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Fragile Coalition Interviews - Group - Tape 1, July 11, 1975

M. Caldwell Butler

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Tape I, pl

Present: Congressmen Thomas Railsback (TR), Walter Flowers (WF), James Mann (JM), Hamilton Fish (HF), Caldwell Butler (CB), Ray Thornton (RT), and William Cohen (WC); Donald Shea (DS), Thomas Mooney (TM), and Stephen Lynch (SL).

Site: Board Room, Sea Pines Plantation, Hilton Head Island, S.C.

Time: Friday, July 11, 1975, 9:50am.

DS - There are going to be three sessions, or really two and a quarter: this morning we thought we would spend pretty much on the drafts of the articles, following this eight page outline [Attached]. We can intersperse anything you want, of course. Then tonight we have a cocktail hour starting over in my place at 6:00. Mr. Mann suggested that about 6:30 we—the ten of us—walk out of there, leaving women and children and waifs there, and we come over here for about a half hour, and having had a few drinks, we would be even more relaxed.

WF - He looks like he's had a few already.

LAUGHTER

HF - Here comes Jim Mann now.

DS - To quote him, he thought we might have a half hour or so very informal session, especially for color. I think Tom Railsback has a good point here—we mentioned that in the car last night—that we may have a lot of information, but if this ever gets to the publishing stage, I think it does lack a kind of human element, and so the more you can recall of that—and I think you will do that spontaneously—the more the better. So the second session is tonight, very informally. Then the third is tomorrow at this hour—a half hour before this hour—at 9:30, and I thought we'd do two things then: spend most of the time on some of the points of difference that emerged from your individual interviews with Steve and Tom and Be. And then perhaps the last half hour simply asking the question, where do we go from here? Because I think that now we are all together, we ought to discuss that question. Now I will turn this over to Mr. Mooney who is running this part, and to Mr. Railsback and anyone else.

TM - Does everyone have the eight page outline? What I intend to do here is to note all the recollections that I had of the meetings that I attended. Generally my idea is to categorize all drafts into three areas: each draft has an introduction—this is not the preamble, but the introduction to the specifics of each draft. Second, specific charges one thru nine, A thru I, or whatever. And third, each draft has a conclusion. And these three areas were being constantly revised throughout the couple of days that the so-called coalition met.

But the purpose of the outline and having the drafts close by is just to spark discussion, to get into this thing, to try to move thru the outline as a kind of guide to get thru all the articles. This may help to set the stage and get your minds back to that particular time frame.

Tape I, p2

TM - Also you will have close by a chronology of the crucial days, the meeting days, which might be helpful to look at, as we move thru this.

DS - There are also copies of the Doar drafts here.

CB - Yes, that is one of the things that has been missing. Did we get the Doar drafts on a Saturday or a Friday?

JM - In the old black notebook, and there were five sets....

DS - And they are all here. You received them on Friday, July 19th.

JM - And I think we all fairly well ignored them.

CB - Well, we read them and saw nothing to justify retaining them.

TR - Nothing to commend them.

WF - I don't think I even read them.

JM - I guess we need a little more information about the actual sources of these drafts because one was by the impeachment staff, one or more, one was by Brooks, and I don't know really the source of the others. But they weren't all by the official staff, like Brooks said.

HF - Was his included in here about SanClemente [?]

JM - Yes, I am not sure about that.

TR - Did Brooks do that by himself?

JM - I think Brooks did it himself.

DS - Here is the Brooks drafts. [Xerox copies on table].

WC - Could I go back one step before that first meeting? I was going thru some notes that I made during the time on July 18th. We had baseball practice, Tom, at 8 o'clock and 10 o'clock. I think it was the second time I had talked with you during the entire proceeding, Walter, and I know you [TR] had talked with Flowers and Mann. They would like to get together with six to eight people and discuss informally the standards to be used, evidence, etc.

WF - And that was just standing in the committee room....

JM - I remember precisely the way it was: we were standing between the two aisles [in the Committee Room].

Tape I, p3

- WC - And Flowers says, I want to be sure we are not going to lose this thing on the floor if I vote for impeachment. You got to have a solid case. Mann says we got 98% of the evidence. Flowers said, you may have 105% of the evidence, because some of this could never be used as evidence in the Senate. That was the line of conversation, which we then discussed. I said that there are only two areas of impeachment, agency abuse and obstruction of justice. Jim Mann agreed. Not Cambodia, allowances [?], not the sale of ambassadorships—that has been done by every administration. That was standing right there in front of the committee room.
- WF - On the Republican side.
- JM - No, it was on the Democratic side.
- HF - No, it was on the Democratic side.
- CB - I don't remember being present at that conversation.
- JM - No, you weren't.
- WC - I said I had some problems with the wiretaps being left for 22 months. Walter said that they would have been derelict if they didn't try to plug the leaks and then Mann and Flowers and I left so we could get back together without the hard cores. And you mentioned something, Walter, Kalmbach made a case on milk [?].....
- WF - You're jogging my mind. That same day, at a subsequent roll call, you apparently mentioned that conversation to Caldwell Butler, because the next time the committee reconvened and I sat out, Caldwell got up and came over to me and said something about maybe we are going to have a meeting—some words to that effect. Do you remember?
- CB - I remember initiating a conversation with you sometime, but my recollection is that I would have been talking with Cohen all the time. I also had a conversation with Jerry Waldie. You told me, riding over in the trolley one day about the meeting—after the Doar articles came out.
- JM - Yes, it was.
- CB - That might have been after the Waldie conversation.
- JM - At that time I do not know if he had talked to the Democratic members....
- WF - One interesting thing—I can't put a date on it. In talking to Waldie, who sat next to me, when I was particularly troubled and didn't really have any ideas who was backing what two or three weeks from the date we finally put it together, I asked, "Jerry, how many are going to vote for impeachment?" He said, "I figure 26 or 27." And I remember how ridiculous I felt that was then. I felt that was absolutely absurd.

LAUGHTER

Tape I, p4

TR - What day was July 18, we we had our informal conversation?

DS - That was a Thursday, because the Doar articles came out on the 19th, a Friday.

CB - That makes better sense. The 24th is the following Wednesday, when the TV debates started.

DS - And the coalition, as such, met for the first time on Tuesday the 23rd.

WF - I think that Monday night when you [JM] and I and Ray were together after the Democratic caucus meeting earlier, we talked for a couple of hours over in your office—which was really the first time that the three of us had ever talked together formally. We all had talked round about it. I had leaned over to you [RT] and Jim and I would walk back and forth together, but I think at that point the three of us were amazed how close together our thinking was on the whole thing. We excluded the same things and we included the same things.

TR - When was that now?

WF - Monday night before our Tuesday morning meeting in your office.

