



1975

## Fragile Coalition Interviews - Corrected Transcripts - Cohen

M. Caldwell Butler

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Congressman William Cohen (WSC) of Maine  
June 17, 1975

DFS - This is the first interview with Congressman William Cohen of Maine on Tuesday, June 17. Present were Messrs. Lynch, Mooney, Shea, and Congressman Cohen. We begin at ten minutes after 4 o'clock.

WSC - I had just written an article for the Boston Globe dealing with the Bicentennial theme of "Allegiance to Whom?", which I thought might be of some interest to you in terms of trying to write something in 6 or 700 words which point up some of the lessons and some of the morals of the experience of impeachment proceedings.

I gave a speech at the National Jaycee's last February or March, which was inserted in the Record and I'll get that for you.

Let's go back to the Saturday Night Massacre in terms of what the impact was and my relationship with Elliot Richardson which was key to me and our relationship after he left office. We lived close together and I gave him rides to work periodically and talked to him. He had an important role and influence upon me just from our discussions. After the Judiciary Committee had passed a bill to create an independent special prosecutor, I wrote an article for the Washington Post about two days before it came out on the floor. They also wrote an editorial endorsing the article that I wrote, on why we shouldn't set up legislation to create a new special prosecutor. Much of that came about as a result of a conversation that I had with Elliot, just in terms of what the impact—what that would have on Jaworski and the proceedings at that stage. That would probably be a starting point for me because when the article came out, the leadership took the bill off the floor. Jaworski stayed on, I can get you a copy of that. David Broder came up to me in the corridor and kind of facetiously said: "I just want to shake the hand of the man who singlehandedly reversed the editorial policy of the Washington Post" because up to that point, they had endorsed the concept of a new independent special prosecutor beyond the ability of the President to hire and fire from that position.

DFS - Going back perhaps even three months before that when Drinan introduced his resolution on the 31st of July. . . .

WSC - That was typical of him.

DFS - Frankly what was your reaction?

WSC - I had no reaction, I thought it was typical of him to do. He has always been kind of outfront on a number of issues, perhaps in some cases proven to be right by subsequent events and this has proven to be one of them. But then I had not given any consideration

WSC - and it had no credibility at that point in my thinking... I know that he was a long time critic of the war, secret bombing of Cambodia, impoundment policies. I didn't really give it too much consideration, and I don't think it had any credibility at all, even within his own party or leadership until the massacre.

That brief article on "Allegiance to Whom?" describes an incident which had a great impact upon me - the evening of the disclosure of the 18½ minute gap. We were sitting down and having dinner and Walter Cronkite was on in the other room. I turned to my oldest boy for some reason, I don't know why. I've never discussed Watergate with him. He is very bright and intelligent and he is in the Little League and reading spy novels and things.

DFS - Is he the one who broke his arm?

WSC - Yes, and asked him what he thought, and without any hesitation, he said "I think he is lying." I looked across at my youngest son, who is very impressed with the White House and who has been to the White House and who did stand in tremendous awe. I was preparing a lecture to Kevin about the need to presume innocence and waiting until all the facts are in and not prejudging. Before I could get all of that out, (I was just putting my thoughts together and a little bit irritated at myself in not responding quicker than that) he broke in and said: "Dad, I wish we were living back in the days of Washington" which I thought was a terribly sophisticated statement for a ten-year old to make, and I couldn't respond to it, I couldn't say anything. I was afraid that if I should say that things weren't all that great back then, that I might lose him forever; that I would confirm the cynicism that was building up silently in a ten-year old boy and so that evening the meal ended in silence. Since that time I've tried to go back and reconstruct and reflect exactly why I was unable to respond at that time or didn't want to respond, I guess, and what the implications were of his statement going back into yesteryear, in looking at cherry tree and axes and honesty and so forth. The fact is that what was so important about the event to me was that throughout all this process when I had thousands and thousands of letters coming in calling me a traitor, a Judas Iscariot, and a number of other things that should not go in print, that voice was still there; the fact that the ten-year old boy had lost faith with the President and with the system. I don't know if we will ever recover him, but this was a concern to me. What he did was to remind me of the ideals that he saw in yesteryear. He had to go back that far to find some one who stood for honesty and I think it gave me a great deal of support during a lot of the deliberations when there were temptations to buckle in and be one of the boys and conform my conduct to those of my colleagues on the Committee on the Republican side.

