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## Fragile Coalition Interviews - Raymond H. Thornton., June 13, 1975

M. Caldwell Butler

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This is an interview with Congressman Thornton, June 13, 1975, Friday the 13th. Present are Congressman Thornton, The Reverend Don Shea, and Tom Mooney.

- DFS - We'll start our interview of Congressman Ray Thornton on Friday the 13th, 1975, at 8:00 in the morning.
- TM - You might want to say Father who's present.
- DFS - That's right. Congressman Thornton, Mr. Mooney --
- TM - Susan Nash.
- DFS - And myself, Father Shea. We might just start with a couple of reiterations of some understandings we all have. One, that whatever you say is 100% confidential until you reread or edit and release it yourself. We understand that. Second, is the more informal we can be the better. In other words, the only purpose of these questions is to perhaps jog your memory, if you want to follow the format, fine, if you don't, that's obviously up to you. Third, our function is strictly negative, in the sense that very obviously last summer you made history. You're the primary source now of recalling it. Our role is simply to perhaps help you recall, ask questions, that type of thing. Now, how would you like to start Congressman? Should we go by number 1 of the questions or --
- RT - Well I believe your first question does go to the beginning of the problem.
- DFS - That's good. All right. Really, what were your very initial, natural predilictions -- for example when Mr. Drinan, way back on the 31st of July, 1973, introduced the first resolution of impeachment? What were your reactions at that time?
- RT - Well, during the time that the special ~~Senate Committee~~ on the Watergate matter was working, I was trying to get my feet on the ground as a ~~new freshman Congressman~~, and I did not follow with any great detail the work of that Committee. I knew from reading the press generally the nature of the material that was being produced but my thought, if I had a thought, was two-fold. First, that the Committee was working in an area that concerned a possible series of wrongdoing which had interest but which I did not at that time expect to extend as far as it later extended. Then I think, also, I wondered in a sense why this work was being conducted by the Senate, rather than by the House. As a lawyer it had occurred to me that perhaps the form was in the wrong Body, but I didn't give much attention to it. I thought that ~~Father Drinan's resolution was premature~~ and based on actions of the President primarily in foreign policy where he has great latitude. For that reason, I thought the resolutions were premature. During August speeches in Arkansas,

RT -

I made the statement time and again that less than 2% of all Congressional work had been involved in Watergate and that most of the Representatives and Senators were occupied with other matters. Personally, I had been. I had worked on energy legislation, back in April before, well about the same time the President said we had no energy crisis. I said we did and called for conversion of oil burning gas to coal, predicted a shortfall of 2.75 million barrels a day. That prediction is not magical, I think people who were keeping up did realize that we were on the threshold of a major energy problem and that there was a little bit of reluctance on the part of the public generally and, consequently, of their Representatives to move strongly into this area. But, in looking at the question that you have submitted, I thought it might be useful to go back to a speech that I made in my own home town of Sheraton on November 29th, 1973, which was immediately following the Cox firing and to use that and to let you have it for purposes of seeing what my attitude was as I communicated it to my neighbors in my own home town.

If you like, I'll read a portion of that to you. I told them that, "All of the problems -- energy shortage, inflation, balance of trade -- taking up the greatest part of my time, had been focused on virtually all the Committee work and legislation in the House of Representatives. As I mentioned during August, less than 2% of all Congressional work was concerned with the Watergate matter. Then, three weeks ago all that changed. The House Judiciary Committee found itself faced with decisions and recommendations on the confirmation of Gerald Ford as Vice President. This was not thought up by Congress, but was required by Mr. Agnew's resignation. To our Committee were referred proposals to create a Special Prosecutor, independent of the Executive Branch of Government and the duty of inquiring whether the House should bring charges against the President. Again, these were not thought up by Congress, but followed the dismissal and resignation of the Special Prosecutor, Mr. Cox, the Attorney General, Mr. Richardson, and the Deputy Attorney General, Ruckelshaus. I didn't seek nor could anybody have expected the task of judging these extraordinary questions but I am in that position because of my membership on the Judiciary Committee, which has the duty and responsibility of reviewing these matters and making these recommendations. It is my sworn duty to support and defend the Constitution and public laws of the United States, and to faithfully perform the task referred to this Committee, and I will not shrink from that duty. Because the last of these questions is similar to those which are presented to a grand jury, it would be inappropriate for me to discuss the proceedings or make comments upon the evidence or allegations before the Committee, but I believe you should know what considerations will guide me in these deliberations. First, I do appreciate the many expressions of confidence which have been received. Again and again we have received expressions of concern and support, expressing confidence we will find the right force to heal our

good

RT -

*begin book*

Nation's wounds. Other letters have been received praising and condemning the President and calling for removal or to leave him alone. Many thoughtful people have the impression that the question is whether or not the President is doing a good job. To me the question is not whether he is doing a good or bad job, but simply whether he will perform his sworn duty to preserve, protect, and defend the Constitution of the United States and to follow its law. In responding to those letters I try to express my hope that it not be necessary to bring charges against the President because of the effects such proceedings would have upon our country. However, I will not hesitate to vote my conviction after hearing evidence as to whether our President supports the Constitution and laws of this great, free land. The preservation of our system of government is more important to me than any man's continuation in office, including my own. My personal prayer is that I can clearly see the right course in our Nation's interest."

C

I went on with a speech to indicate my judgments on the Ford matter and the creation of a special prosecutor by statute. I felt in looking at this review that this early speech, which you have not requested, might give you an idea as to the way I started on my thinking on this. Publicly, at the time of the Cox firing, I made a statement that it was not time to meet precipitous, no the word was not precipitous, not the time to meet ill-considered actions with hasty reactions. But it is time to begin an inquiry, and so I did support the authority for the Judiciary Committee to begin a serious and thorough inquiry from the beginning. I considered the role to be more of a judicial role, even though it was not strictly a judicial role. I used the term grand jury, that's an expression which is close enough to the function which I perceive to be useful in communicating that idea to a constituency. The role is not precisely that of a grand jury, and I don't want any misunderstanding that I did not then, or do not now, perceive the difference in our role from a grand jury. I'm talking too much.

DFS -

No, that's fine. You might comment on this if you would -- Was the very idea of impeaching a President -- be it Nixon under these circumstances -- was this to you rather unthinkable at the time?

RT -

Well, no. I don't know how to express this, but my view is that nothing is unthinkable. I did not know at the time what facts or circumstances would be revealed by our investigation, but I thought I left room in the Sheraton speech for the clear view that the preservation of our system of law was more important than any man's continuation in office. I very honestly and candidly did not at any time during the proceedings up until the last few days move from the position of gathering evidence and studying the material that was presented to us.



- RT - I did not consciously move from that toward weighing the evidence and deciding whether it measured up to an offense which would require removal. From the beginning I had the view that the impeachment process was a safety valve for our system of government, not merely a punishment for crimes or misbehavior. Impeachment is not directed at the individual, it is a parachute or safety valve to preserve our system of government against forces which might cause that system of government to be changed so that we couldn't recognize it.
- DFS - Now, as late as the 28th of June of 1974 in your notes you refer to a Democratic Caucus as "the most revealing thing about the meeting was the number of Democrats -- including yourself you say -- who voiced uncertainty even then as to whether a case had been made and brought into focus." What were some of the events, say between the firing of Cox, two days before your Sheraton speech, and the 28th of June, eight months later, that were most important in making you more and more aware that this was a potentially impeachable situation? We list a couple of things there simply as possibilities, but we may not have hit the right ones for you.
- TM - In question number two.
- RT - Well, this has to proceed on a couple of ladders, perhaps. First, I think it's important to recognize that maybe different people approach problem solving differently. My own method has been to spend all the time available -- whatever time is available -- in gathering information without trying to put up tentative views or opinions to test. And to formulate a view. If I have the time in a judicial type role to study thoroughly, I very seriously do not try to arrive at a decision until it's time to make that decision. I was attorney general for the state for a while and I used this procedure in dealing with difficult opinions that came before us, and I have always used it in law suits, that I use every minute that I can to study it and only when I completed that process do I consciously set out to try and say, now, where does this leave us? Where are we? Because if you start making that decision before you have all the facts, then you begin building yourself a case. You begin looking for things to add in and to piece together a theory that you developed early on without having all the material, and I really, as far as I know, I followed the other procedure. Some of my friends say it's because I just don't like to force myself to make a decision until I have to, but I generally wait until right toward the end. Now, there were two parallel problems that had to be dealt with. One, was the accumulation of evidence knowing what the facts and circumstances were and the second was whether those stated an offense which was dangerous to the system of government that we're sworn to protect. In order to make sure that you do have two parallel lines of inquiry -- what happened and secondly what is the threat

RT - Does this constitute a threat and can you state that threat in words and do those words measure up to an impeachable offense and are they supported by the evidence? I don't think anybody could really say that he would vote for an article of impeachment or against it until he saw that article in writing and tested it against the evidence and against his standard of what the Constitution requires. So, for that reason, I am not sure if I've answered the question --

DFS - Yes.