TR - Do you remember when you came over to me—I think it was on a Monday after our business—and you said, "Rails, why don't you get some guys together?" Or something like that....

WF - It was inevitable that we have a meeting soon because we didn't have any tapes to sit on.

LAUGHTER

HF - That was the first time, Tom, you talked? You were the one who talked to them in the committee room?

TR - Yeah, we had been meeting. It was that day that Walter came over and said, "Why don't you get some guys and I will get some guys and we'll meet and talk about it?"

RT - Walter, just before that meeting, we had our Democratic caucus. I know it was amazing how closely we were on track. And at that caucus, you remember there were still some strong discussion by some Democrats about Cambodia and about taxes and everything and I read from a draft I had before me of the areas of concern that worried me. George Danielson asked for a copy of it. He got it and made a Xerox. This was the first draft I had worked on sometime over that weekend and maybe on Monday morning it was actually being typed up. Now because of the dissatisfaction with the Doar work and then as a result of this you [JM] suggested, I believe, or Walter, we ought to sit down and discuss it. And that is as I recall the meeting: not my draft but a discussion of the areas of concern that we shared. This led to the meeting in your office.

JM - Two little items of interest. In spite of our chit-chat during the previous two weeks when things had kinda started jelling, we never made a commitment to each other, or had expressed any indication, frankly, as to what we were going to do. We just knew we were thinking that it was disturbing us all in the same way—the same things were disturbing us.

I had an interview Friday, a couple of days ago, with the little fellow with the glasses that represents Newsday...Mike Waldman. He probably came to see most of us to get recollections a year later. But he reminded me that on Saturday when the Judiciary Committee had its informal session, he ran into you [WF] and me in the cafeteria, and at that point I had told him that we were going to start to work on some articles of our own.

WF - Yeah, I remember that now; I had forgotten that.

WC - And that Saturday there were only two or three Republicans around.

HF - You had a chance to look at the articles prepared by the inquiry staff and perhaps thought they were not satisfactory?

JM - I have to admit it is my nature to start from scratch when I am doing something, and so I didn't go back to look at these things and compare them with even what we ended up doing. But we met and we so quickly jelled on what the issues were that we didn't need to go back and fiddle with some factional things; we were just going to do those.

WC - The phrase I recall you using, Walter, was, "Let's take the thing and shake it down and let the pieces fall to the ones we can agree on. Let's get all this evidence and shake it down and see what are the areas we really agree on here."

CB - When was that?

WC - That was the meeting in Rails' office on Tuesday morning.

WF - It didn't take long to get there, did it?

TR - Before we get there, I think that Ham, you [WC], and I and Caldwell did have lunch. This was about two weeks earlier in the Members' diningroom. At that point I had no idea that Caldwell was about to even consider voting for impeachment. It was a chance meeting.

WC - No, it wasn't. That was the day we had the blowup with Hutchinson, and Caldwell was not there.

CB - I wasn't back to the caucus, but I was back there to lunch.

WC - That's right. That was the day we were all upset when Hutchinson said, "Let's find out who is going to vote for impeachment." And I said, "I don't know how I am going to vote."

CB - Hamilton and you and I had lunch and Rails came in with somebody and joined us later.

Tape I, p6

WC - You were having an interview with Judy Flanders of the Washington Star.

TR - No, you are talking about a luncheon at the Capitol Hill Club.

WC - Yeah.

TR - I am talking about another one.

WF - You went out to lunch with all these chicks, didn't you?

TR - They took me.

LAUGHTER.

TR - No, this is another meeting at which you [WC] were not present and I think it was kind of a chance meeting. It wasn't planned in any way. The three of us got together, and this was before I had any inkling that Caldwell might consider voting for impeachment, and we just expressed our concerns. Now there was another meeting over at the Capitol Hill Club later.

HF - Bill Cohen, you, and I were having lunch with Caldwell and I joined you.

TR - Yes, and I came in late. Over at the Members' dining room.

HF - Could you tell us why you and Caldwell were having lunch that day?

LAUGHTER

HF - What was the genesis of going over there together?

WC - I rarely go to the Capitol Hill Club, not being a member of it, so I cannot imagine why I was going with Caldwell.

CB - That was in my palmy days when I could have afforded to be a member.

WC - I was filling you in on what had happened that morning. And you were pretty disturbed about Hutchinson's attitude—that he cannot imagine any Republican ever voting for impeachment.

WF - You know, there is something I don't think I ever know about at all—that you all had a blowup with Hutchinson.

TR - Incidentally, I got the dates on that blowup. I have the whole meeting documented, too.

WC - What happened is that Hutchinson's remarks were initially directed to me, and you [TR] were sitting off to the right. "Let's find out, let's take a little show of hands to show how many are going to vote for impeachment." And then Tom jumped in at that point and said, "Well, I don't know how I am—I might very well vote for impachment."

Tape I, p7

TR - Hutchinson said, "I cannot see how any Republican could even consider voting for impeachment. Let's get it out in the open!" And he looked around the room.

HF - I think the exact words were, "How any Republican Congressmen can vote to impeach a Republican President?"

TR - Yes, that's right.

HF - That agitated me because the assumption was that therefore it would be perfectly right to vote to impeach a Democratic President.

LAUGHTER

TR - Exactly! And he said, "Let's get it out into the open...."

HF - Let it all hang out.

TR - Yes, that is what I was trying to tell him: I might vote to impeach your Republican President.

HF - You [TR] were the only one who spoke out to answer him. I stayed absolutely quiet because....

WC - It got pretty shrill and then Wiggins is the one who broke it up.

TR - Yeah.

RT - Do any of you recall speculation in advance of our group getting together that we were likely to get together and that there might be a bi-partisan group emerging? I had it in my mind there was speculation.

WF - There was press speculation to that effect.

RT - In advance of my ever hearing about any group meeting, maybe a week in advance?

CB - I have some references here [notes]. Rails and Walter and I talking in the committee room. Rails walking out with me and said, "You know, you and I and Walter got this thing in our hands." That is just about the way he put it. And then we started speculating on which way everybody was going, and that was just before we met on Tuesday morning.

WF - I believe it was simply inevitable that the center coalesced, and we were forced to do it when we did by time. Like everything else here, we deal in deadlines. And it was gettin' so that there wasn't any time left. So we backed off a deadline and it happened that it was Tuesday morning that we got together.

HF - I don't recall the speculation that we would get together. But you recall that it was around this time—it must have been on the 16th, 17th, or 18th—that Time magazine saw fit to take a photograph on the Capitol steps which included Henry Smith....

TR - And McClory, ... five Republicans.

HF - These seemed to be the undecideds.

