaking material to the press.
- TM - If we may now move and focus on the final week. On question number nine. Of the mechanics of the coalition, I had difficulty in trying to note the actual meetings, when they occurred and who was present and frankly I'm not satisfied with this cause I remember I didn't take any notes. I didn't record presence and the first couple of meetings I didn't do anything except take a few notes that may have been helpful in drafting the articles. But could you begin by telling us your earliest contacts, thoughts, about a so-called grouping of the Committee to possibly draft articles?
- HF - Well I think the possibility of actually drafting articles was first mentioned at the end of the meeting by Tom Railsback to a group of us. I can't remember if it was a day or two before our first meeting or the preceeding Friday. It was as late as that. I think one of the most interesting things was that the fact that there was so little communication between members of the Committee throughout the entire process. All winter and all spring, even at party caucuses. But I don't recall ever sitting down in May or June and discussing evidence with anybody or even into early July. It was a very lonely thing, for me anyway, and I assumed for most of the others.
- TM - Were you approached by Mr. Railsback to come to his office or do you have any recollection as to that? How did you get to Mr. Railsback's office Tuesday morning at 8 o'clock?
- HF - I walked over.
- LAUGHTER
- HF - That meeting was arranged on very short notice, I can't remember

- HF - whether it was the Friday before or Saturday morning we had a briefing I believe -- informal briefing of the Committee at which we discussed certain proposed articles and really narrowed the focus by showing a lack of interest in a few of them.
- TM - Do you recall the Friday before when Mr. Doar circulated in a black book drafts of different articles? Do you recall reviewing those, or maybe your reactions to those drafts as you looked at them?
- DFS - Was there a cause and effect between your reaction to those and perhaps being more receptive to Railsback's suggestion?
- HF - Have you seen my copy, by any chance, was that around here?
- TM - Of the Doar articles?
- HF - Yes.
- TM & DFS - No.
- HF - I guess I shipped them away with all those other papers.
- DFS - I went through all that you had left me, and I'm sure that it was not there.
- HF - Yes, as I recall those drafts included several dealing with the same topic and just in a different way of doing it. I thought it would be tremendously valuable that we sit down and discuss them and it seemed to me almost from the start that I felt they needed considerable reworking. So I was very receptive. But this was the first time that we had any talk about getting together as a group. There had been some talk around about who might vote for impeachment, which was a surprise. I was always included in a group of four or five possibles or persuadables, or what ever magazines wanted to list us. Play those kind of games that they like to do. Aside from one lunch at the Capitol Hill Club with Bill Cohen and Butler in which I was interested in what Butler's point of view was because of another southerner telling me how difficult it was going to be for him and the Southerners in Congress if he should vote for impeachment.
- TM - What time was this, this date?
- HF - It was a full week before we started on Wednesday or Thursday, a week before they started the telivised hearings. I really wanted to sound out Butler. And tell him this message that a fellow southerner was sympathetic to hsi problem and hoping he wouldn't let it bother him. I found Butler to be very tough. And got the opinion that he might well be disposed to vote for impeachment. But no one ever said that they were going to. Very frankly, you know, I don't think any of us wanted, you know darn well that I didn't want to be the only one. No matter how you felt -- I'm just humble enough to have grave doubts as to whether I can be right and everybody else wrong. It's nice that a few other

HF - people arrived at the same conclusion. But they did. And you are not quite so confident in yourself that you can just be number one. And of course that lot fell on Tom Railsback who had the most difficult decision simply by virtue of seniority. He had to be the lead off. We didn't really discuss this.

TM - Do you recall the first moments of that first meeting?

HF - Yeah. I was just going to get to it. Even then I remember very vividly that there had really been no detailed explanation as to what we were going to do and except the seven of us were going to meet. I guess when Tom asked me to come to that meeting it was the first time I knew that those three Southern Democrats would be involved with us. Even willing to sit down with us, I mean I had absolutely no contact with anybody up to that time. No, I think it was very interesting when we got in that room because Tom Railsback started off almost immediately talking in terms of alternatives to impeachment. Whether or not we could go with intent or something else.

DFS - Censure.