RT - For that reason, I don't think that you can really pick a flow of my development of thought. I do think this -- I think from the first, or very nearly the first, that the thing that concerned me most was the things that we finally found -- the obstruction of justice and the abuse of Presidential power in the self interest of the individual holding that power.

TM - This kind of leads us into question number 3. In early February-March 1974 the Committee generally began talking about what is an impeachable offense. Aside from what the volume of proof might be -- be it clear and convincing -- beyond a reasonable doubt -- what is an impeachable offense? About this time the White House and Department of Justice and our own Committee staff issued memoranda discussing this very problem, and generally there were two views -- the narrow view being that it had to be a violation of criminal statute in order for something to be impeachable and the broad view being something possibly less than a violation -- an actual violation of a statute, but something serious, something substantial, something possibly seriously endangering our system.

RT - Well, obviously, from what I've just said, I subscribe to the view that it ~~must be more than a mere-criminal violation~~. Impeachment as I said earlier is not a criminal proceeding. It's not punishment in the sense of classical sense of punishment for wrongdoing. It is a safety valve to protect the system. I used early on a couple of examples of why this was correct. I used the example that in conversations and maybe in some talks that if the President for some whim or because of some instant flare of anger were to be involved in an altercation -- I'm making up a new one right now -- with a newspaper reporter, over a story that was written and proceeded to beat him up and could be charged under the criminal laws with a deliberate assault, and could be sent to jail, maybe, as an individual citizen for an assault. That, standing alone, in my view, would not be an impeachable offense, unless there was a great deal more to go with it. Because the President is a man, an individual, he is immune from prosecution while he is President, but as soon as he quits being President, he can be hauled into court and tried for that violation of the criminal law with regard to his assault. I used the example in the hearings of the income tax matter, which I thought was a matter that could be solved by the courts so that we should not try to constitute ourselves as a court to try the President on the tax feature of the



RT - impeachment. This was the kind of thing that the courts themselves could deal with, and, of course, that gets into another question about the extent of the problem. I won't go into that. But, to the contrary, let us suppose that the President, acting as Commander in Chief, were to station the military around the Capitol and prevent the Congress from assembling. This may be a poor illustration, but just to inhibit another branch of government from doing its duty -- taking the powers of Commander in Chief, declaring a national emergency and dissolving the Congress. Well, I don't know of any particular law that that might violate, there may be some, but it is not the criminal law violation that is of issue. The thing of issue is whether the action is to overthrow or to dissolve our form of government. So, my view is, and this came not from the memorandum, but from a ~~law school professor by~~ the name of ~~Dan Pollock~~, who discussed this very thing of what is the distinction between impeachment and a crime during the ~~course that I had during law school~~. And I didn't use the two illustrations he used because they're too similar to some actual events, but he used a couple of illustrations to ~~distinguish between the violation of criminal laws and a violation of the Constitution~~, which would serve to illustrate this point.

TM - Assuming there is a suspected violation of the Constitution, at that point, what quantum of proof do you look for? Do you have to be convinced of that beyond a reasonable doubt, clear and convincingly, preponderance of the evidence, or whatever?

RT - I never did, in my own mind, have to meet the exact degree of test which I would require. In that I was very fortunate. I had worried a great deal during the process that I might be called upon eventually to make a decision that there was sufficient evidence to require a trial in the Senate even though there might be some doubt as to whether there was sufficient evidence in my view to sustain a conviction. There is a different measure between those two standards and I had wondered and worried about what I would do if I came to the conclusion that there was enough there -- that we had to have a trial to clear the question. Fortunately for me I didn't have to make the decision on that basis. I came to the view that on the basis of my experience as a deputy prosecutor and attorney general ~~there was enough evidence there that I thought would be sufficient not only to go to trial but to obtain a conviction, and so I didn't have to deal with the question myself of what degree of proof would be necessary.~~

- DFS - For example, in your TV statement Thursday evening, you expressed the need for more evidence for an indictable offense against the system of government. Now you've contained both of them. Would you say then really that the fact or evidence precluded the necessity for you of coming to the theory before the fact. In other words, you didn't have to wrestle with the legal niceties?
- RT - Well, I tried to make my decision on the evidence and on the law as I understood it concerning the House's role in an impeachment inquiry. I guess what I'm saying is this -- that the evidence might have been somewhat less persuasive, I don't know to what degree, and I might still have concluded that with less evidence it was still necessary to bring charges for trial. But, what I'm saying is I'm thankful I didn't have to reach that. My views, once I reached them, were clear to me.
- DFS - In your notes on the 24th of April, you say "that standard of conduct is and must be the Constitution of the United States. Our system of checks and balances based upon theory that mistakes and misbehavior in one branch can be corrected by the other." That of course fits in with your original idea that impeachment is not all that exceptional...
- RT - That it should be exceptional.
- DFS - But that it's part of the system.
- RT - I think it's use is extremely exceptional because I think very few events or series of events could give rise to a sufficient threat to the system to require its use and the fact that the impeachment process is available itself stands as a budwork against its use. It is my hope that it will be at least another 100 years before it has to be used again, if then.
- DFS - I have two further questions on this point -- Do you have any reactions to the so-called Ford Standard, when in the Douglas situation he said an impeachable offense is what the House considers it to be.
- RT - I don't agree with that statement, as a matter of policy. I think that the term "high crimes and misdemeanors" does have a meaning and that that meaning has to be the test of what is an impeachable offense, and not just what the House perceives the behavior to be. I think you've got to measure on that basis, and I think you have to go back and study what high crimes and misdemeanors meant when they were used in the Constitution and I think you have to look at the offense in terms of whether it constitutes that kind of an offense against the government itself. And that's what high crimes and misdemeanors means. It is an offense against the system of government.



- DFS - All right, well now let us presume that we do objectively have a high crime and misdemeanor, but the American people in a given situation were not so persuaded. In other words, does the reasonable expectations of the American people, does that play a part in it -- negatively or positively? Let's say that perhaps last fall or summer the people simply were not convinced -- could not have been convinced of Mr. Nixon's guilt. Is that still impeachable?
- RT - I think so. I tried to say a number of times that, and maybe in my speech on the Thursday night of the hearings, ~~that no President should ever be impeached because of his unpopularity, nor should any President be allowed to stand above the law because of his popularity.~~ I believe I used those words --
- DFS - Yes, several times in your notes here you make that point. Now, do you have anything further on this question? Going on to the, you might say to the subjective aspect. Were legal-constitutional considerations your personal conscience, your overriding motive, or the political consequences -- which was your overriding motive?
- RT - I wanted to get it "right." I considered that ~~this was most likely the most important task that I would ever have in government~~ and that my whole effort should be given to the study of it and to try to come up with an answer that was fair and right and which I could live with for the rest of my life. And I don't mean to sound the wrong way, but I've tried to tell my friends in Sheraton that two days after the Cox firing when I said no decision was more important than keeping our system of law and justice -- more important than any man's continuation in office, including my own, and I wasn't saying that in a wrong way, and they didn't understand it wrongly. They understood that I was putting this above political decisions and I was going to try to call it right and I hope they would stay with me but I was going to close myself out as far as considering political consequences. Then, on the ~~Face the Nation show on the Sunday morning following the vote on Saturday night, Caldwell Butler~~ and I appeared on that morning show, and we were both asked the same question as to whether it would be damaging to our political career. Caldwell -- I'd rather let him say his own words -- but it was to the effect that well, this isn't the only job in the world, you know, or something like that, and my comment was, well, it's an acceptable risk. That is correct -- that was an acceptable risk.
- DFS - Would you say that you consciously tuned out the pressure, the district reaction, say during June and July?