WF - How did they every put Henry into that category? I would never have dreamed that he would vote for impeachment.

TR - Because of Cambodia. He had expressed reservations about that. You know, Henry was playing it very close to the vest. I thought he was much more likely to be with us than Caldwell. Just for one reason: I thought Caldwell had such an impossible political position down there that he just couldn't afford under any circumstances. That's why when you [DS] interviewed me, I told you that I thought it was courageous of him.

JM - I feel just like Walter. I said in my initial interview that I knew that were going to meet. It was inevitable. Even though we hadn't heard it discussed, I knew we were going to meet. I guess it was the fact that the press was hounding so closely probably contributed to our meeting late, because had we gotten together to start talking a little bit earlier, we would have been....

TR - Right.

JM - So, as Walter says, when the time came, and the time had come, or we just weren't going to be able to.

CB - You know it was just gratuitous that Larry Hogan made his statement when he did because it was about to blow our cover completely as far as the press was concerned. And it was relegated to a pretty small report in the paper, as a result of his statement—which I think was pretty good, because they could harass the heck out of you.

JM - Related to the thought you gave about having this thing in our hands. I remember Walter said I on numerous occasions discussing the burden that was on us, knowing that we...that it was in our hands.

WF - I know that Ray and Jim had it too—every time we would go over to vote or to a caucus, all the guys would get around us and say, "What is going on there? We are looking to you three to tell us. We don't want to hear these other Democrats, but you three." I think we all got our egos built up a lot in this period and it is perfectly natural. I figured there were at least 40 or 50 southern Democrats, that if we three voted together, would follow what we did and be able to cover themselves up in what the Southerners on the committee did.

JM - We expressed that view during that time when we discussed those numbers.

HF - I think one of the things that really gave me an extra burden was that you knew there were a certain number of people, maybe 10, maybe 15, who really could be somewhat influenced by your decision, and this could be critical.

- WF - I think this was part of the immense burden that we were carrying in that period of time, because you Republicans had the same thing. You would vote for impeachment and thereby make it legitimate for every son of a Republican to look at it closely. Rails, you are out there in the midwest, Ham and Bill up East, and you, Bill, a first-termer at that time, and you, Ham, your dad was a Congressman and a noted Conservative. Everybody had a different kind of burden that they were carrying, but it was not just your own bulk that you were really in control of, but a whole lot of things on top of yours.
- HF - Bill Cohen has remained silent, but we met every Wednesday evening with the Wednesday group which at that time was some 33 members, I think. The normal practice was everybody contributing to the discussion, but that was put aside for a much more detailed report on what happened in the intervening week, and Bill had the labor there to keep the group abreast, so that they were pretty well informed.
- WC - They were informed. But I will tell you what the problem was. Walter, you point to me—I carried very little weight basically, no matter what I voted. It would have little impact, except maybe on a few of the younger members in the Wednesday group. That was the hard reality, so far as I was concerned, and if I was to be any part of this, I had to somehow hold Rails....

LAUGHTER

- TR - You know something? He never treated me better and he hasn't since either. You were pretty nice to me all during those troubled days.
- WF - They all gave us a wide berth during that period of time, didn't they? Even yesterday, Jack Brooks and I were sitting next to each other in the subcommittee meeting and he said, "I know what you all were up to, Flowers, you bastard, you and those other guys had 10% of the stock and you were voting the whole corporation!"

LAUGHTER

- WC - Oddly enough, Tom was not a member of the Wednesday group; Caldwell now is. What was important, Tom, about your role was that you came in and addressed the Wednesday group after speaking with Sperling. That was important, because it was one thing for me to sit around saying, "Look, these are what the facts are." Frankly, the Wednesday group was not inclined to support impeachment. Guys like Bill Frenzel [?] said, "What the hell are you guys doing? You're taking too long. It's all circumstantial evidence...." And he's a fairly enlightened modern type. He would say, "You're dragging your feet—you have't got a case—you guys are going to put us in a box." It was just disbelief at that point. And you, Tom, were the one who gave it credibility I guess. Tom, you have to verify this, but I recall you came in on a Tuesday morning, and your words were, "OK, I have only a few minutes, so let me fly with this thing." Then you laid out all the allegations which you thought would warrant impeachment. And that was a kind of stimulus to that group. "Yes, it is not all circumstantial, for Rails is in—then it must be more than just Cohen."

Tape I, p10

- TR - That morning we didn't make him [Nixon] a part of the break-in or anything else, but what we did is what we did later: we showed that he had lied. You know that was the case against him, he lied and we had the facts to document it.
- WF - You all had a lot more scheduled meetings than we did. I remember one, Jim, that just came to my mind then. Ray, I think you were there, too. Southern Democrats were organized thru that little research organization. Nobody was hardly there but there were 8 or 9 guys that were in a boxed up time frame with the votes going on. We were in some meeting room in Rayburn and they all wanted us to tell them what was going on, and we kind of put them on notice that there was a distinct possibility that the President of the U.S. was going to be impeached by our vote as well as by the Waldies and Drinans—and I think it started them just that quickly to think most seriously then.
- TR - Can I just add one thing that I think is very significant as far as the Republicans are concerned? I think it helped us, and certainly gave me some support, that I was meeting with George Bush, the Republican National chairman from the very inception and keeping him informed, and I think that helped to moderate his position. And I finally started meeting with my friend, Bob Michael, who is now the Whip, to tell him what I thought and where there were problems. I met twice with John Rhodes. He had finally a case of laryngitis, because he didn't want to talk. All of a sudden, he was worrying. But I don't know if that helped us, because we had a communications problem.
- WC - Tom, I think the members on our side were always fearful that you might go for impeachment, and what that would mean on the floor. The whole strategy was to kind of hold you in line, isolate me, and kind of discredit me once that was done.
- TR - And Ham too. They were a little worried about him, too.
- WC - That's right.
- HF - But you must remember that none of the Members spoke to me about that. The closest I got to Rhodes was the series of leadership meetings we had starting back in April.
- RT - We sure had no pressure....
- TR - There was very little external pressure from any of our colleagues, even from the White House. I didn't get any from the White House.
- WC - The pressure was different, it was peer pressure, Tom. I disagree with you about the meetings—I didn't find them to be very beneficial at all, with the leadership sitting around a table and say, "OK, guys, what's happening? Then have Hutchinson burp his way thru the meeting—that was pretty gross. LAUGHTER. And sit around and have Sandman carrying on, and then say, "Well, gee, whose left here, no one is speaking up." No one would really raise their voices except one guy, Wiley Mayne, who said something in one meeting where Rhodes had said, "Let's not get into