- DFS - I think you were widely commented upon as the first Republican who leaned towards impeachment. Frankly, do you think it was justified and if so, how did you get into that particular image?
- WSC - Well, because initially the reaction on the part of the Republicans was that this was an ideological war and it was "them against us;" there was no basis in fact for the impeachment investigation; that this was being used by the Democrats solely to embarrass the Republican President that they couldn't defeat, and they wanted to take away that which the electorate had given him. And I didn't see it as that, I guess it's because I don't have much of a political background. I don't like partisan politics. I have never been part of partisan politics, even when serving on the city council, as a mayor, a non-political position. And there didn't seem to be enough concentration of what's right and what is really the truth. That they really didn't want to get the truth. There was always kind of a tension on our part that they are out to get us and I did not feel that they were out to get us even though there were some hard-core partisans. I don't think there is any question about it, but I found myself in a position thinking, should that prevent me from trying to do what I think is right? And I must admit that the firing of Richardson had a great impact upon me, because I don't think he would have resigned if he felt that Cox had engaged in gross improprieties which would warrant his dismissal. Other aspects, I guess, from my own training in the law influenced me. I did a lot of prosecution, I knew how the defense worked, and I just felt that during the course of the process that if we were really after the truth that it would come out and I would have no hesitancy to adopt procedures calculated to bring it out. I made that clear, I guess, initially when I supported Jenner. Railsback and I were, I think, his only defenders almost from the start. He got off to a very bad start initially and almost before we got back from Christmas vacation he was in trouble with the Committee and I think that Railsback and myself were the only two who would consistently stand up and say that you know that these things have got to stay in and that what he is doing is right. I think the other thing was the early vote on sending the subpoenas to the President when he didn't comply. The vote would have been a 19-19 split, and that was when I felt that I didn't really have much choice but to vote for it because I felt that many if not most agreed that the President had not in fact fully complied. Again most saw it as a political ploy and a setting up of the President for a future count or allegation of an impeachable offense and insisted that no Republican should support that. There was a long conference that afternoon, I can't recall the date, was it April, or March and I think most agreed that he had not complied. I made a suggestion that I send my own letter to the President setting forth fully why I don't think it's compliance. And they said no. Then I came back to my office and wrote that letter any-

way and submitted it that night. It went down to glorious defeat, 27 to 11. And then I came to the ultimate choice of whether or not I felt that there had been compliance and clearly it was no. I was disappointed with my colleagues, frankly, when the vote came down — they saw fit to say no as far as sending the letter and I didn't enjoy being in the position of being the only one, but given the alternative of saying yes, he had complied in essence, I really didn't have that much choice.

DFS - Another man has made the remark that Gerald Ford at his hearings for Vice President, had brought his life to the Committee, whereas Nixon had sent his lawyers. Do you think that's a justifiable dichotomy?

WSC - Well, I wasn't all that pleased with the Ford hearings, quite frankly. I think, again going back, you want to know why I was always pegged as the odd one, go back to the Ford confirmation hearings. I really don't think the Republicans were interested in going into facts dealing with the qualifications, because he was one of ours. They had known him, they were friendly to him and they had known him to be a good man and that was it. But, if you go back and look through the records of the Ford confirmation, I think that you would be surprised at some of the questions being asked by our side and even on the other side. In fact, I was criticised by some of my colleagues for the type of questions that I asked, and I can recall being rather tough on Gerald Ford in some of the questions, especially over the notion of taping. We had a rather sharp exchange at one point. I can dig that out, I saved that portion of the Ford confirmation where I was troubled about the judge. I guess that was really the first real point of discontent on my part with my colleagues. I was offended and outraged by the notion of setting up a meeting between a presiding judge on the case and offering him the directorship of the FBI. I felt that was one of the most serious allegations, frankly, that had come out during this entire time and I wanted to know what Gerald Ford's attitude about that was. He initially passed it off lightly and said, "Well, I don't think it was actually an offer for promotion, I think it was a demotion." I recall not being too satisfied with that. We had a restriction the first day, it was five minutes, and I didn't really have time to go into it with him, but on the second day, when we had ten minutes, I went back to that point. I said that I realized that he was just trying to inject some levity and I appreciated it, but really wanted to know what he felt of the ethics in that situation. He said he was concerned about it, but he didn't feel that it amounted to that much, as I recall. I guess I used that opportunity to make a little speech about what I thought about it and