- RT - I don't know if I should say I tried to. I really believe that I had convinced myself how this thing had to be approached and that I did not try to poll my district -- I didn't try to determine what their views were on the question -- I wouldn't say I tuned out, I still read the letters, but you know, and I didn't try to isolate or to build a fence around myself, but my response was immediate that I appreciated the letter and that I was going to study it on the basis of the law and the evidence and that this attitude which I expressed early and became accepted in the district and people in my district. The letters we were getting during this period of time were generally very encouraging -- that we're proud of the way you're approaching it. You're treating it as a serious matter and we have got confidence that you'll study it and vote your conviction on it. So, I was reinforced in the view that I was taking that this was a really important matter of constitutional law by so many people in the district that it wasn't a question of tuning it out. ~~I really was thankful for the support from the district~~ for the way that I was taking it. Let me give you some examples. November 8th, 1973.
- DFS - I saw that.
- RT - Okay. Because I refused to join the clamor for or against things, because I had no business making up my mind before the case was before us. Did you see the one on January 20th in the Commercial that -- again supported me for refraining from making any prejudgment about the inquiry?
- DFS - Yes.
- RT - Our role being a judicial one, somewhat like a grand jury. At the core of my approach is the belief that it's essentially a judicial rather than a political exercise, strict construction --
- DFS - Well then your district was aware of that and appreciated it?
- RT - Yes, yes. That's the point. Now, this is not to say that there was not a harvest of mail following the thing of people who agreed and disagreed with the position that I had taken, but I was going through the process with strong district support for the approach that I was taking.
- DFS - Were there still any factors that did, regardless of your insistence on voting the evidence, that did as a matter of fact influence you? Let's say, talking to your wife, reading the Times, reading the newspapers, talking to friends on the Committee, this sort of thing?



RT - If so, I honestly cannot find it, didn't recognize it then and don't remember it now. My wife and I didn't talk much about it. My office staff leaned over backwards -- I wish in a way Julie were here with us, because I know that -- she's my administrative assistant and I don't believe she told everybody or whether it was just a policy that grew into being that they would do nothing or say nothing that might in any way give their views on this matter. After it was over Julie said something about that to me and Susan both -- I think you were there, both of you said it, that you had confidence that I would reach a decision that was right and that I could live with and that the whole attitude was to stay clear of it. Now, I don't mean to say that I operated in a vacuum either, because I had the most tremendous support for everything that I needed, all I needed to do was to ask and materials would be supplied; staff stayed here during the time that our sessions were running late, from 7 or 8 in the morning when I'd get here until 10 or 11 at night when I'd leave. If I needed a memorandum on the law, I'd get it over so fast it would make my head spin. It was really fine to be supported -- what I'm saying is I had wonderful support. I want to go a step further than that without in any way changing the thought because I may have made it appear that I was too alone and that I wasn't testing my own thoughts and wasn't evaluating them. And that is not quite correct, because, as you will see from the memoranda that I dictated through the process of this, I was weighing the proceeding. I was conscious that we were in a development process and the reason I asked Susan to be here with us as we are talking is that she took the dictation from that and often didn't transcribe it even until much later because I didn't want any lack of confidentiality to attach to it. And then as we moved into the latter stages and we got in it and passed the direct examination, Susan would come in and I would dictate ideas and thoughts and suggestions about where I was going in my thinking. And somewhere along toward the end we were asked again, how does it look, are you going to be for or against impeachment. I continued as before in the statement that I had not decided and made the statement that you had to have a structure of words to test against the evidence and against the constitutional standard, and I believe the Wall Street Journal picked up that particular quotation. Well, obviously at that time I was beginning to see if a structure of words could be developed. And we did. We did some drafting of proposed articles or a theme or a central idea as to what events were and you know to test them against the constitutional standard.

TM - Were you at this stage drafting what you might possibly introduce as an article later?

RT - Okay. We had gotten to the point, and my dates are maybe not as precise as yours, but that we can go back in and fill out the dates more accurately. At some point we got the proposed articles by the Committee staff, John Doar, and before that shortly some proposed articles by Jack Brooks, I believe.



RT - I read those articles and I was very concerned in reading them that they were drawn too broadly and were not the kind of statement of charges that were central to my own concerns about the case. I expressed those concerns, I think most clearly of any of my communications in that letter that I sent out to the press and the district -- A Congressman Looks at Impeachment. It was picked up and widely run down there. In that I listed the abuse of power and the obstruction of justice as being the central concerns as far as whether an impeachable offense had occurred. Well, when it got toward the end, there was no real focus being given to these two elements. And the thing that was also weighing heavily on me was that the agencies -- the obstruction of justice if you will, was a continuing one. And this fits back into my idea that impeachment was a safety valve, that the only time you use it is if you've got to use it to preserve the system. The fact that the offense was a continuing one and had resulted in the President's denial to the Committee of the subpoenaed material, his refusal to comply with our subpoena, the kind of general attitude in not recognizing the role of Congress in an impeachment offense as I conceive that role to be, were additional factors to me and what I'm saying is that in my view the President's course of action was a continuing course which continued to be a threat against our system. So, I dictated a draft of a single article which included the elements of abuse of power, obstruction of justice, and a continuing offense in refusing to obey the subpoenas. I fleshed it out in a very small detail and I took it with me to a Democratic Caucus which occurred I think the night before the first meeting of the 7 people.

TM - Monday night.

RT - Was that Monday night?

DFS - July 22nd.

RT - Okay, was the first meeting at Railsback's office on Tuesday morning?

TM - Right, Tuesday morning.

RT - Okay, Monday night. At that Caucus a great deal of talk was going on about taxes and Cambodia and one thing and another. Finally, I pulled out the paper that I had with me which was in very rough form and said now this is what's concerning me. And I read through basically -- I didn't read it -- but I spoke from that paper to list the nature of the offenses that were of concern. And George Danielson asked for a copy of the paper and I gave it to him, and I think he made a xerox of it and returned it to me. Jim Mann asked me to walk with him back to his office, and I went over it with Jim and with Mr. Doar and I do not know what further use may have been made of the paper at that time. The next morning Susan was here early and we did a redraft of that paper and I brought it over

- RT - to the Tuesday morning meeting. When I came back from that Tuesday morning meeting I called Julie and Susan into the office and I said very close to these words, "Well, it's not going to be necessary for me to carry the load of presenting this article because it's very close to what this group is going to come up with."
- DFS - Now, may I ask, are those the two drafts that were in your notes?
- RT - I do not know, I'll have to look at them. I would like to look at them. I didn't go through my notes to see what exactly was here.
- DFS - I took the liberty just in one case to make xerox copies of those two drafts and Tom has them so that we might incorporate them with the other drafts.
- RT - Okay. Tell me, are they pretty close to the other draft?
- DFS - Oh yes. Here they are.
- TM - Yes, surprisingly so.
- DFS - In fact, as you pointed out you're one article or proposed draft is what turned out or encompassed what turned out to be Articles I, II, and III.
- RT - Right, and you notice that on the McClory thing that I moved in and limited it and tried to tie it back in together with the Article I and II.
- DFS - But still ended up being the ~~only Southern Democrat to vote in favor of Article III.~~
- RT - Yes, I know, right. Because, to me it was a very important part of the whole fabric of a continuing offense against the system of government.
- TM - Let's run through 6, 7, and 8 and get into that detail.
- DFS - All right. Again some of this you'll find a little repetitious, but all of the evidence or information, not to be tied to the technical term evidence, which, looking back, did you find most helpful or convincing or damaging, if you want to use that term. For example, was it Dean's testimony? Was it the tapes themselves? Again, you say a cumulative of things, maybe?
- RT - I think I have to say that it was the ~~cumulative effect of a large volume of evidence~~ which, when considered together, could only lead to one conclusion and that conclusion had to be that the President was aware of the event -- the obstruction of justice, the use of Presidential powers to contain the thing from a very early stage and the effort was continuing on down through our Committee hearings. Now, the reason I say that all of it leads to that conclusion is that if you consider it all