Tape I, p11

- WC - this whole personal tax thing." Mayne said, "Well, wait a minute, if there is fraud in the taxes, that would clearly be an impeachable offense." That was said in one of the early meetings. Beyond that, no one got up and raised their hands and said, "Wait a minute, I think he has done something wrong."
- HF - I think it was obvious from our silence that those who did speak were not speaking for all of us and I think that Rhodes at least kept loose as a result of those meetings. I agree with you, we did not speak out.
- WC - The purpose was to pull us in with a kind of herd instinct.
- WF - Let me ask this, you guys: how many of your colleagues on the Republican side did you think were in their own way in and in their own mind committed against impeachment, regardless of what the evidence would have shown?
- TR - That is a doggone tough question to ask, because what you are asking us to do.... The evidence we had obviously satisfied us, but I would almost guess that had we the June 23rd tape, the one that came out after the fact, and after the whole momentum was in our direction, it would not have made much difference to some guys. Would they have come along even then? I don't think so. That June 23rd tape by itself did not make that much difference.
- HF - I hadn't thought of that. Well, all of them fell in after the fact. Let us say if the June 23rd tape had been lost in the other evidence, the so-called smoking gun, had been lost in the other evidence, just a part of it, rather than singled out after the fact, as the way it came to us, I'm not sure....
- WC - I think it would have been rationalized away just like everything else that came out.
- CB - It might have brought along one or two others. It was an obvious prevarication that he got himself into that shape. You know that the President was lying, and here he is now — they had no choice. But if they had not put themselves out on that limb by hanging themselves so much on those smoking guns.... I think you're right, Bill, there are a lot of them still rationalizing themselves.
- WC - I thought thru this whole thing, and take the March 21 tape. Their whole thrust was this is the first time that the President really had any knowledge and was starting to get into it. People like O'Brien would come in and testify, "I talked to Kleindiest out in San Clemente in April, '73, and it appeared to me that this is the first time he had any knowledge about all this." We were just getting into it and then McClory would say, "Well, according to your testimony today, this is the first time that Ehrlichman had any awareness of all this," and O'Brien said, "Yes, of course." And the transcript was sitting there in front of O'Brien. But it is this kind of attitude that could rationalize anything away, as long as they had time to think about it. You could even take the March 21 tape, and by the afternoon session change that around and "it is not altogether clear."

Tape I, pl2

CB - Besides, it is not admissable evidence.

HF - To support that, I think that Wiggins and I were the only two members of the committee who were present at a meeting after the vote, between then and the release of the June 23rd tape, in Rhodes' office with a peculiar group. It was just a group of Republicans, not just the leadership, and we were talking at that time about having meetings with the Republican members in the next couple of weeks before the proceedings started in the full House. Wiggins kept referring only to the March 21 period or after, and I think at another time he referred to Dick Cates' analysis of the events of June and July as only a theory.

TR - Yeah, only a theory.

HF - I think you are right: I think he did zero in on the March 21 tape—it wasn't conclusive, it wasn't satisfactory, therefore....

TR - But there were two different rationales used to get away from the evidence for impeachment. One of them was without a doubt held by some of the guys, that other presidents had done this—in other words, the Mayne thesis. Willie said, "Look, they're hanging just this guy, and LBJ was even worse. Then the lawyers' argument, by Wiggins and Dennis, that there is no real truth. In other words, the admissibility in the evidentiary problems. So it was really two different rationales.

WC - There were three. The other one was the partisanship. I think I may have mentioned to some of you—don't take offense, and I'm sure you won't—but at one time, we were getting ready to vote on a procedural matter which seemed to me to be eminently fair, and Harold Froelich was going to vote "no" on it, and I said, "Harold, this seems to be a fair procedure, don't you want to support this?" And his answer I think captured the whole sense of tension between the two sides as to why there wasn't more of a concentration of effort. He said, "Bill, it is like the story they tell of the little girl who wanted to go to heaven. The teacher asked the class, 'How many in the classroom want to go to heaven?' And everyone but Mary raised her hand. And she said, 'What is the matter, Mary, don't you want to go to heaven?' And she said, 'Sure I do, teacher, but not with those bunch of bastards.'"

LAUGHTER

And that really was the feeling on our side; they wanted to do the right thing, they wanted procedural fairness.

TR - Another good one!

WC - They wanted procedural fairness, they wanted to see if he was guilty, to convict him of impeachable offenses and so forth, but there was that underlying feeling that if there was any other way around that if a Democratic President was sitting in that office that day, you could have the same facts, and you wouldn't have any committee hearings going on right now.

Tape I, pl3

WF - There is a great deal of truth in that.

TR - I think so too.

WF - And I heard it from the other side of the House. I had serious questions whether Jerry Waldie and Don Edwards and Bob Drinan would be there if it had been a Democratic President.

WC - And that is exactly what the tension was on our side of the aisle; we never got away from the feeling that you are really sticking it to us because you have a Republican President to do it to.

CB - Do you remember when we had the subpoena? The clean-up amendment I had and Latta got all over me....

WF - Froelich, who is no longer with us, was really—I don't want to say the comedy of the whole thing—but he was the big, enormous, little question mark that just jumps in at the last minute. I can't figure out just how he ended up with us; I don't know.

TR - I respected what he did, and honestly I think it took a lot of guts because I know his district well, and I think Froelich was just finally convinced as a lawyer—I think he's a pretty good lawyer—that you better not rationalize too much. There's another thing: I met with Gene Heller [?] of Cox newspapers, who brought me a release that indicated that the 13 minute transcript from the tape on September 15th had been obtained, and that transcript was very, very condemning as far as presidential involvement—direct presidential involvement—was concerned. It was the 13 minute segment of the 17 minutes from 6:00 to 6:17. Somehow the Cox papers had gotten a hold of it and it actually indicated that the President had not called George Schulz a "candy ass" but he had said something to the effect of "Baby Blue Eyes," meaning George Schulz, thinks he can do that, he is going to have another think coming, and we are going to get rid of him, or something like that. That really showed presidential complicity in the whole thing. But at that point that was not the straw that broke their back; they just kinda were again using the rationale, "Well, that is not really serious evidence"—which it was not, and I agreed, but they just kinda discounted that. But they did not discount the June 23rd presidential statement. That was the straw that finally did it. That was Dean using the IRS files. I had let them know that the September 15th transcript had been given me kind of clandestinely, but that I thought it was an accurate transcript which we did not have.

WC - The press leaking material to you?

LAUGHTER

TM - Getting back to Mr. Flowers' question about Republicans that would not come along regardless. With regard to the IRS Cox article, you [TR.] did take two members, I believe, away from the podium into our office.

Tape I, p14

TR - Yeah, I took all of them—Mayne, Wiggins, Sandman; Hogan was there, Dennis, too.

WF - This was during TV time?