I know that Hutchinson was not too pleased with my remarks. I got some static on the floor for it.

- TM - To you, was it similar to a juror acknowledging that a position from the federal government had been offered to him?
- WSC - Yes, I felt that a judge approached in this way was wholly indefensible. I carried on like Faust, I can remember. I said Mr. Ford, you expressed some regret that the prosecution went awry because it obscured the fact that Ellsberg stole government documents and had them published. I ask you about Mr. Erlichman visiting Judge Burn twice, arranging meetings to discuss his possible appointment to the FBI directorship position. And one meeting in which the President dropped in to say hello. Could it be considered, in your opinion, unethical or illegal tampering with the judicial process? I'm concerned with the ethics involved in talking with the presiding judge in the course of, perhaps, one of the major trials of this decade. Ford indicated, at the very least, there was a lack of discretion and perhaps poor judgment. And I said I would like to express my own reaction to this, it's one of the most singularly destructive acts of the judicial process that I can think of because I think it was calculated to influence the impartiality and neutrality of the presiding judge in one of the most historic cases of the decade. It brought to mind another quote, John Mitchell's statement — watch what we do, not what we say....
- DFS - In other words, it illustrates two points: your reaction to Ford's answer and also another reason so early on you were looked upon as —
- WSC - I guess I provoked some of the senior members of the Committee, on my side, perhaps, with that kind of question and did the same throughout the hearings on the Ford confirmation. I took a rather aggressive role in questioning witnesses and because I felt that it was treated as sort of a pro forma thing and no one was really giving that much thought to the historical implications of the 25th Amendment. We were not just dealing with Jerry Ford, whom they knew and loved, but what's the test we're going to use?
- DFS - McCall's magazine quotes your wife as saying you were "most" upset by the IRS evidence and by the Judge Byrne incident. Is that correct?
- WSC - Well, I had been involved in a case where the prosecuting attorney had a unilateral meeting with the judge to discuss an item and it went through three or four years of litigation and we finally secured a reversal at the circuit level, so perhaps I was a little bit more sensitive on that issue than some of the other members of the Committee. Others didn't see it as that. Chuck Wiggins, for example,

said "Bill, if you're right then no federal judge can ever be approached for a position within the government without being accused of compromising his position." I think you draw distinctions when you consider the Ellsberg case with as much notoriety as that had. I wanted to see him prosecuted too; he should have been prosecuted for taking and revealing government secrets, but we should do it within the letter of the law and the spirit of the law. So I wanted to see him prosecuted and I think that they interrupted the judicial process. It was one of the abuses that I found so offensive and in fact, I had even suggested that we should call Judge Byrne in to find out why he went to visit Ehrlichman after the initial approach.