- RT - together fairly it seemed me to contain only that possible explanation. I did give considerable thought in the decision making studies -- this was when I was thinking about the question of whether the President could have been surrounded by a group of people who were deceiving both the public and the President, and the deceit in both directions so that basically an unknowing President was sitting there insulated from the public by a cadre of people around him who were responsible for the Watergate-related events, the cover-up and everything else. This was the alternative possibility that I had to give some consideration to but it did not fit the total mass of evidence before us. Of course, we did not then have the material that later came to us that tied down firmly that this was -- that the conclusion that was built by this mass of evidence was indeed the admitted course of action.
- DFS - Now over and above the evidence and the cumulative information, how about this -- were you adversely affected also by the White House technique, for example, you made the statement that Ford had not brought his lawyers to the Committee but his life, or again, you make a very telling analogy from Lincoln, if you want to stop the building of a church, don't talk about religion. Now, did the White House technique play a role maybe unconsciously in making you more suspicious?
- RT - ~~I think that I have to say honestly that it did have an effect in reinforcing my concerns about the President's refusal to honor our Congressional subpoenas.~~ I do not think it had any effect as to my belief or unbelief in the events that led up to the time that our Committee went to work, but it did have an effect as to the attitude that I thought was being expressed on the subpoenas.
- Let's go ahead with that now while I have it fresh in my mind. You and I were discussing, while we took the brief break, the nature of the first drafting session and your noting that I did have the paper before me that I was reading from as to my ideas on the nature of the offense and I believe you made some notes from it and you made the remark while we were visiting a while ago that you wished I had given you a copy. You didn't know it was typed up and it might have been useful to you if you had had it.
- TM - Very much so. The other thing that I had were some notes I had scratched earlier or the night before and frankly I thought you were reading from a piece of paper on which you had scratched some notes.
- RT - Yes, and as a matter of fact this was the second revision of a draft that I had done in my office and had discussed it at the Caucus the night before and I'd come over to that meeting with multiple copies of a draft that I thought might be useful in you know as a beginning point for working in trying to draft the articles.



- DFS - Well, this is very interesting, in other words, really, you ~~had already prepared a draft far more polished~~ than what you (Tom) came with.
- TM - Oh yes, when he was reading it I thought it was from notes and I took notes, so as to try to be able to develop something when I had to go back to my office.
- RT - And, the point was, as I said a moment ago, I came back to my office and said I was not going to be needed to take the burden which I was really building myself up to take, trying to enunciate clearly the real essence of the offense as I saw it. I came back and I didn't foresee that it was going to be needed to do that because it appeared this group was moving exactly toward that objective. As I was talking to Tom, ~~I went over there prepared to hand out those and made the decision that while I was there that it was moving so well, that it might actually impede the development of the individual output that was going into the article if I were to lay out on the table a draft that had come with me.~~ So, I kept it in my pocket, and came back and that was it. Now, the thing that was really interesting to me and I mentioned it to you before and I believe you picked it up in one of the first books, was, not that we shaped each other's opinion, but it turned out that we had all shared many of the same concerns and this really emerged at the first meeting.
- DFS - As a matter of fact, that was a quotation from you when I sat next to you at lunch a month ago. That's exactly the words and I jotted them down at the moment. I think what's significant here then is that quite unconsciously the rest of the group and Tom incorporated in what turned out to be article I and II, and in fact, III also, came from Congressman Thornton.
- RT - I don't think that that's fair to say that. I think that they had come to the same views, the same views and concerns and that maybe I had mechanically gotten a step ahead in having typed the draft. When I came back I was really feeling very -- I can't use the word good, because there was nothing in this that felt good -- ~~but I was relieved,~~ I think, to find a group of people who were struggling with the same problems and coming down on the same kind of conclusions that I was expressing in my own mind.
- TM - It certainly helped me in having to go back and put this on paper to have your organization.
- RT - Well, thank you, Tom.
- TM - You and Mr. Mann wrote something and I read over some notes that really helped me out considerably.
- RT - Well, good. I'm glad it did, but don't you agree that probably looking back on it that it was good that I didn't go over there and say here --

TM - Clearly. And people were getting a little paranoid I think at that time anyway because we had been under the gun for a long period of time. I think that was a very good move on your part.

RT - Well, I didn't calculate it so don't give me too much credit.

LAUGHTER

DFS - I don't suppose anything was calculated.

RT - But it was clear to me at that occasion that it would have been a mistake to have laid out and passed around the articles which were basically what I was reaching toward and arriving at.

TM - Well, it made it a lot easier for me.

DFS - This fits in, if I may say so, with your general philosophy of nonprecipitous action.

TM - Just before we go on, just one brief question with regard to the Nixon tapes. The obvious question there is do you think that the process could have worked as it did without this thing?

RT - ~~I think it would have been very difficult without the tapes~~ because the ~~inflections of the voice~~, the positive orders that appeared from listening to the tapes which really in reading might have looked a little equivocal but which with the sound of the voice left no doubt as to the direction that was being given and the absence from the tapes, the kind of thing that you would expect once in a while about a concern for the system of government for the laws, all of these things did have an effect on me. I think on the other Committee Members, too. There was probably, technically, enough evidence in the sense of grand jury testimony, hearings before other committees, to ~~weave a circumstantial case~~ that might have been enough to go through trial, but it would have been ~~a totally different kind of case and I just don't know.~~

DFS - Well now, again, your answer to number 7 and 8, who within the government, that is, say fellow Committee Members, perhaps, Rodino, members of the Democratic Caucus, Nixon himself, White House connections with you, for example, in other words you were at a White House dinner with other Democrats, were any of those of consequence, did they change in the course of 8 months, for example, when ~~Rodino was rather surprised on the 28th of June when you hadn't made up your mind~~, did this in any sense cause you to feel, you said once lonely?



- RT - I did feel a little lonely sometimes, but I must say that to my knowledge there was no effort to bring pressure on me or to influence my decision from anybody. If there was any such, I didn't perceive this. ~~As for the Nixon dinners, there were two~~ I believe; there was a dinner to which all the Southern Democrats were invited, and there was some kind of a Christmas thing, where a large group was invited. I didn't feel singled out in any particular way on those occasions. There was an early Sun Times article which really upset me, made without any basis by a reporter who checked some kind of records, I don't even know what, and discovered that my Congressional district had received more economic development grants than....Am I giving this wrong?
- SN - It wasn't Sun Times -- it was ~~Los Angeles Times~~.
- RT - Los Angeles?
- SN - No, it was the ~~Rocky Mountain News~~.
- RT - The Rocky Mountain News, is that where it appeared?
- SN - Yes.
- RT - Well, let's do correct that in the record, the Rocky Mountain News and the reporter made the conclusion that because my ~~Congressional district had received a large number of economic development grants that I was using my position on the Judiciary Committee to get projects for my district.~~ Well, it doesn't deserve comment, probably doesn't deserve mentioning it on this thing.
- DFS - I think it does because this is already in the public record.
- RT - Yes, and it did cause me to dig into it a little bit, after I found out about it, and the district had received a rather large number ~~but it had been so historically,~~ it's a very large rural district with two very aggressive development districts and historically over a long period of time they have designed more projects and done exceedingly well in getting grants for programs down there. There has



RT - been no change in the pattern of it at all. ~~I didn't even know that we were getting them, this is the thing that got me.~~ I didn't know we had gotten any particular grants because I don't send our press releases on water and sewer projects and so the story came as really a surprise to me that he had gotten a large number of grants. Anyway, that was the kind of thing that upset me a little bit. There was an early story, this one was in a Chicago paper, that said how the different Committee Members were viewing impeachment. There was also a story in a Chicago paper evaluating the Committee, who was going to vote for and against and I've forgotten which way they had me listed, I really have. It doesn't matter which way they had me listed, but I recall making the statement in Caucus that it said that they had based their information on interviews with Committee Members and members of the staff about how people were going different ways, and I made the statement in caucus that if anyone had told any member of that press how I was going to vote, he had sources of knowledge where were not available to me, because I didn't know how I was going to vote yet. I did obviously see some newspaper accounts, but to me it was so important that I had to remain on balance throughout this thing that ~~it did distress me when people tried to indicate that my decision was made or that I was leaning in one direction or another, because I wasn't.~~

DFS - Now, just on that story, what was your initial reaction to Mr. Rodino's alleged statement in the Los Angeles Times that all 21 Democrats were for impeachment?