TR - Yes, but it was significant, I thought, that here was a purported statement that corroborated what John Dean had said, and was even worse in a way.

TM - The grand jury transcript?

TR - Yes.

CB - It also corroborated John Dean's testimony.

DS - Before we move on to any discussion of the articles and the outline, I would like to pursue one little area—that is that Monday evening meeting of yourself [JM], Ray, and Walter. Was that in any way connected with the Democratic leadership?

JM - I don't remember the precise Democratic caucus, but we kind of laid down the law to them, but it might have been the one earlier that evening.

WF - It was the one earlier that same evening.

JM - Yes, it might have been, when we indicated to them that they knew or should realize that we held the key to this thing and we wanted a little understanding of that. We didn't express it precisely that way....

WF - It was pretty damn near precisely that way, because that is when the others started looking at us out of the corner of their eye.

JM - It was going to have to be done our way, with a moderate approach to it. I don't know that we named the charges that we would go along with, but we implied that we would not go along with Cambodia and ITT.

WF - Rodino then said, "Well, can you all get together with some of the Republicans and see what you can do?" He said that earlier in the evening. He was after the fact; we had already decided that we would get together the next morning, but then he put, not his stamp of approval on it, but his hope that we would.

HF - Then Theodore White's book is incorrect in saying that Rodino suggested to you that you get together as a group? He came in after the fact.

WF - I never felt that Peter was trying to twist my arm at all as to anything, towards anything. Did any of you all? I think that throughout the whole thing, he had a kind of sixth sense about that was really amazing. I think he knew he had to be patient; he knew that he had to bring it along slowly because he knew he had to have us.

Tape I, pl7

- CB - Just to set this in the time frame, my notes indicate on Monday afternoon going back on the trolley with Jerry Waldie, he said he was working on a draft of an impeachment resolution, he and John Conyers. But I told him that was a sample of what we got when the committee was about it, and that was as poorly drawn as anything I had ever seen and they agreed. [?]. What they were searching for was the lowest common denominator. So I talked this over and we got separated, the press walked into our interview. Then when I got back to the committee room, I went back over to Waldie and told him we weren't going to have that kind of presentation. That I would like to be involved if they were not going to have that kind of presentation. I did not want to vote against impeachment because simply it was technically defective. And so after we kicked it around for a while, I had determined that Jim Mann and Walter Flowers were probably the ones that were working on it, so I went back to Mann and told him I would be interested in following that. Then I went to Railsback and discussed that with him further. As a result of that, we all agreed to get together at a definite time, 8:00 the next morning.
- JM - In reference to what you said a minute ago, Ham, about drafting articles. Tom [R] had apparently instructed Tom Mooney two or three days before that also to work on some articles because he showed up that morning with a draft, too.
- TR - Jim, I got an idea to work out of all this. Wouldn't it be a good idea to let Mooney, with the benefit of your copious notes and mine, to kind of summarize his recollection about the articles and we can interrupt him at any point. Why don't you try that, Tom? I want you to set the stage, so then we can really fly.
- TM - OK. I personally had no idea that any meetings were going on, frankly. I think I remember that on Sunday, before the first meeting in Railsback's office, we first talked about a group. I called Bill Hermelin and asked if it wasn't getting down to the short strokes—you know, TV next Wednesday and we really don't have much if we are planning on the Doar articles. And I said, "Have you heard Railsback talking about anybody being together or any group?" He said no, he hadn't, and he said see if there is that in the works, because we have to get moving on this thing. Then Bill called Railsback in Illinois that Sunday afternoon or talked to him Monday morning when he got back from Illinois about getting together with some people about putting together some viable articles of impeachment if that is possible. The next thing I heard was Monday afternoon when Railsback came over to me and said, "Listen, we are having a meeting at 8:00 in my office." This is Tuesday morning. "Be there." That's all he said.
- JM - At what time did he say this?
- TM - This was about 2 or 3 in the afternoon.
- TR - I think it was later than that. I think it was after Walter came over and suggested we do that.
- TM - And we talked together in my office: 8:00, be there, that type of thing. He didn't say what it was about or who was going to be there.

Tape I, pl5

TR - What prompted you [WF] on that Monday afternoon to come over to me and say, "Let's get our guys together"?

WF - The time frame.

TR - White said, I think, that you were asked to do that by Rodino.

WF - No, it was the time frame, strictly. We'd all been talking, and hell, we were all going public a day and a half later. We had to get our guts organized [?].

RT - The only thing we had is what Doar had put together.

HF - This is what troubled me, Jim. The perfect story to me was that, being scheduled for television, we voted anyhow on the scheduled start, Wednesday evening, and here we are, Monday, and where was an article of impeachment? Where was anything to put before us? I heard about a group that involved Edwards, on the Democratic side, but I never knew any more about it—that they were writing articles of impeachment. But doesn't it seem strange? If we hadn't met Tuesday morning, we would still be there.

TR - Yeah!

JM - My recollection of that little steering group is not very good because there wasn't much said about them then. I just see Pete looking at 'em every now and then; obviously there was Edwards and Sarbanes and Brooks.

WF - I think that Pete had the feeling, Jim, that it was going to have to emerge from the middle or it wasn't going to fly. He had some kind of confidence that it was going to happen—no proved direction, just by faith.

TR - It was just inevitable.

JM - That group never presented any words, any articles. I met with them one time to show them what we were doing. It was either the first or second article, I don't remember which.

HF - They were not independently preparing anything?

JM - Yes, they were studying and trying to prepare some language, but it was never presented to me, and I never did see it.

HF - But they did get the word on Tuesday to hold off—that the actual product would come out of Railsback's office?

JM - No, not in that fashion, although they could have been getting some word from Doar, with whom I was working very closely, as we were preparing those things. They could have gotten the word in that fashion.

HF - Sure seems a sloppy way of approaching the thing....