- TM - Okay, you do recall February and March of 1974, when the Committee staff, the White House and the Department of Justice staff issued reports on "What is an impeachable offense." How and when did you arrive at what is an impeachable offense? Do you recall what that memorandum that circulated is?
- WSC - I recall. The first thing I read was the collected materials on impeachment. I read Benjamin Butler's definition and so forth, and read almost all the cases and commentaries Story, and everybody else. I think I became satisfied fairly early in the investigation that an impeachable offense was not confined to a criminal offense and I recall Jim Naughton came in one day and said "What's your Committee doing," and I said we are trying to define an impeachable offense. There are those who argue it must be strictly construed and I gave him a very long esoteric discussion of the polar extremes and there are those in the middle and I added light-heartedly that perhaps it's like Frost said about love, "It's indefinable but it's unmistakable," I'll know it when I see it. Well, the New York Times for consideration of space or out of malice, I'm not sure, cutoff my long dissertation and they quoted me as saying that impeachment was like love, it's indefinable, but it's unmistakable, and that was reprinted in every paper. It got to be a joke. So I learned a good lesson from that, not to make statements of that nature. I think that earlier on after reading the selected materials in the cases that I was open to be persuaded the other way. But I was personally satisfied that the meaning of impeachable offenses was not confined to statutory crimes.
- DFS - You say in your opening statement, quoting Somers in 1690, that it is extraordinary, something not lightly used. Do you consider it to be an integral part of the check and balance system? Extraordinary but integral?
- WSC - Well, it's the ultimate weapon, it's the ultimate resort that Congress has. If the abuses become so great there is no alternative. I suppose an integral part, but it's like the nuclear reaction capability that we have. You don't push that button until it's the very

end and I think that's the way we approached it, with a kind of fear that we all had about what the implications were.

- TM - In looking at this, is there a degree of belief when it comes to a standard of proof, clear and convincing, beyond a reasonable doubt?
- WSC - Yeah, I came to clear and convincing as a test. I thought it had to be more than simply probable cause for the reasons that I said.
- DFS - Was that even before Mr. St. Clair suggested that clear and convincing standard?
- WSC - Yes, I was prepared for it. I thought it different than a grand jury situation, particularly in view of the fact that was being conducted partially in public. This really was to be differentiated from it; it had certain facets of a grand jury investigation, but by the very nature of everything being publicized in the news, it approached civil proportions and I thought in view of the implications of what it means, you just don't lightly put a President on trial based upon probable cause. It has to be something more. The preponderance of the evidence would be the next test, I guess, but I went even further than that.
- DFS - You have said that there were two standards of judgment, the facts and the Constitution. Well, let's pretend that you have the facts and you have the Constitution — now about it if the American people had not agreed? In other words, that it was simply not sellable, wasn't so believed? Is that a third standard of impeachment?
- WSC - Not to me it isn't. No, in fact I had fully prepared myself not to come back to Congress. I don't know what the result would have been had the President not resigned and had this matter gone on or had I been asked to be a prosecutor. There was talk about that at the time.
- DFS - A manager in the Senate?
- WSC - A manager in the Senate, if there were to be a vote for impeachment. It had a violent reaction when that story came out back in my district. Saying it's not enough that he's a judge, now he wants to be a prosecutor. And what I said was that I would have to give it a very long serious consideration before I would ever agree to do something like that. Many people dropped off the emphasis that I had placed on it. I didn't



really want to do it. And it was looking like I would really give serious consideration to being a manager. It was pretty bitter.

DFS - Would you say that as a matter of fact between February, 1974 and the first of August, did the facts precede the theory or did you come, however unspokenly, to a theory of impeachment before the facts?