RT - My initial reaction was of disbelief, and I think that was probably carried in The Democrat of that same day. I didn't believe he would say, because I knew he didn't know how I was going to vote because I didn't know and I already had this earlier occasion at which I had made it very clear in the Committee that I hadn't made that decision yet.

DFS - Now, I know he talked to you individually about that after that came out. Did you feel that very possibly Rodino later backed off--that he had in fact said it as a matter of pressure?

RT - I don't know, I don't know. The way I have rationalized what it meant is the Chairman was allowing his own views on the case to perhaps cause him to make a prediction rather than an observation. And that he was predicting that by the time the case came through that a certain result would be obtained and that the prediction that he was making became translated into an observation of where the people stood now. If you were to get up to bat in a ball game, I could predict that you'd hit a home run. But that wouldn't necessarily -- shouldn't make you mad at me, for my predicting that. So, I don't feel, if that's what it was, any cause to be distressed, I just think the record should be straight that I had not made up my mind at that point and had not consequently communicated my views to anybody.

DFS - In the Committee or in the caucus did you feel at all alienated, let's say from the Drinans and Conyers and Rangels and Holtzmans?

- RT - No, I felt everybody was searching. I really thought everybody was searching. Some people perhaps found it easier to come to their conclusion, maybe because they had already been exposed to the evidence. You see, I really hadn't. I hadn't followed the Watergate matter in the Senate as I said earlier in great detail. And I had not already looked at the volumes of evidence, but perhaps some people had. Perhaps some people had already studied it and made conclusions based on the entire body of evidence that I eventually came to understand. And I can't fault them for being ahead of me if that was the case. I had good, easy-going relationships with I think most Members of the Committee on both sides of the aisle. I really believe most all of these Members were searching for the truth.
- DFS - Do you disagree then with Mr. Latta's statement that bipartisanship was a myth?
- RT - Yes, yes I do disagree with that. I think that that statement was made at a time in the proceedings when there may have been some effort to divide the Committee on partisan grounds -- over procedural matters --
- DFS - Just on that point, on the 27th of June, you said there's a greater tendency to divide along party lines on procedural rather than matters of substance --
- RT - Right. And this is what I sensed at various times as we were dealing with matters of procedure of what rules we should be following, you'd find the issues being drawn rather narrowly and then a vote occurring on partisan lines basically, and then the press would go scattering out saying the Committee is developing on partisan lines.
- DFS - Now, when you say there was an attempt or so on, you indicate on the part of the White House or the Republican leadership or what?
- RT - I do not want to suggest motivation. I think that as the case developed you saw some shifting away from partisanship of politicization of the dispute toward more of a substantive resolution on it. And a person who thought he saw among the Democrats an effort to attack the politics of the Republican party might well make a statement in rejoinder to that as the kind that Mr. Latta made, and so I don't want to get into his motivation for saying that, but I thought it was unfortunate that we had that kind of public airing of partisan-type controversy when to me the role of the Committee was nonpartisan; it was really the ultimate authority under the Constitution of our system of government that we were exercising and I just thought it inappropriate to have the squabbling that did go on with some of these procedural matters.
- DFS - Would you evaluate, again trying to put yourself at that time, the work of Mr. Doar? Were you satisfied with him?

- RT - It was extremely methodical, solid, professional, and looking at the case from this end of the case, I cannot suggest a different procedure which would have been more effective. Now, there were moments as we were going through when I think a lot of Members felt it might be improved but what I'm saying is looking at it from this perspective, I think this kind of methodical approach may have been the best way of putting the case forth.
- DFS - So many people, it seems, asked Mr. Cates to meet with them to put it all together. Were you among them?
- RT - I attended one or more of those sessions where staff members did relate to what does this mean? You know, how does this balance? What do you get from this? I think I went to more than one of those.
- DFS - Did you find that valuable?
- RT - I found it useful.
- DFS - Now there's only one more thing to comment on on this general relationship, and that concerns the leaks, for example, the Dixon memos and so on.
- RT - Well, I really was upset about the leaks. I thought it damaged our Committee, damaged the process that we were engaged in. I was pleased that the leaks did not extend to grand jury information, to some of the information we had which may have involved national security in a proliferal kind of way. Nor, do I think some of the material that was gangential to our inquiry, I think a good deal of that material we voted not to release, and had never been released. But it was really hard to be there and to be trying to approach this thing on a judicial type basis and to pick up the paper and see some of the things that we had discussed the previous day. It worried me a great deal.

SECOND TAPE

- DFS - Now that brings us I think pretty much to the so-called mechanics of the Coalition, some of that we talked about, but what, just to start out, what is your recollection of the earliest, however informal, person-to-person contact that resulted in the so-called Coalition? In other words did Mr. Railsback as such see you in the matter of calling a meeting?
- TM - The actual first meeting was, of course, on Tuesday.
- DFS - Tuesday morning.
- TM - How far back? One week, two weeks, a month, maybe? When did the idea occur to you?
- RT - Well, I had, as I said a few moments ago, an easy-going relationship with a great number of the Committee Members, and had been very impressed by Caldwell Butler and Bill Cohen, Hamilton Fish, Tom Railsback, Charles Wiggins, you go ahead, I don't want to stop my list there, I have been impressed with a tremendous number of people on the other side of the aisle and had an easy-going relationship with the people on my side of the aisle as well. But the caution that we talked about kept me from discussing the case much as we would go back and forth for votes and other reasons. I didn't get engaged in converstions as we walked -- what this proved



- RT - or what that proved, we'd walk out of the room, somebody might say, well that's not too bad, that sounds pretty rough or something like that and I don't recall making any particular response to those observations nor exactly who made the observations. As a matter of fact I took a route to and from the Capitol which got me there fast and without having to run the gamut of the press and people and consequently I didn't have many occasions to discuss but I had come to the realization that you really had some fine minds and some good standards within the Committee. Bill Cohen walked by in front of my desk in the last couple of weeks before the July 23 date and one of the other time, and I said something and he said something about you know you're expressing some of the same concerns that I'm feeling, why don't we get together and talk some time? The conversation was so fleeting and in passing that I hadn't really recalled who made the initial observation and who agreed that it was a doggone good idea.
- DFS - Do you recall for example, on that Monday evening did someone from Railsback's office call you or did he himself suggesting that you come over at 8 o'clock the following morning?
- RT - Okay. At the time of the Monday caucus my recollection is that I did not then know of the meeting for Tuesday morning, now I may be mistaken, whether I knew -- Let's get this straight, you can help me with this, Susan. Do you remember when I came back and asked that you make a revised copy of that draft, was that on Monday evening after the Democratic Caucus or was that on Tuesday morning, real early, when you worked on that, can you recall? I can't get the time precisely in my mind. I did find out sometime Monday whether before or after the Democratic Caucus, I just can't remember, that a group was going to meet in Tom Railsback's office the next morning and that I was invited.
- DFS - Now that may well answer the second question, then, to you, was this Coalition, simply a natural, obvious, inevitable thing?
- RT - I do not think it was planned or structured. I think that what happened is that there was a natural tendency for those people who had approached the matter in a basically similiar fashion to coalass at some point and that this was a natural result of that, but it may not have included all the people who might have well fit into the group at all. You know, there may have been some people who should not, perhaps, have been there, who just didn't happen to coalass into the group. I do recall this -- there was some speculation apparently earlier -- by some people -- as to a swing group or Coalition or something like that -- I seem to recall --
- TM - In the press?
- RT - In the press.
- TM - Undecidables, or something?