Tape I, pl6

- RT - There are two things that I should mention about the flow of information both ways. It relates peripherally to this. I remember so well the statement you [JM] made one time, either in a caucus or in a group meeting of a number of Democrats, that it was going to be crucial exactly what abuses were identified and the language which was used to describe what the offenses were—that getting a correct structure together was going to be a decisive thing. You did not indicate which way you would view it, but that you were going to have that kind of test. I followed some of that language and on the 19th I used the phrase that it depended upon the structure of words being created. We were all fumbling for that. I talked with Sarbanes and Don Edwards and other people who were on the drafting committee and outlined the same concerns that some of us had — the abuse of power and the obstruction of justice. So they were aware, I think, as this was going on of the things that were troubling Walter and you and me and others.
- WF - You ought to remember, I think, the Democratic caucus meetings, which I described to this group as group therapy sessions where they would try to make sure that everybody's thinking the same way—"aren't they ..."—and it was obvious they were trying to bring us three along with them. The whole purpose of the meeting was to get us to go along with their way of thinking.
- RT - But we all shared a great many ideas in the preliminary drafting. I know that I did, for I was just floundering, and no structure of words had appeared. I was trying to reach some and now we were all approaching it together.
- JM - In effect we were saying that we were not going to accept any radical language or unprovable assertions—that type of approach.
- HF - In other words, after we got the Doar book with variations of articles of impeachment, you, Ray, and you, Jim, independently of each other, just took it upon yourselves to start drafting?
- JM - Monday morning I met in my office with Bill Blunt, whom I had borrowed from Tom Geddes, a political science professor from Winthrop College, who was up here as an intern.
- WF - I think he was with us at that lunch deal with the Newsday guy.
- JM - Yes, he was. He and I were talking then about drafting articles and on Monday morning he and John Labowicz of the impeachment staff met with me in my office early and I left him in my office all day, scattered all out on the floor and working on articles during all that day. There's where I got my draft of an article that I had Tuesday morning when we met. As a result of their efforts I had started.
- HF - Lucky for us you had that initiative.
- JM - Well, I don't know.

Tape I, p18

CB - Was this the Monday a week after he said "get started on drafting"?

TM - No, this was all the same day.

CB - OK.

TM - He [TR] never did say why. You [TR] did talk about drafting something but never said, "Go draft something up and let's talk about it." That Monday evening he had a meeting, I believe, and I got home 10:00 or 11:00, and I was thinking about this meeting and realized that probably the subject of the conversation would be the articles. But at that point I was just paging thru the Doar articles and made some notes on what might be called an article of impeachment. That was the first draft of the so-called articles—done paging thru the articles and making notes as to what might be something reasonable, knowing what Railsback had been talking about all this time.

TR - [Looking at drafts]. Yes, I can identify this, where it says "draft 6."

TM - That was draft number 1. It's got "Mooney" on top, article one, draft 1, July 22. That's a "1" instead of a "6."

TR - Let me just interject and say I had read Doar's articles and was very, very upset—not upset, just very critical and I thought they contained many allegations that we could not prove.

TM - We gathered that morning about 8:00, and I really didn't know who was going to be there, and under what kind of procedure, if any, we were going to cooperate. Frankly, I was a little bit sensitive, not really knowing why I was there to begin with and two, just having a group together talking about a very, very sensitive topic.

LAUGHTER.

TM - Had I, you know, realized that this was special in town.... I frankly did not take any notes at first. There was some general discussion. And I, not knowing Mr. Thornton, they not knowing me primarily, and thinking here is this guy—who is he, taking notes and possibly running around giving them away or leaking them or whatever.

HF - A shifty-looking guy.

LAUGHTER.

TM - A mustachioed, long-haired character who may not know what the heck he is doing. Anyway, that is one reason we don't have good notes.

TR - We were too busy.

CB - I started taking notes, and I got a little self-conscious about it and I looked around if anybody was taking any but Cohen.

Tape I, pl9

HF - Do you have notes about the beginning hour of that morning session?

TR - I don't.

WC - Just a point of interest: it's ironic that the setting was almost identical to this one today in that room.

All - Yeah.

WC - I was sitting behind Railsback's desk with my feet on the desk. The Danish weredown at the end of the table on the other side and you were over there in the corner, you were on the right side, [indicating each].

RT - We sat ourselves down here today in the same order without thinking about it.

TR - Except I was right up there.

TM - But we had the long table there. Bill Hermelin and I ran around to find out how we were going to get a table into that room so that we could all sit and work from it. At the last minute he was calling the custodian or whatever and we finally got a table. He also ordered up some Danish and we had coffee.

WF - Who paid for that—Railsback?

TM - You [TR] must have. It may still be outstanding.

LAUGHTER.

TR - Now that you mention it.... I remember throwing a Danish to Cohen right in front of me on this table.

WC - I was giving Rails a tough time. My feet were up on his desk and I sat there and you took the Danish at that point and threw it.

TM - You missed and hit the window.

WC - I think the attitude that we walked in there with was this—we were all saying how quickly it kinda boiled down to a couple of consensuses we had. When we were being interviewed afterwards—Jim Naughton did an article in the New York Times—we were kind of dubbed the terrible seven, remember that? And I said, "No, it is not really a terrible seven, it was more like a magnificent seven!" Remember the old, old movie where there were seven guys each representing a different constituency all gathered together in this one spot without ever saying a word? They all kinda knew they had some kind of job to do. They all met in this one place and there was a consensus immediately. Thus they were not the terrible but magnificent seven. And it was that kind of attitude that we had when we walked in and looked around. There was really not all that much to talk about except how do you put it all together in the right language.

TR - As I recall, we went around the room and shared our views about possible abuses.

Tape I, p20

- JM - I think you [TR] let off and said this is the way I see it or something like that.
- RT - Yes, you led off, I think, by getting into the question of censure.
- TR - Censure, yes. But I said there are two areas that bother me--the Watergate coverup and the abuse of the sensitive agencies. And we went around the room and we really had, as you say, a sharing of beliefs. We all seemed to share the same ones.
- WF - It didn't take long. We talked about it generally maybe an hour at the most.
- TR - Maybe an half hour?
- WF - Maybe not that long. You were talking about language, and when it came around to my time to say something, I said, "You know, we are talking all around the issue: we all are saying we are willing to vote for impeachment."
- TR - Yeah.
- WF - That's when I faced up to it: what the hell are we doing here? We are talking about voting to impeach the President!
- TR - Right.
- WF - And if we were talking about voting to impeach the President, in my judgment he was going to be impeached. That was when the hammer hit the nail--right there.
- RT - Yes, that's right, Walter.
- TM - Then after the general discussion, we moved into actually thinking about language and drafting.
- TR - Yeah.
- TM - And that was when Mr. Mann pulled out his piece of paper, and to this day I have not seen that, but I recall you had it.
- JM - I might be able to get it. I had Bill Blunt put together all that work and it is buried in my boxes of material and I just did not get a chance to get it out.
- TM - And he read his, and then Mr. RAILSBACK said, "Now you have something, Mooney, read it." And you [TR] hadn't seen it before, though, I think.
- TR - I don't think so.
- TM - And I could barely read it, as a matter of fact. Then we went on to Mr. Thornton and he read his.