HF - Censure, you're right. And Flowers, he said something in his usual colorful way, I wish I could recall. Flowers certainly had an open mind at that time. I just wanted to comment on the options as I said to Railsback, we'd been down this road to me we'd tried all these things had happened. Try to give the Federal Courts jurisdiction over to enforce our subpoenas. All these attempts we'd made really were nothing more than to try to share a burden Burt Jenner kept reminding us we could not share cause we had the sole responsibility. He kept bringing us back to focus on these issues as we tried to get away from it and to share the burden. It really was left to us to decide the issue of impeachment and nothing short of it. We'd passed the point of anything short of that, up or down that could be decided. I wish I could remember, did Walter tell you what he said? I was trying to remember that. He made a great remark. Had to do with his being sick. His stomach or something was tied up in knots the last couple of days.

DFS - Yeah, and when he had walking pneumonia too, as it turned out. Also his ulcer was acting up.

HF - Was it his ulcer that was bothering him?

DFS - Yeah.

HF - He talked about his ulcer bothering him. Yeah, I remember Flowers talking about his stomach and that and then Rail's comment and my comment about Mr. Jenner -- he didn't talk a great deal but he is always right on the point. He kept it point in the right direction many, many times by reminding us that we were the sole responsibility and that we couldn't delegate it as much as we'd like to. Settle for contempt or settle for censure or getting the courts involved. I think all it is perfectly understandable feeling efforts to have someone in the act to take the heat with you. But Mr. Railsback did not pursue this for more than a

- HF - few minutes. But after I made my comment, I think he just wanted to really make sure that everybody had really come to a conclusion again separately that there was no backing away from this.
- TM - I was trying to recollect that Flowers' comment. He said a couple of things. One of the things was talking about something to the effect that knowing what we know, can we walk away from this thing? Or something like that.
- HF - No, I was thinking about the remark about his stomach. I thought he meant that he had been so upset in the last couple of days ---
- DFS - That was literally true, I thought.
- HF - In coming to a decision that he made himself sick.
- TM - He had pneumonia at the time. He had it for three months and didn't even know it, walking pneumonia.
- DFS - On top of that ulcer. He said it took him about three months to get back in kind of condition. There is a 9 b there and then in contrast to that the adjective "fragile". What do you think really is the more accurate? Was the coalition a natural, inevitable thing or was it all that "fragile"?
- HF - I don't know why Tom used the words "fragile coalition" at one point in the proceedings there. It wasn't a bit fragile that I knew of. In fact I don't even know if it was a coalition? I didn't think it was a coalition when I first met with them. I began to realize how important it was because of the makeup of the Committee. But if seven decided to go the other way, why we would have had a totally different result. "Natural" I guess is the best word. It certainly was not inevitable or obvious. But I think it was natural because I said at the time about misery loving company, or liking company. It was a miserable experience to be going through. I was perfectly willing to confess that I did want company. I don't think that it would have been at all easy to explain if I had been the only Republican around, or if any Republican had been the only Republican to vote for it.
- TM - Would you look at the meetings that I've got listed there. I recall very definitely of you being there the first time.
- HF - I tell you I want to also say that I had very little to do beyond article one. There was a lot of trouble with article two if you recall.
- TM - Yes.
- HF - My contribution was I think later on after the televised hearings began, I think article two came back to us with substantial changes. And my contribution was don't accept any of the changes, it's gotta be the way we agreed on. You couldn't monkey with it. They backed off as I remember.

IM - This is article two?

HF - Yeah, wasn't it.

TM - Yeah, well you know we never even got to article two until Wednesday.

HF - Oh, we didn't get it finalized until Friday sometime.

TM - Yeah. We hadn't started on it until late Wednesday. That was the first time we got it started cause Mr. Mann, never did bring it back. At the first meeting it was kind of like Republicans take care of the cover-up and the Democrats would kind of take care of the abuse of power.

HF - That's what I say. Maybe that's why I didn't have so much to do with article two. But I remember that in article one I thought our position was very good. We talked about each one of the specifications and knocked out a couple and just didn't want anything in there where you could give three or four examples of evidence that we had would justify it and I could give you three or four bits of evidence that would cast doubt on it. We didn't want anything like that in there. We went over each section of the article and discussed the, what part of the evidence related to it and how strong was it; we really wanted this thing to hold up and we were more limited than the article as proposed to us.