WSC - Well, first I started with the definition, in terms of do we confine ourselves to conduct which is criminal? That was really kind of an academic discussion. Because most of the allegations were criminal. But at least I wanted to have a framework in which to deal with what I would be looking for in terms of factual patterns fitting into that definition, so I started first with the definition and what I thought it would entail. Within that rather vague context, we then tried to assess how do these factual patterns fit within that framework. I felt that I really never had much doubt about the secret bombing whether that amounted to an impeachable offense, because I felt that there was Congressional complicity in it. Congress passed a resolution allowing it to continue for 45 days. I thought it would be ultimate hypocrisy to remove a President for an act which they concurred in substance. And similarly on impoundment, I felt that he had clearly exceeded his powers by impounding funds and in dismantling offices, but I also felt that Congress contributed to the fact by continually overspending and I really wasn't about to vote for any impeachable act on something that Congress had some complicity in. So those are the areas that I could weed out rather easily. The milk deal, frankly, was one that troubled me. It was even further complicated by the fact that I had received a donation from one of the milk cooperatives; I can't recall what the name is but we can get that. Gerald Ford was the one who helped arrange to get me a contribution of about \$3,000; I was in debt when I first got here. I recall talking with him one day on the floor and he said how are things going in Maine and I said fine, except that I owe an awful lot of money. And if he could possibly arrange for me to go on speaking tours or doing anything which would generate money from those who normally contribute to a Republican candidate. I needed help. Then I saw him two or three weeks later and he said: "Bill has anyone stopped by to see you about contributing something?" and I said, "No", and he said, "They will because I put you on a list of people who need support and shortly after that some people from the milk cooperatives came in. I didn't talk to them. I was going out on the floor; they sat and talked to my aide at the time and I got a \$3,000 a short time after that — a matter of a couple of days — I received a call, it was from a Congressman, I didn't know who it was, it was in the first two months that I was in Congress and I didn't know all the members — it was an intern talking the call from a Congressman and I picked it up and he said, "Hi, Bill, I understand you are interested in co-sponsoring a bill to increase milk parity" and I said, "I don't know who you have been talking to but you have got the wrong man, the

wrong guy. I have no intention in co-sponsoring anything." I hung up -- I came up fuming at the thing. I went out and talked with my aide and said, "Did you have any conversation about this?" He said, "No." I just did a slow burn and I expected to hear back on it, that a complaint would be made, that here we contributed \$3,000 to this man's campaign and he won't even support a measure to co-sponsor milk supports. I never did receive a call, it was just dropped. I filed disclosures of who contributed to my campaign and it never came up again until the Ford confirmation when there was a rumor that was being pursued by some reporters that Ford had been kind of a bagman for the milk industry and I had received a call since I was one who had received a contribution and I invited them in and told them the exact story that I told you and so they started writing it up at that point and it proved out that he had not in fact been a bag man. He didn't intercede in any way, he just put me on the list; this guy needs help and that was the extent of it.

I was concerned as an element of an impeachable offense as to whether or not they had in fact increased the parity as a result of receiving the pledge of 2 million dollars or whatever it was, I was concerned about the conversation between Connelly and the President.

- DFS - Would you mind, Congressman, in taking a look at number 4. Some of this may have a rather uncomplimentary ring. When we say political, we don't necessarily mean political in the sense of being bought, but voting one's district or having a popular support, but you already answered that, you didn't vote as you would think the people did but on facts and the Constitution....?
- WSC - Well, let's put it this way, the political situation was such, the Republicans were opposed to my position with very few exceptions, those people who had some trust in me as an attorney or how I had performed in office in terms of fairness. There weren't all that many. The volume of mail that I was getting after a while was such that I just stopped counting it. For a while there was just hundreds, thousands of letters that came in and we were keeping a tally of how many for and how many against. And I just reached a point where I stopped counting; I was satisfied that there were more opposed than for, I tried to go back and articulate the position without coming off as being arrogant and that I'm going to impose my own judgment and not take into consideration yours. I kept soliciting their views through my newsletter and my radio programs and so forth. But I tried to make it clear that in the final analysis that I'm the only one who could make that judgment. I had promised them early that either just before I had reached my decision or just after I would go back to the State and explain in some detail why I reached that conclusion. I felt that if I made the decision and I went back and I couldn't persuade them that I had done the reasonable and the right thing, then I didn't deserve to sit in Congress.

DFS - You did that on a Sunday night, as I recall --

WSC - That's right, but I told them this early, months ahead of time and it was a continual process of going back, news interviews and programs, trying to explain to them that I would try to do the right thing.

DFS - Your wife, recalled one of the less savory comments, "May a thousand camels relieve themselves in your drinking water."

Laughter.