RT - The undecidables -- we had been mentioned -- that's right, our seven names had been kind of mentioned by the press a number of times as being undecided, and, so perhaps, this was a driving factor toward our getting together. The fact that we were accustomed to seeing our names listed in the press as being undecided.

DFS - For example on the 28th of June already, Flowers, Mann and Butler expressed individually their own awareness of their unique positions -- the three of them. Or, on the 10th of July, Railsback said we have this thing in our hands. And, now on this Monday night, you went to the Coronet Hotel, didn't you?

RT - No, I didn't go to the Coronet Hotel.

DFS - That was in the New York Times that you spent the night in a room at the Coronet Hotel. Well, that's interesting. They made a point in fact the Christian Science Monitor in an article on you on the 1st of August --

RT - On me?

DFS - On you. Haven't you seen that?

RT - No.

DFS - It was simply pointing out that here was a man who had not made up his mind, it was a long involved thing, but among the ways in which you did not make up your mind --

RT - What's the name of this place down here?

SN - Coronet.

RT - Okay, Okay. I'm sorry, I had it in my mind, when you said hotel, that's what threw me off, I was staying at that time at the apartments down here called the Coronet Apartments. I didn't go to any hotel. That's what I was thinking.

DFS - Well, the way the article reads, you took a room at the Coronet for that one night in order to be alone.

RT - No, no, that is a mistake. I took a room at the Coronet around the 1st of July and my family recognized the intense pressure that I was under and the need for the children to go to their summer camps and engage in activities unrelated to the impeachment process, which was taking me out of the family group anyway. They went to Arkansas for that month and I took a room over there so that I could walk from the Coronet apartments over to these meetings and walk back and avoid the 45-minute drive to and from my house out in Virginia. So, it wasn't for a night, but I was at the Coronet Apartments, I'm sorry for the confusion on it, but it did sound like I had taken a room for a night and that was not correct. I was staying there, I stayed there throughout the entire period of time and had a little single bedroom foldout bed and it gave me two hours a day that I wouldn't have had otherwise that time.

- DFS - Well, that's fine. But now, were there any particular reasons that you met in Railsback's office, was that again happenstance?
- RT - I really can't address that. I went there because I was invited and wanted to go. I think there may have been a reason for it. It would have been a logical place because I think he had about the best office facility of any of the Members of the group, or at least as good as any of them.
- TM - Do you recall who invited you?
- RT - I have the impression that Jim Mann mentioned it to me. But that's not precise.
- DFS - Now once it got going after that Tuesday morning do you recall how many other meetings you attended?
- RT - I think this list is correct. I was there on Tuesday morning, Wednesday morning, I think I was there Wednesday afternoon, but I do not think, I think this is correct, I was not there on Thursday or Friday or Saturday. I think that was correct.
- DFS - Now is there any particular reason to the fact that you ceased to be present?
- RT - Well let me get my timing better in there. Yeah, Yeah. I can tell you exactly why. Starting on Thursday the meeting was 6-8 or a dinner meeting. Was it Thursday night I made my speech? My speech on national TV?
- TM - I think so.
- DFS - Correct.
- RT - I was blocked from attending that meeting -- Did the hearings open on Wednesday, I just went on the second night.
- DFS - Wednesday evening so you were on the second night.
- RT - Yeah, Okay. All day Thursday was spent in drafting a text for me to use that night when I went on national TV -- when I went on national TV -- that's silly to say it that way, when I made my statement on national TV as to my conclusions in this. Now the reason that I really feel embarrassed about having said I just did is that I have never in my life been as unconscious of being on television as I was on that occasion. I had previously been on local television programs and I'd get uptight about being on TV, but I really wasn't that night. I was concerned then about stating as clearly and accurately as I could my views on the issues and I really was not tremendously conscious of the cameras being there. I want to make that as clear as I can. But, it was useful in placing this and the amount of work put in that day in working on the speech that day kept me away from that dinner meeting. Then, I had seen by that time, Friday morning, a draft of Article I and I believe the only meeting there was just one of a touch-base meeting between Jim Mann, Railsback, Butler and you...



- TM - And John Doar.
- RT - And John Doar, generally proving the final product -- I had seen the product, it seemed all right to me and there was no reason for me to be in attendance at that session. Then, on Friday evening that was another dinner. Were we not in session on Friday evening?
- TM - Yes, that was the recess. You recall Article I - the substitute by Mr. Sarbanes was introduced around noon on Friday and for all afternoon Friday, Sandman and Wiggins were attacking the substitute for its lack of specificity. There was some real concern at that point whether the article written would stand that kind of attack and I don't recall whether you were there that night or not -- that evening. It was a little chaotic at the meeting.
- RT - No, I wasn't. I wasn't there. I feel confident without knowing -- I'm really having trouble recalling -- I don't want to force my memory on it to -- as to what my concerns were but I was working on something. Either my continuing concern about Article III, the subpoena feature, or some aspect of the debate. We were back in session, weren't we, on Friday night?
- TM - Six to eight was just the dinner hour. A recess of the full Committee.
- RT - Well, I cannot recall exactly what concerns I was working on but I feel confident because it was the routine, I had to head over here to this office and you went and got sandwiches for all of us, you and Julie, and somebody would go out and get sandwiches and come in and lay out what we needed to be working and I'm confident that that's what we did but I don't know why I wasn't at the dinner, unless it was that I didn't know about it.
- TM - That's possible because it was kind of announced at the moment, Railsback would say listen we've got to get together after that Wiggins/Sandman attack to put some kind of strategy together. Then I would go around and tell Mr. Mann and Mr. Flowers, maybe you were gone at that time.
- RT - I really suspect that that's what happened, because I think it was a little surprising to me when I saw this dinner mentioned here in this memorandum. It seems that I've heard that there was a dinner but I don't believe I knew about it before it occurred. I really don't.
- DFS - Then it was not a planned omission.
- RT - Right, right.
- DFS - Well, that's important. And it illustrates the off-the-cuff hurry harried affair of it all.
- RT - Yes, we were working on it a dozen different times.

- DFS - Well I think that's all that has to be established. Before we leave the beginning of the Coalition, was the looseness as you phrased it of the Doar articles be one of the motivating occasions that the Coalition met when it did, was formed when it did?
- RT - I think so. By that I do not mean to be overly critical of the articles but I think somehow there was a failure on the part of the drafts that we had seen to meet the concerns which each of us felt.
- DFS - Now, once the people met Tuesday morning and as people drifted in and out, do you recall any discussion or using your own thoughts, on why so and so isn't here or why is this man here? In a sense, did you --
- RT - No I wasn't surprised by anyone's being there or that I think particularly about -- I think looking back on it now it may have been that the newspaper accounts that had listed us as the undecideds may have made the group seem to be a logical one.
- DFS - All right, fine. You already told us about sandwiches, running back to the office, but can you think of any other examples of the intensity of your work that week? Perhaps, the very fact that you took a hotel room or apartment for a month illustrates that.
- RT - Well, it was just a full time occupation, for instance, starting out that week and maybe in some notes or sketches that I've made just previously, toward the end of the previous week, after getting the Doar thing was the working on the of the articles, you know, which you have, and then the Thursday night speech, I probably started working on that, Susan, when? Tuesday or Wednesday? And I dictated a number of thoughts and then I took a yellow pad over to the Coronet Apartments and drafted language over there. I think it was Thursday morning that I came into the office with a lot of the dictation that you had transcribed for me, with my yellow notes, all in a kind of a bundle and gave it to you and basically that became the outline of the talk I made that night. We worked on it most of all that day. I think this article right here --
- SN - Do you all have a copy?
- TM - What article is that Congressman?
- RT - This is the Sunday Arkansas Gazette article I mentioned some time before. In the first paragraph, "Some times in the gray hours before dawn during the last several weeks, Representative Ray Thornton had awakened thinking of the case. He's reached for a pen at his bedside and made a note, sometimes about evidence he's read, sometimes about evidence he won't. Then he tries to go back to sleep." And that's correct. That's the way it was. It didn't leave here at the office, I took it over to the Coronet with me, the case, as everybody did. I did, I'd bring in notes scribbled out and we'd work together on them.
- TM - Also, about the press, was there a lot of press following you around?