- RT - One thing, Tom, I don't know if the others in the group are aware that I had come to the meeting with Xerox copies of a draft that I thought it might be useful to circulate and to discuss, and as a result of the conversation that occurred, it appeared to me that the group had zeroed in on the exact problem areas that were worrying me and I decided that it would be inappropriate to pull out a draft that I had worked up in my office to try to say, "Let's start from here." We were going in that direction, and so I took them back to the office with me.
- WF - You showed me that. I was sitting right next to you, and you said, "I got this, and I am just going to keep it."
- RT - I went back to the office and told the two people on my staff whom I had worked with that the articles were going to merge into substantially that form.
- CB - I find that memorandum that I dictated right after that. I don't know if you saw it or not.
- DS - Read it to us.
- CB - Flowers, Mann, Thornton, Railsback, Butler, and Tom Mooney, our counsel, and later Hamilton Fish and Cohen came in. We had a brief discussion of just generally how we felt about it, and I guess we all kind of agreed as Flowers expressed it, if we walk away from this thing, we do the greatest disservice to the country. Mann said it is nice to find people that are fighting the same internal battle. Mann, Thornton, and Flowers had evidently run together the evening before and had pretty much a discussion, as Flowers indicated after a few bourbons, but they resolved it. The two areas of real concern are the abuse of power and the obstruction of justice. So we had a discussion about that. But there is a general feeling that John Doar is overshooting the mark when he tries to push us back into April for the President's conspiracy. It is enough that the President's involvement began on March 21st and he didn't pound on the table, but really condoned it. So we kicked it around for a long time. We were there about two hours altogether. Thornton is stronger than any; he seems to think the coverup is continuing and there is a series of continuous damage to the government. Flowers, and we had the problem as well, asked if the punishment fit the crime. We all had that question. We considered censure as an alternative, but no real sentiment for it. Jim Mann said that the American people weren't yet educated to the threat to the American system presented by all these disclosures. Until we have impeachment we simply aren't going to do that. Even Hamilton Fish said that the press simply does not understand the significance of this event for they are focusing on the smaller things and really don't have the over-all picture. Flowers surprised me by saying that even the national media is in for a tongue lashing for they are so single-minded in getting the President that they are losing sight of the bigger fact that we are dealing with. A mixed bag--there are lot of things that ought to be affirmative, that we ought to vote, to be talking about. The big question is this: we ought to recognize that when we vote for impeachment versus censure, we will tie up the Congress for another six months, for the rest of the year. So we kicked that around and kind of agreed that we are going to strengthen Congress, and Congress has to be more responsible hereafter and particularly the Democratic side.

LAUGHTER.

CB - And then we had a procedural discussion on the problems of how we will vote when it gets to the floor. The group of us recognize that if we hang together and work on something together we can control the rules and actions on the articles of impeachment, and so we pretty much agreed that we are going to try to draft them. Jim Mann is going to work on the area of abuse of power and Railsback and Cohen on the obstruction of justice. I guess I'll be working with them and Mooney. So we discussed drafts and read them over, kicked it around, and sort of agreed that we'd look at it again before that evening. We are going to meet again after we get thru our meeting tonight. We rejected the possibility of inviting Harold Froelich because he had told us that the Republicans and he didn't want to improve on the defective articles. He wanted technically defective impeachment resolutions that he could vote against.

LAUGHTER.

We Republicans here feel that is wrong. And we did not invite Henry Smith because we felt he was a hopeless case.

WC - Caldwell, could I interrupt right there on the Froelich thing? In my notes, we had a leadership meeting right around the same time, either a few days before or after, in which Froelich made the statement that the Democrats are going to come up with a piece of shit and we are going to clean it up for them.

CB - That's right.

WC - Remember, you said, "Yeah, you [Froelich] would probably vote for it." He said, "Yeah, probably I will."

TR - Yes, that's right.

CB - He said he was tired of us cleaning up their shit.

LAUGHTER.

WF - The only show in town when you guys have got a majority.

LAUGHTER.

CB - The only note I have is that we did not invite Larry Hogan because we thought he was going on his own and wasn't really troubled by the things that were troubling us. He had other problems, like being governor.

DS - Let me ask a question here that we forgot in the individual interviews. Did the prospect of a non-elected vice-president, in this case Ford, ever play any part in making you a little more hesitant?

TR and All - No, I don't think so.

CB - I don't even remember that question coming up. It is about as relevant now as it was then.

Tape I, p23

TR - One thing we have not emphasize enough is the fact we rejected John Doar's and Jenner's articles. I remember that really interested me to the extent that I thought we should write them. I thought that they were guilty of overkill.

CB - Absolutely.

HF - Don't you remember everybody commenting that we really had to reduce and refine these subsections of any article down to things that were absolutely sure and provable and direct. We used the phrase that we cannot have something where you might show three or four pieces of evidence that supported it and someone else come forth with three or four pieces of evidence that confuted it. That kind of thing we just couldn't have.

TR - Sure.

WF - That is what we meant by the lowest common denominator; we didn't minimum charge. We meant the absolute minimum, iron-clad provable. We wanted to document it one at a time. If we're going to impeach the President, it was going to have to be on some God-awful charge he had done something big and enormous and terrible. It had to be a telescoped vision rather than a wide-angled camera.

TR - Sure.

CB - I don't think we wasted five minutes on agency. Everybody agreed this sort of thing was out of it.

TR - I recall a little different from that. I think you could have bought superintendancy, couldn't you, or could you [RT]? You were about the only one.

RT - I do agree that it never raised itself to any point of consideration that the person in line for succession was a non-elected vice-president; however, I do think it would have increased a burden, not an unovercomable increase, but it would have increased this psychological burden on me, if we had been dealing with the situation whereby impeaching the President, a Democratic speaker of the House was going to succeed. I think that would have had an effect.

WF - What if Agnew was still vice-president? What would have that done to us?

CB - That would have lessened the burden some of us had.

TR - It would have been different.

DS - Getting back to the point that Walter was making before about the lowest common. provable denominator. If you were so concerned about getting a provable case, how is it that three days later the specificity thing caught everybody seemingly by surprise?

Tape I, p24

CB - I will tell you: John Doar wasn't doing his job and we didn't realize it. Jim Mann was being reassured every day by John Doar that they were backing us up. I don't even think they knew what you meant.

TR - Right.

WF - I think that those guys had done a massive job of compiling and accumulating a bunch of crap, and they kept hoping that something was going to happen, and it did because we took charge. That is what happened. We took charge. And lost the ball game almost on that first day of the argument on specificity. We were in the losing bracket then.

TR - Sure we did.

WC - Why we were misled is that here, after all this compilation of all this information, and then the draft articles, we said, "Look we ought to clean up your mess and we will draft it the way the lawyer should draft a provable case as far as an indictment is concerned.

TR - Yeah.

WC - We had assumed that since he had done the draft articles on his own, he would at least have the facts to support them. And that we would just take and put it in the right form, boiled down, throw out all the excessive language and notions, and get it down to the bare minimum. We assumed that he had the basic facts in order to prove his own case.