WSC - Well, I'll tell you, the mail got so bad, that the staff stopped showing it to me, it was so vicious and violent, anti-Semitic, it was obscene. I got my share of rocks in the mail. But it was really of a violent nature. I got one threatening call. There was an ugliness throughout the mail. The staff used to tape some of the pungent letters and there was one of them which I thought rather compressed a man's anger and outrage and it was a quote of a very few words. I got his message!

DFS - How about the various media, for example Time magazine or Newsweek or you name it? Did you read any of these consistently do you think or did they have any effect on you or were they just for informational purposes?

WSC - I didn't read them other than when they were quoting me. I couldn't move outside my door and my phone never stopped ringing; there was always somebody wanting to know, what's happened today. -What are you going to take up today? I had a pretty firm rule that I would be happy to discuss anything I could publicly. I would discuss moods, I would discuss my own perceptions of things, but I would not discuss anything before the Committee. I wouldn't reveal any information to them that was not a matter of public record. I had a very embarrassing experience, shortly after we commenced the hearings or the investigation. We got these looseleaf volumes that John Doar was preparing. He used to have a summary in the front part, a plastic folder to set it apart so you will be able to take it out and close it down. I stuck the summary in the front part here and I was taking my books back to my office over in Longworth and I went through the door at the end of the meeting and I had five or six books and I was really struggling with them and there was a mob outside, and I just kind of pushed through and as I pushed through I felt something let go on my arm and I started to panic. I asked everyone to step back and I was really angry about it, and they all kind of got back and I looked around on the floor and I couldn't see anything so then I started to walk away and I said, "No, I better go back," so I retraced my steps back to the Committee room looking on the floor and saw nothing. And

WSC - I said, well, it must be my imagination. I went outside and got in my car and drove over to Longworth from the Rayburn building, I went upstairs and started to take the materials out and I looked and the entire middle section from the first summary of the second book was gone and I remember breaking out into a sweat at that point, saying "My God, you know someone is going to print that," It didn't contain any confidential information, ~~but it~~, because all statements would have a footnote 1, 2 or 3, which were contained in the actual tabs. The fact is that I was concerned about was my own credibility. That I would be labeled as a leak, that there would appear on the front pages and the very first or second night out that this ~~would happen~~ *al.* I ran back to the Committee office and I got them to open it up because all the rooms were locked at that time. We looked all over the place and we couldn't find it. I didn't know what to really think at the time. I really felt someone had stolen it, but I wanted to double check without accusing anyone. I couldn't find it, I tried to get a hold of Jenner. I didn't locate him that night until about 9 o'clock. and I told him what had happened and so he called security and they went over and they opened it up and they started the search and he got back to me about 11 o'clock, 11:30, 12, 12:15 they were still looking and he called. He had called Doar at that point and apparently had made a call to all the news media saying that the material had been taken and they would request that they not publicize anything that had been taken. Well, it never showed up, we scanned everything for days, looking to see if there was any indication that someone had some material, and it never showed up. I told Hutchinson the next morning the first thing about it, Podino was informed about it, I made a statement I guess the following day, but I was sorely embarrassed to say the least. From that point on, I refused to take my books outside. I left them at my desk and had them put away until the final weeks. I was so distraught about that whole episode that I felt very cynical about the reporters ~~and all that~~. I just felt that a first class reporter would never have done something like that; ~~that~~ it kind of soured me on the press. Let me get back to your original question, this is a little divergence from it. The only thing I looked for from the press is that if they quoted me, I wanted to make sure that it was accurate - that they would not take some things out of context. Aside from that I didn't read the long stories.

DFS - Now the very fact that the press singled you out being the new first Republican to favor impeachment - did that have any particular effect on you?