- RT - No, no, not a great deal. I have very good relationships with members of the press. They treated me fairly from the time that they finally recognized that I wasn't going to decide the case ahead of time until and through the conclusion of the case. They didn't tend to follow me around very much but this is the article that I think you might be interested in. Which then goes on to say, "Saturday night made an irrevocable decision climaxing months of anguish. I said firmly, with assurance, it says here, aye. Then I left the hearing room for my office in another house office building, his personal secretary, Susan Nash, his legislative assistant, Julie McDonald, and the only man who works for him Lynn Thompson, were waiting," and it goes on to tell about the Gazette reporter who was here in the office for a short time.
- DFS - Perhaps, this was covered just now, did you feel any disappointment that the Coalition as such, the same people such as Flowers and Mann, did not go along with you on the McClory Article?
- RT - No, I felt they had no obligation to do so, no obligation at all. I had made the point several times that I thought that the refusal to obey the subpoenas should be included in probably in the obstruction of justice article, although it could have been an abuse of power as well. It could have been under either of those categories. There was a little disappointment that it was not included in one of those articles, because I thought it fit more logically there than standing on its own as a separate article, but I never felt that there was any effort to reach a consensus in the group as to a set of articles that we would or would not support. I didn't look on it as a group setting out to decide the case. But rather an effort to draw articles which the people who were inputting into it could vote for in good conscience and believed stated the cause of action. I guess what I'm saying is this -- that I have been concerned and was concerned even from the early meetings of this group that it might be, in my view, wrongly suggested that the group met as a Coalition to shape or to decide this historic case. I do not believe that that was the situation, I know that in my own mind, it was not and, therefore, I had no reservations at all about pursuing the article on the subpoena power, even though the other members didn't agree with it. I had no commitment not to pursue it -- I believed in it, they recognized that, I recognized that they didn't think that it rose to that stature. If I may I'd like to continue to develop a thought that we were on a moment ago and that is, in filling out the role of the Coalition, I had expressed a concern that it be perceived wrongly as being an instrument for developing a compromise or consensus view and that I do not think this was the case but rather an instrument for developing a set of articles which each of the members could support in good conscience with no restraint upon any member to support another article or to suggest amendments or further improvements to this. But, in doing that, I feel it's also important to point out that, when I came back to the office that morning, I felt less lonely than I had felt until that first meeting and that there was, even though I had pretty well come to the view that articles could be drafted stating a cause of action which would constitute high crimes and misdemeanors and should be adopted. I felt reinforced at having come away from a meeting where 6 other people, who I believed to be solid, responsible people, good thinkers, had come to similar views. Now, I don't mean by saying that to overstate it either way, but it was a reinforcing experience for me. I do not mean to say that I think it shaped, and getting back to the same



RT - words again, my views, but naturally, when you find that other people share some of the views that are your own, that has a good effect.

DFS - Possibly shaped your wording, but not your views.

RT - I think that is a very good suggestion. I'd like to adopt that myself.

DFS - All right, copyright it.

LAUGHTER

DFS - Jus on this famous and some times argued about, word "fragile". Would you comment on the fragility?

RT - I would comment by saying that ~~I don't think it was fragile at all. I think there were few groups of people who were as unshakable in their own concepts~~ of what was involved in the case than the group was, and I don't think there was any real likelihood that the group would come apart, unless something frustrated the ability to vote on a set of articles which a member could support. Here's what might have happened. Simply speculating. Let's suppose that the points on which all of the 7 people shared had somehow been amended by adding to those articles charges which were unacceptable to any individual -- ~~it might have gotten to a point where we couldn't have supported an article because it was carrying some baggage that we didn't believe in.~~ So, in that sense, the Committee itself conceivably might have amended one of these articles to include Cambodia, for example, to make it unacceptable, but of course that didn't happen. I don't guess it could have happened.

TM - We have here a couple of drafts that you prepared prior to the first meeting.

RT - I haven't looked at those in a long time.

TM - And, if you could, try to reconstruct in your own mind, maybe at least the order in which they were to appear, on and two. I would be interested in just when you first typed that up. I know you said you retyped it on possibly Tuesday morning.

RT - First typed on Monday -- Did we work on it Friday before -- Friday or Saturday before that Monday? I had done some drafting I think perhaps a few days before that time at which I -- when did we get the book that contains the article?

DFS - Friday, July 19th.

RT - Okay. I cannot recall having done any dictation before that time. Can you Susan? It is barely possible that I may have dictated something Friday afternoon, late, although I cannot recall. It was not too long after I got that book and read through it that I realized that it didn't say it in a way that seemed to me to go to the heart of the offenses that I saw and therefore that it needed to be changed and it may have been that I started working on it by dictating later on the same day or much later on that same day. In any event, I am confident that I did some thinking about it and note making between that time and Monday morning and I think

- RT - that the first thing we did on Monday morning was that I called you in and dictated a draft or a set of drafts.
- SN - Remember when you and Julie gathered that meeting, was it that Saturday?
- RT - Might have been.
- SN - Because we worked.
- RT - Yes, we did work on that Saturday. The 20th?
- TM - What, a briefing?
- RT - Yeah.
- SN - With a staff member, I think, and we were working, it might have been after that meeting.
- RT - I would not be surprised at all if we were working on the first draft on that Saturday, but I can't tie it down.
- DFS - I think you're doing very well.
- RT - I can't tie it down more precisely than that.
- DFS - If I may say, what's significant is that you seemed not to have started drafting until you saw these drafts of the Doar articles. That, I think, is the important thing.
- TM - Would you be able to pick out which one or two you may have written at that meeting on Tuesday morning?
- RT - Yeah, let me try.
- DFS - Unless you prefer to do that at your convenience.
- RT - Why don't we turn that off just a second. Let's see, let me get the copies that I furnished to you. I will mark "A" for the earlier draft and "B" for the draft which I believe I had with me on Tuesday morning, although, I must say that I thought I had a smooth copy and it may be that I took the smooth copies with and destroyed them. Or didn't get back with them, or put them somewhere, or lost them. But in any event this is correct as to "A" and "B" but as I say my recollection was that I had a smooth copy, but I may not have. This one is still marked up and in the process of being revised. Okay, does that help?
- TM - It sure does. Well maybe just a couple of more questions. Did Articles I and II reflect all of the concerns of you in particular?
- RT - Well -- no article could reflect all of the concerns I don' think, but I thought they fairly stated the heart of the concerns -- Article I and II.