TM - You know there are meetings there that you remember attending that I don't have you down for?

HF - No, As I say after the first couple on Article I ...

TM - I definitely remember you being there the first one and the Wednesday morning one.

HF - The Wednesday morning one, yes, the afternoon one I was not present at.

TM - Do you remember attending any of the two dinners they had at the Capitol Hill Club? On Thursday. On Friday?

HF - No. There was so much going on I didn't have time to get to these meetings. When did we start our televised hearings. Thursday night?

DFS - Wednesday night.

TM - We were actually drafting in Railsback's office until late that afternoon till six or six-thirty.

DFS - When you walked in that first Tuesday morning were there any men there over and above three Southern Democrats that you were surprised to see there? Or surprised not to see there?

- HF - No. I think I did raise the question as to why didn't we have McClory. Didn't we keep McClory advised what we were doing and send him copies of the drafts?
- TM - We did on Wednesday afternoon when McClory called and Frank Will(?) called for him and said, "We heard there is a group drafting and frankly you know if possibly we can get together?" I brought it back to the coalition and they said well rather than inviting McClory to join, they would send Mc Clory the draft. So they were at that point sending him drafts.
- HF - I think I raised the issue, I'd heard from something Froehlich said to somebody and I was floored that he was a prospect. I said why had he been approached, why wasn't he included and Hogan had he been asked and McClory. I didn't see why they weren't there.
- TM - Do you recall on Friday when Mr Sarbanes introduced the Sarbanes substitute which was in substance the coalition's draft of article one? And the attack that followed, John Wiggins and Sandman, do you remember your reactions to that?
- HF - Well I wasn't part of that. Obviously this had been a planned strategy on the part of the opponents of the impeachment that I hadn't expected or been alerted that was coming out. I guess Paul had only seen the draft shortly before, hadn't he. I guess that showed.
- TM - Did you think they were in danger? Did you think this was going to hold up? Did it seem to be faltering?
- HF - No, I thought it became obvious that this was the strategy of delay and causing a whole series of votes and striking each one of those. I remember really not wanting the thing to go this route because the motion to strike each section of article one would be tantamount to a vote on the merits of the issue.
- DFS - What were your views on the Kastenmeier resolution, the vote on each article separately rather than the understanding previously that it would be one vote?
- HF - Well, that I was very disappointed because --- I don't know if anybody knows this -- even it was a week before that during sort of a lull in the proceedings in the Committee Room I had asked Rodino that if we could vote at the end of the whole thing and I said I felt that it would make it easier for me and a number of other people. And he agreed, And then we didn't mention it again but I gathered that at the Democratic Caucus he lined them all up and it was, of course, I haven't told this to other members on my side but I know afterwards Eilberg was very upset and cross with Kastenmeier because it had all been understood and agreed to in the Democratic Caucus and of course when Kastenmeier did object to the rules of procedure -- but he objected to it as being not the usual order. He had a slight majority of the Republicans voting with him who were anti-impeachment Republicans and didn't know any of