RT - That's right.

WC - That's why we were misled.

WF - Doar would have been in a hell of a shape going before a jury with his case prepared that way. It wasn't briefed out like any first year law school student would take a case to a jury.

WC - But I think that was the assumption we had: we assumed that since he had drafted those articles, he had the back-up material there. We were going to clean up the articles so they were short and direct and really concise. The facts that he had for his own articles would fit the pattern we had established as far as the presentation was concerned.

TR - To be fair about it, altho I agree with exactly what you said, I think that John Doar at that point was haggard and overworked and sleepless. But I agree that they were not prepared the way they should have been.

TM - All that is true, but I think we may be overlooking something here — his purpose was not to give you a finished product anywhere. His purpose was to throw a lot of stuff on the table and let you shake it down.

TR - I don't think so.

- JM - There is one other commendable reason for the lack of organization. If I had been chairman of that committee, I would have orchestrated that television presentation for the American people. I would have had the evidence laid right out and presented in that moderate fashion. And the fact that it wasn't done is commendable in so far as the chairman of the committee and John Doar are concerned. But on the other hand, as a good lawyer, as you say, it should have been colated and correlated with the specific allegations. It wasn't, so we were caught short. We did a pretty good job of getting it together on short notice.
- RT - Great broken-field runners.
- WC - Can I come back to the important point that Tom Mooney made? As you recall, John Doar shifted when he finally made his presentation — he dropped the position of simply being a non-partisan collator of facts and he tried to make a very dramatic presentation which I thought fell flat on its face. But you remember, Tom, the reaction of the Republicans in the committee who were just outraged at that point when Doar suddenly was now an advocate and not simply gathering the facts? Then when Jenner went along with it, they said, "Wait a minute, this is not supposed to be."
- WF - Did you guys get disturbed by that?
- WC - Our side got definitely disturbed.
- WF - I thought it was highly appropriate that John Doar did what he did.
- WC - Not on our side — our side was violently opposed.
- CB - No, it didn't bother me.
- WC - Rails was a great supporter of Jenner.
- TR — Yes, there was a reaction. It just built itself up. Jenner was a great lawyer.
- WC - I said something to the effect — I recall it because it was quoted in the Times — that there was a dramatic shift in Doar's presentation from a simply non-partisan gathering of evidence with a committee. The inference that the Republicans were laboring under was that he was just going to present this and we were going to put it all together somehow on our own, and if it shakes down to impeachment, OK. But Doar was never to become an advocate, nor was Jenner. And when Jenner went along with Doar, that was the final straw. They said, all right, get rid of Jenner. And they canned him, made him co-counsel with Doar. So that was a pretty strong reaction.
- WF - Backing up a little from that — I remember someone saying something about falling flat. I thought the flattest thing I had ever seen fall was the so-called reply of St. Clair when he got the floor after the months of John Doar's presentation. When he slipped in that matter of fact little piece of evidence really prejudiced his case so much! That is when I said, "My God, the President is treating this guy just like he did all these other people." I couldn't believe that a first-class lawyer was going to pull a trick like that.

Tape I, p26

TR - That's right.

All - Right.

WC - Walter, would you agree that his presentation up to that final moment, when he tried to give us that half-edited transcript, was brilliant?

TR - I thought that St.Clair did a very fine job.

WF - Compared to those other guys, it had been succinct, more to the point, but I kept thinking, well, this guy is doing OK, but he really doesn't have a case. He is working with a bad set of facts.

JM - Well, he did.

CB - That was my reaction to St.Clair. If a jury had to go out and come back in a half hour, he was in pretty good shape, but after they had a chance to think about what he said, he really hadn't said anything.

RT - I thought it was clear that St.Clair did not want to introduce that extra bit of evidence, but he was directed to do so.

WC - I have in my notes here that the reaction on our side when he put that in was that it just kind of diffused everything he had tried to accomplish. Even Wiggins at that point seemed confused.

WF - It didn't really do that much for him either. It was a low blow.

JM - Let's go back to that first meeting for a minute. I recall two or three specific areas of discussion, one that I specifically recall is that Railsback was very strong on the IRS article and on the [?]. Secondly, I recall that he and Walter expressed great concern about the subpoena power contempt as being impeachable grounds. You [TR] even went so far as to say that you would vote for a motion to strike that provision out of the article, but would support the article, whether or not it was stricken. You, Walter, even you, indicated that you would probably do that.

WC - If it were included, it would be included as part of the abuse of power.

WF - What you were going to weave in to article two would eventually become article three.

JM - And I was overruled on it, more or less, by John Doar. He and I had many discussions about it, and every time, after he and I would confer, he felt it ought to be a separate article.

TR - Not article two, but one. I wanted it as part of article one.

WF - You know we also talked about the whole thing as a single article, with the abuse of power — with what became article one being a subparagraph of article two.

Tape I, p27

- WF - That was because the same evidence worked eventually in both articles.
- JM - Let's get back to the very important point that we sloughed over a moment ago, this business of direct involvement by the President — the agency, super-agency, accountability, and so forth. My recollection is not very good here, but I think that at that first meeting, there was considerable reluctance on the part of the Republicans, in general terms, in that group, to apply the theory of agency or the extent of accountability.
- WF - You mean "take care that the laws will be faithfully executed"?
- JM - Yes, the action of subordinates. In my own mind I definitely felt that there should be that degree of accountability, and I was just drifting along with the group, knowing that ultimately we would have to conclude that the language that we agreed on would imply that type of accountability and ultimately it did. I don't know if each of us made that specific decision on that point with reference to each detailed item. In some cases we would say that accountability with what Peterson did or didn't do, what Ehrlichman did or didn't do....
- WF - I think, Jim, what all of us were thinking is, "Are we going to impute a standard to Nixon that nobody had been willing to hang Johnson and Kennedy on. I think we all got away from that, though. We were talking about a standard for the office of the presidency; whether or not the previous guy had abided by that standard, henceforth it ought to be the standard. To that extent I think we did move to accountability and into the theory of superintendency. I think that was very much a part of article two — that he has the affirmative duty to take care that the laws are faithfully executed in the superintendability....
- JM - But I recall pretty strong expressions that we weren't going that far when we first started talking. You may recall otherwise.
- TR - I think you are right. The point you raise is very, very apt and I think we ought to get into it in this outline.
- TM - What happened at that first meeting was that kind of discussion. I went back to my office and tried to work up some language. I then worked out different drafts, coming up with the draft that I would give to the group. This is draft two, three, and four, before I had something that I thought I could give the Members to work with.
- JM - I think you and I had agreed to communicate the next few hours; we were both going to work on it.

END OF TAPE I.