- DFS - As you've already indicated, you would have preferred to have the substance of III in either one of those.
- RT - That's correct.
- DFS - Well now, in anticipation of a Senate trial, were you as a lawyer satisfied with Article I as being defensible?
- RT - Well, I thought they stated a case which would be successful unless something dramatic that had not yet been disclosed to us were made available at a Senate trial. Now you can have that happen, but I thought on the basis of everything that we had seen, it was a case that could sustain a conviction. It was evidence which the House could take to the Senate and obtain a conviction.
- DFS - This question is more in the sense of color and emotion, not evidence, but can you recall just at the time you were voting or precisely after on Saturday evening vote of 27-11, what were your reactions, your own feelings now that the circumstance has been crossed?
- RT - Well, first of all, it was noted by the Washington Post, I believe, and maybe another paper or two, that as I said "aye" I closed my eyes as though I might be in prayer. I did not realize that that would be that obvious. It was correct, but my prayer was not as to the rightness of my vote, I'd crossed that threshold, but rather that the action the Committee was taking would be in the best interest of our Nation. That was a concern that I had which was beyond the concern I had as to which way I had to vote. I had to vote the way I did because that was the way I believed, but I was concerned about what the future course was going to be and how our Nation would react to this vote and to the trial which is foreseen as coming on down the road.
- DFS - And that goes on to the political sociological aspects of it.
- RT - Yes.
- DFS - All right. You said before that the work of the Inquiry staff had been thorough and meticulous, but it has still been criticized by some as not being original enough. Do you think that's a fair criticism?
- RT - Well, I'm not sure what place originality played in a hearing like this. I don't view the proper role of impeachment to be to establish a case if none is there. I do have this observation -- in line with what I said about impeachment being a safety valve, and that is that if it becomes necessary it should be done as promptly as can be done, safeguarding the rights of the people involved. This was the most difficult case in that sense and that the nature of the case required, I think, this methodical presentation of evidence which carried the process on an on an on. And I think people understand what impeachment is -- that it is, to save the system -- and the fact that the system continues to operate for a long period of time during the process of the trial negates in some people's minds the need for the remedy. Another type of occurrence might well have



RT - required a much more prompt kind of response and more affirmative or directive, but I think that ~~with the kind of events we were examining that the approach was correct.~~

DFS - In your own assessment, either your Coalition or Committee assessment, of Nixon's shortcomings and impeachable offenses, did the shortcomings of previous Presidents play a role in your thinking -- that is, somebody else had gotten away with it?

RT - Well, certainly under what I tried to express today it should be clear that I have no misunderstanding about the infallibility of human beings nor do I think that anyone is going to conduct his activities in a perfect way. You're going to have mistakes. You're going to have some horrendous mistakes, but as long as those mistakes are honest, the system can accommodate the mistakes and there is no need to have the kind of proceedings that we had to go through. It's only when the mistakes are organized and systematized, I think I used that in my statement, to a degree that it does threaten the institutions themselves that they rise to a level where this kind of action is necessary.

DFS - Did you think at any time there was just not enough study or awareness of history, say the Members themselves, the English precedents, a close examination of the Johnson case?

RT - Well, I had been familiar with the general history around the Johnson case and I knew the mistakes that were made there and how that was a political decision. I also went back and read some of the Edmond Burke arguments in the impeachment case which was on everyone's mind at the time high crimes and misdemeanors were chosen as the words to use in our Constitution. I think, ~~I tend to agree with Harry Truman about that, that you need to have a sense of history in dealing with today's problems, because if you look long enough and hard enough you'll find that most of the same problems have come up before and you can find out where people made mistakes or where they took the correct course of action and tried to accept the correct courses and avoid those mistakes.~~ You'll make plenty of them on your own.

DFS - Well now just on that point, do you think that as a result of what was done last summer, we do now have a clearer working definition of an impeachable offense?

RT - I hope and believe that the conduct of this impeachment inquiry by the House Judiciary Committee will stand as a good illustration of how a proceeding on this kind of offense should be conducted. I think that it will probably stand the test, and I must say that this is a view that I didn't have ~~at one point early in the thing when I thought that whatever we did would be likely regarded as mistaken by future generations.~~

DFS - You made that comment.

- RT - Yes, but I made that comment sincerely and genuinely at the time. It was a concern that when you are in a very serious and difficult situation that even right actions may be regarded as having been wrong, because of the gravity of the whole case in future years. It's my hope now that that won't be the case. As people look back at our proceedings, that they may give us credit for having wrestled with a very difficult problem and done so in as good a way as we could have been expected to have done.
- DFS - That implies that then you think when it's all said and done and the dust has settled, that the impeachment proceedings were of benefit almost or a kind of testing ground of the system rather than the reverse.
- RT - ~~I think it would have been better for our system if the events -- the whole train of events -- which led to the impeachment proceedings had not occurred.~~
- DFS - For example, on the 13th of June you wrote you were wondering whether the system itself had grown so bad that it has become necessary to call the practice to a halt. In other words, broader than simply this matter, I presume?
- RT - Yes, that is correct, and that's why I just said what I said. I think it would have been better had the events which led to this kind of situation had not occurred. I think it ~~very unfortunate that our system had accommodated expediency -- the idea that the end justifies the means~~ - the tacit belief on the part of many people that power obtained by the people may be exercised for the benefit of the officeholder, rather than in the public interest.
- TM - In that regard, do you think over the years maybe going as far back as FDR, whether or not there has been any concentration of power, a build-up of power in the Executive.
- RT - Yes, I think that the ~~Executive Department~~ has obviously over the years grown tremendously in power and in some instances power that is not really responsive to the individual that happens to hold the office. The power of that individual, the President, ~~has also grown tremendously~~. But the Executive establishment is really grown until it had begun to overshadow the legislative role and this may have been the reason that the Judiciary had changed somewhat from its classic function of testing the laws to moving out on issues itself as it has done recently.
- DFS - Do you think it's too much to say, as someone said, that the White House, has become almost a fourth branch of government responsible and checked by really none of the other three, but responsible to one man?
- RT - Well, it was going in that direction, I know. I think it was very heavily oriented in that direction.
- DFS - And in that sense, what was done last summer was a benefit?
- RT - ~~Well, whether it was a benefit or not is dependent on whether we can learn from it and act on it and that remains really to be seen. It has the potential for great benefit if the legislative branch does accept more of the responsibility as advocated over the years and if the executive learns from that experience that the extent of its powers and the need to exercise~~



- RT - ~~those powers with strength~~ and in cooperation with the legislative and judicial branches of the government.
- DFS - Now may we switch to a totally different angle, a very expedient question? What do you think the effect of your role, not only your vote but your presentation was on your reelection?
- RT -- It's very hard for me to evaluate that because I come from a district that has just been wonderful to me. I didn't have an opponent either in the primary or in the general election and so I don't know whether -- I haven't had a test by an actual voting contest as to whether this has had an impact on my standing with my constituents. But I think from observation that the people of Arkansas, South Arkansas, have reacted extremely warmly and generously toward me and how can I say what I want to say without sounding --- well, I'll say it as a fact and then it doesn't reflect on me it reflects on the people who had been involved. At the Democratic Convention of this last year the ovation, the response, they gave to ~~me was far greater than that given to any other figure from our state who was there.~~ That's an actual fact. When my name was mentioned by the keynote speaker, Bill Clinton, who was running for Congress, they ~~interrupted his speech with an ovation for me and I had to stand.~~ So the response has been, I think, that the people, that most of the people in Arkansas feel that I tried to handle this thing as they would have done if they had been here. And give me credit for having reflected their way of approaching this kind of problem, and there's no greater praise that anyone can give.
- DFS - Now all of this was done let's say by the 4th of last August. Was there any particular reason there was not until this May, this is for my historical method manual, that the group of the 7 of you had been thinking about it, but didn't it as a matter of fact come to the decision to record and assemble this material? Was it possibly because not it's politically safe to talk about impeachment as a certain help whereas it was not safe last September and October? Would you comment on that?
- RT - That might be true with regard to some. I don't know. Some members of the group might have felt that kind of restraint. I don't much think I did, but I do know that as far as I'm concerned, I'd much rather look at problems that we're going to work on than to look back at the problems that we've already dealt with. ~~I have enjoyed this conversation, but you have been the catalyst in causing this. I'm not sure, even though we had talked about the need to sit down and develop some recollections, on this, I'm not sure if I would have ever gotten around to doing it, at least for a long time, if you hadn't catalyzed it by this suggestion that we ought to do it.~~ And I think it is a good suggestion. I think it's one that is very useful. But as far as I'm concerned, I don't think it's because I had restraints about talking about it except I don't like to spend a lot of time talking about where I've already been.
- DFS - Well, as Tom has indicated, you're also busy and so we thank you very, very much.
- RT - And besides that, I'm not sure that it's any safer now than it was then.
- LAUGHTER

DFS - We are ending our interview at 11:05 a.m. still the same day.