- HF - the background of the thing anyway and probably had they know it they certainly didn't want to make my lot any easier. This was something that never had done in response to requests by me. But I just felt that after everything had been thoroughly discussed and the whole case laid out to the American public -- I would feel happier having to vote all together than one at a time.
- DFS - During that week what was your view of the McClory idea and eventually article three? What role did that play in the coalition?
- HF - I remember very well and once again this is a particular quirk here only would be revealed in a very close reading of the Committee report. I voted against article three. But I signed the supplementary views of Mr McClory in the book, in the record of the hearings in favor of article three. I changed my mind. There wasn't really enough discussion that -- there were two or three articles that we gave very cursory attention to in the evidentiary hearings with a half-day on the basics of everything. In the case of article three, thinking about it afterwards, I think it is necessary to establish that impeachment offense because it goes to the heart of the authority of Congress to impeach in the first place. And the fact that the President did come up with the tape of June 23rd finally -- persuaded me to sign his views in favor of article three. Had he given us that tape when he said in May that he would review these things; that's when he found it anyway. The Republicans who voted against impeachment would not have been put through all this. And then a week later said they would not vote for impeachment. Totally unnecessary that those men had been put through that wringer, if that tape had been produced and we had subpoenaed it two months earlier.
- TM - You would have voted for article three on the floor of the House?
- HF - Yes. It has never been picked up that I signed McClory's supplementary views and I think that's very significant, having voted against it. But it's just that I changed my mind in the intervening week before the documents had to be published.
- HF - I don't know if I satisfied Tom about the calendar here? Let me ask you a question because I never really knew where did Mann, take those things? Did he go away and be back the next day? Did he come back with some comments?
- TM - That still remains to being kind of an interesting thing that I'm sure the Coalition will pursue more closely down at the Hilton Head. What we know now in talking with Mr. Mann was that there was a group of Democrats -- Edwards, and Conyers and Sarbanes and Brooks.
- DFS - Those four in particular.
- HF - Were they official? You mean the Chairman had asked them to work over the material?

- TM - They were semi-official anyway --
- HF - Work over the Doar book on all the alternatives, you mean?
- TM - I don't know this, but my impression is that they were constituted to review the work product of the Coalition.
- HF - Oh, I think they were in existence before we started.
- TM - I don't know.
- TM - Well the Donohue article one is a rough drate of one of our earlier drafts.
- HF - Oh really, I thought it was the Doar product.
- TM - No, and article two was an early product of Mann which none of us had seen before it was there on the table. He was not willing to even show us the night before he hande ti out rather reluctantly to the Coalition. But Mann says there was a group of Democrats that he did go to once. I think he said and he didn't work with them as such, they weren't rehashing the work.
- HF - Well did they do anything?
- TM - Our information is that they weren't doing anything except acting as a sounding board.
- HF - Well there was John Doar who made revisions on ours -- kind of changes --
- DFS - John Doar worked very closely with Mr. Mann personally, daily.
- TM - Mr mann was not taking our product through a Democratic Steering Committee of any kind. Although he did on one occassion meet with them and recalls not meeting any more than that.
- HF - I think it's interesting. I think you'd have to get this part of the story from John Doar, and it would be interesting to talk to Edwards, I think. Here was this other group with the majority of the Republicans who were writing stuff and they didn't have any control over it and they must have had some mixed feelings.
- DFS - Mr. Mann strongly suggested and we will interview John Doar.
- HF - Oh yeah, well he's key, and Jenner too I think you shouldn't miss. I don't know if other members felt about him the was I did but I spent Saturday with over in the office. I went over to read. We kept our black books over there and I did for a while and then I took them home but I was reading there this Saturday and he was there and just happened to talk. H is just an extraordinarily gifted man. He just hung it entirely on the Constitution. That is where I started and where I ended, at the Constitution and there it was.

- DFS - I asked Mr. Mann a direct question, just the other day, how was it that he was selected or emerged as this -- go between? And just frankly he didn't know. He thought it was because of his low-key image as he calls it.
- HF - Didn't he come to us, didn't he come to the Coalition, Tom, with a draft of article one? And article two? Isn't that his original work product?
- TM - You mean the first meeting, yes, he had something roughed out. Which we haven't seen to this day. Thornton had something that he roughed out, which we have copies of. They did that the night before in a meeting.
- HF - You're satisfied that this is not something that came out of the Edwards committee? They didn't really have anything -- an original draft of that?

SECOND TAPE

- SL - We can begin with number two if you would like. What was your immediate reaction that night after the vote on article one?
- DFS - On Saturday night.
- SL - And your subsequent actions later that evening?
- HF - I sure do. I remember just wanting to walk out of the place; my wife was there and I don't know, we just held hands and walked out of the room and down the hall. I didn't want to talk to anybody. Or that big setup that the news people had you know with the cameras by the front door of the Rayburn Building. I do remember that I'd seen in the audience Art Buchwald, and he had a strip that the counsel had of all the names and how they voted. He had it and he checked it off and he came up and asked me to autograph it for him. And I said something about that I should be actually asking for your autograph. And we left and it was then about, what? We voted around 7:20 or 7:30?
- TM - 7 o'clock.
- SL - Right, 7:05.
- HF - Well I remember that our first stop was going to the supermarket on McArthur Boulevard where we had to stop off cause my wife, Billy, had spent the last two days in the hearing room. And so we were going to go home and get something to eat and so we had to buy some food. It just struck me as amusing the, I really just was absolutely drained and I found myself standing behind one of those metal baskets in the Safeway and having to stand about half an hour in line to get to the checkout person. And having just gone through something that was fairly significant. And we went home and really what my recollection was that how quiet it was. I'd had one telegram from a friend that had been around the house in the afternoon, it was very nice. But the phone didn't ring. Just no telegrams arrived. No telephone calls. I don't know

- HF - why I expected it, that there might be some phone calls, but there weren't. And the next morning, we'd already decided this, we packed up and went out to the eastern shore in Maryland and just to have lunch and nap and spend the night and drive back Monday morning. To be exact we went to a restaurant where they had tons of hardshell crabs. Just had a nap that afternoon and got up and had dinner and went back to bed and came in Monday morning. I guess we drove right to the Capitol cause we were at it again 10:30 Monday morning. Well that's really all that happened right after.
- SL - During the actual vote itself, some of the members in previous interviews expressed the views that they thought certain members of the Committee were acting as they were polling for the cameras. That they had been preparing themselves for the vote.
- HF - I remember being a little surprised at the way people announced their vote -- particularly the ayes is what you heard first and they were very soft. And I was surprised initially and -- but after several of them it seemed a very natural thing. I don't think you have to attribute it to acting. What are you going to do? Smile and say "aye"? I heard afterwards that the Chairman was deeply upset. There was some report that he was sick. You can't say that nobody was acting but I don't think it was the kind of aye vote that you wanted to shout out.
- SL - The three articles, how do you think they would have fared in the House and then subsequently in the Senate?
- HF - Oh, I think they would have passed the House and in the Senate. I never did see any particular problem by the time I got to the point which was the 11th hour to go for impeachment. To me it had to be a very very good case and I think the preparation, the work that John Doar had done, in preparing matters on the part of the House for the Senate. Why it had been a totally convincing case.
- DFS - Just on that score you say the 11th hour and it is something we really haven't asked in this direct fashion, can you recall when did you in your own mind come to that?
- HF - It was certainly within a week -- no further back than a week before. I don't know there was any particular moment but I'd say the Saturday or Sunday before the vote had started. But once again I'm not saying that I wasn't influenced a couple of days later by realizing that there were at least four Republicans and maybe more. But frankly I never had any interest in being a manager on the part of the House in that stage of going before the Senate. I didn't feel I was one of them that had a good a grasp or that good a lawyer as others could have been to do that job. Oh, yes, you asked me about how it would fare? Rodino would stop us two or three times a day on the floor and talk about it meanwhile the 10 Republicans were meeting together and didn't invite us. But we started right away thinking in terms of the presentation to the House and I think initially we were talking about 80 or 90 hours of debate. Much of the first 15 would be controlled by the Committee, I think. I did favor at least a minimum amount of debate of 5 hours in the House vote. By that time the

- HF - President had resigned and Mr. Hutchinson and Mr. Rodino didn't have any interest in it whatsoever. I'm not so sure that they are right. Almost immediately there was almost an educational process for the balance of the House who had read the newspaper accounts for the last several months but still wanted to be thoroughly educated in this thing and we had two or three opportunities to do so. I guess it must have been Wednesday Railsback and Cohen and I met with the Wednesday group and plus others like 40 of the House Republicans and each took a topic and discussed it with them and answered questions. There were helpful comments. Rails was awfully good on article one and somebody made a suggestion that he repeat that for the camera which is basically what he did. Then we met in John Rhodes' office. He had the nine members of the Republican leadership and now I'm switching to after the votes, after the completion of all five articles. In this educational process we met in John Rhodes' office with the 9 members of leadership plus about one half a dozen other Republicans and I don't know why or what basis he picked them and Wiggins and myself. He just wanted to explore how we went about this and Wiggins said we would just kind of meet in small groups on a daily basis until the debate started on the House floor and to present this side of it and he had already met with a couple of them. And I presented the other side of the argument and the answers and the questions. And I think we would have -- had events not caught up with us so quickly. I think there would have been a great deal of this material being handed out, somebody wanted my Summary of Information. Before that was printed members wanted to borrow my copy and study it. There was a tremendous amount of interest in this. We really spent our time just doing that. I think that would have served, that plus debate in the House, to carry the day quite easily.
- SL - Do you think future generations now have a clearer definition of an impeachable offense?
- HF - I doubt it. I don't think if you run out and ask the man in the street -- he might have known a year ago but he wouldn't know now. Yes. As I said I guess one of the documents the inquiry staff put out, was that Constitutional Grounds of Impeachment. I said repeatedly that even if the President was not impeached that what we did in terms of work product, would be required reading for Presidents for generations to come. The basic documents put out by the Committee, which we had to start from scratch because there was no book around saying "How to Impeach." That stuff is there and will serve as a standard.
- DFS - And over and above the concept of impeachment, what do you think are the beneficial effects of the whole affair, now that it is over, on our system of government?
- HF - Well hardly a weekend goes by when I'm back in New York State that I don't run into three or four people who will comment on this. People that I haven't seen or never have met for the first time or just hadn't seen since before last July, who have nothing but high marks for the conduct of the Committee. Really they say very flattering things in terms of what it meant to them to see the

- HF - anquish that each of the members went through or that it was a restoration of their faith in the government or the rule of law being applied as it should be or the Constitution being upheld and followed properly.
- DFS - You know it's been remarked that up to say last August that the White House had become almost a fourth brance of government. Do you think that is an overstatement or do you think there was some danger of that and it was corrected?
- HF - Yes. I don't necessarily think that's an overstatement. Put another way it's been called the imperial Presidency. And I don't see that as a reflection on Mr. Nixon's personality in any way. I think that is was historical forces that had worked for years in this country that had to do largely with abrogation of Congressional powers in foreign policy and war policy. Again a very natural thing in its leading to the executive to deal with large social problems. Ever since the beginning of this century that the Congress simply legislates and sets up an agency and then leaves it to the executive to administer the thing and goes on to the next problem. So suddenly you find an agency or department with thousands and thousands of employees and you get this bureaucratic response to these problems and the Congress is not doing the job in oversight either. I think you are going to see in the last few years a restoration of that, a realization on the part of the Congress that it did give up too much. The imperial Presidency was almost demanded by the force of events.
- DFS - And looking back too, how would you evaluate the treatment by the media of your work of the committee's work, of the whole impeachment process? Was it generally fair, slanted, adequate?
- HF - No, I thought it was excellent. It had I don't know how many reporters were assigned just to us and it gradually grew during the winter and spring. As you entered the Rayburn Building horseshoe drive, origianlly you had a few television cameras set up there, and I used to joke with them about the fox-holes area because pretty soon that curtain was there across this large expanse and then they had rugs and desks and the foxholes there. Pretty soon they'd have hot and cold runnign Scotch and everything else in there. (LAUGHTER) It wasn't far from the mark. You just leave the fellows there long enough and they begin to bring in the comofrts. But they were very good, they had a tough job because we had so much behind closed doors but I thought that the Washington Post, which I get every morning at home, pieced it together -- the accounts of what we heard behind closed doors, evidentiary presenation were very very accurate in the Post. Did you get that, Tom?
- TM - Yeah, in many cases they were verbatim.
- MORE LAUGHTER
- HF - Personally speaking of myself, the press was very fair to me and I'd say mroe than generous.
- DFS - And how do you think -- of course your district was different from Butler's or someone else's -- your own re-election was affected

DFS - by your role in the impeachment proceedings?

HF - Well the net effect was a plus for me. I mean I won by 65.5% of the vote which was down from 72.5% in 1972. But you know in a Republican district it is pretty hard to lose in 1972. And that fall off was not what the Republican Congressional Campaign Committee had told us in a meeting in September what we could expect. I think their figures were a 10% fall off. I didn't realize a 10% fall off. Another reason for thinking the 65.5% was a pretty good percentage was because about 45,000 people failed to vote in '74 who had voted in '72. My Democratic opponent got within 1,000 votes of two different candidates. The candidate for '72 had a thousand more votes than the candidate for '74. My vote was 40,000 less. I think that basically a lot of Republicans a lot of independents were just disgusted or embarrassed to be Democrats or Republicans, didn't come to the polls. And an awful lot of Democrats and Republicans who did go to the polls voted for me. This is kind of a guess at the cause you are never going to know who voted and who they voted for. I know some Republicans were against me so I think since that vote stayed static and a number of Republicans voted against me that I must have picked up a lot of Democratic votes.

DFS - As you thought about impeachment and studied it and finally voted on it, did the Johnson trial of 100 years ago or the ethics of Congressmen today as in the Wiley-Mayne milk motion have any influence on you?

HF - Well, Johnson, I just to put down this as a bad example of how to go about this and I referred to it recently in a speech and the corollary to the Nixon White House as the wrong way to do things. Do you recall the Wiley-Mayne resolution in March --

HF - Yes, he said if Congressmen are doing this can we well impeach the President?

HF - Yeah, I was in favor of Wiley gettin this through. What I did in early July was to write a Rabbi Marks, of the First Hebrew Congregation of Peekskill, and the Presbyterian Minister in Poughkeepsie, New York, Paul Rutgers, and the Episcopal Minister, who married me and who is a liberal, and just asked them for their thoughts on what we were going through. And they didn't know that I had talked to the others, and each one wrote me quite alot, several pages of their approach to this thing and the interesting thing was the similarity. I think I mentioned here I used the term "the sacred vessel of the law" referring to the Constitution, naturally, which was of course in the letter to me from the Rabbi. And then one of them delt with this question and that was in the mails heavily about "he who casts the first stone". And we used to get little pebbles in the mail scotch taped to a piece of cardboard. And I lifted almost verbatim form a letter by Paul Rutgers.-- is anyone virtuous enough to decide the weighty issue before us? It suggested that we are all guilty, that civic unrightousness is collective. If I were to accept this thesis, if I and my colleagues can no longer separate our sins from those of others, we are no longer capable of making any worthwhile judgments whatsoever. That was lifted directly from Paul Rutgers' letter. I had religious sanction to be able to make a judgment

- HF - Well I thought that should be mentioned, that was big at the time. So I thought that issue ought to be hit. But basically what I was talking about and which I repeated during the debate was the thrust of my supplemental views was the actual duty imposed on the President by the Constitution by sparse language of article two. These duties are very clear and they were violated. I think that was really the heart of the whole thing. Very few other members bore down on it. I was helped here by a couple of members of the inquiry staff.
- DFS - For example I read in your papers that you left me those three or four draft chapters from James Caleb Beach, Reasonable Men, and your taping with Lucas; but I still might ask, What now in the 10 months after the fact, May '75 has caused you to finally give us this time and record your recollections once agin? Would you have done this to this extent last fall?
- HF - Mr. Beach wanted to write a book not just about me but also the historical thing and then following the whole process but then talking terms of just my changing or my maturing or consideration of this issue. I just didn't want to do it. I'm delighted I said at the time back at the end of last year that I thought something written about the seven of us would be good. I didn't want to be singled out. Treated separately in this would have blown totally out of proportion as to my contribution to that. But certainly after the recess in the House in early August, I just was so physically and emotionally spent that I just didn't want to talk to anybody. I didn't even consider it then. It really was a couple of months before I was myself again. So I didn't want to proceed with any book, just featuring myself but I did remember writing Mr. Beach and or he wrote me and suggested this and I thought it was a good idea back in the fall. And since then I gather that potential phase too, after Hilton Head and after everybody had put down their thoughts is that they might be given to a writer. And talking to you, Tom, that we needed a writer, we just couldn't sit down, the seven of us and write different chapters, first of all it wouldn't be good literature and secondly you couldn't possibly get them to stay on any kind of a deadline or timetable. We needed the discipline of a writer who would not just simply chronicle but would have a theme and a beginning and a middle and an end and a focus to the thing. Maybe even start to pull this all together.
- TM - Okay, excellent, I think we are done. Thank you Congressman.