*It made it more difficult for me.*

WSC - Well, sure, it had an impact on me. I found myself during the course of proceedings taking a much more active role than most of the other Members. ~~When I look back through the questions now~~, I was ~~as always~~ disappointed with the quality of the questions coming from our side. If they are really interested in getting the truth, ~~then~~ they ought to pursue ~~these~~ lines of questioning. From my own experience, again as

*Certain*

WSC - a prosecutor when a witness didn't ring true then I usually went after a ~~witness~~. With O'Brien, for example, I thought he was lying. So was Bittman, in my opinion. But you<sup>we</sup> were kind of constrained, you only got ~~your~~ five minutes and there was one point during the questioning of O'Brien where my five minutes ran out and Butler asked that Coehn be allowed to proceed and Hutchinson said "no." The only reason that I got more time is that Trent was outside either making or getting something and he came in and I said "Trent (Lott) would you yield me your time." and he had no notion what was going on, and yielded me his time and I pursued from that point on. And plus it was embarrassing, I suppose, a little bit, that the members of the Democratic side were yielding their time to me. It's not always exactly a plus in your favor. But I felt that there were questions that had to be asked that were not being asked and I was going to ask them regardless of what the other people thought about it. And the other thing is, that knowing that you've been singled out creates counter pressures. The counter pressures being that you know that your questions carry less weight. Even though you may think that you are getting at delicate points that ought to be pursued, if they ~~have~~ already dismissed you based upon press reports, saying "well, he's been singled out", then you have the notion that no matter what the validity of your point, no one is paying attention during your side. But I just never felt satisfied with ~~the~~ questions being asked on our side. Or even on the other side for that matter. Waldie, for example, I thought, was always a very good example, but he was so partisan that even I couldn't accept his questioning to really get at the truth, but I knew that his questions would be dismissed just like many times mine would be on my side.

WSC - Let me try to clarify that I don't <sup>want</sup> leave the impression that my colleagues were less concerned about searching for the truth. That was my perception at the time, I think that I didn't fully appreciate in the past how partisanship had colored perhaps the debates and the performance of the Committee. There was a very strong undercurrent of partisanship in Congress and also in the Committee. I ~~have~~ never had come into contact with it and therefore, it had never troubled me. There were definitely partisans on the Democratic side, just as there were on our side. They were concerned about the truth but they also had this feeling that somehow that if this situation were reversed, and <sup>we</sup> they had a Democratic President and under similar circumstances you wouldn't have the impeachment resolution being heard by the Rodino Committee... That was always underlying.

DFS - I had one final question on the factors outside of the Congress, and that is your wife....

WSC - My wife is a very important factor--

DFS - Would you care to comment on that?

WSC - I think that you should probably talk to her.

DFS - We've been thinking of this. What's your idea, when we get to Hilton Head, of simply asking the seven wives with prior okays to have a group session - group or individual - much shorter of course - What would your reaction be to that?

WSC - I say fine. I don't like speaking for Diane. She is a small petite person with a backbone of steel. She watched all of the Watergate hearings and knew more of the factual information. I didn't watch any of the Watergate hearings but one night. I caught a portion when Krogh was testifying. Maybe just a flash of Haldeman. I didn't pay any attention to it at all, where she knew every detail backwards and forwards. She takes a very acute interest in national affairs and she reads about everything. She never tried to intervene but she is very strong. Even when the pressure got really tough, she was always there to say, "You did the right thing."

DFS - Once the Doar evidence began on the 9th of May, did you discuss the thing with her?

WSC - I never discussed the evidence as such with her. I would discuss some of the pressures that were generated from day to day. She attended most of the hearings that were open to the public. But I don't recall ever discussing many details with her. One night, after the vote on sending a letter to the President, I went out to have a couple of drinks with Rails (Railsback). I was pretty angry, frankly, at being out on a limb by myself. I was angry in the sense that privately they said that it wasn't compliance and when it came to the public vote, they voted no. I felt that they were putting me in a position of having been labeled a maverick and then being forced to then confirm it. And I was angry with Rails in particular? /laughter/. I just had to get out of that room. The reporters kept running up and they wanted interviews and I said, "no, I don't want to talk with anybody." So I ducked out the back door. I tried to go in the back door of the Longworth and the door was latched. Joe Pritchard was outside and said, "Bill, I think that they are trying to tell you something." So, then I had to go around up to the front door. In the meantime I got back to my office, Rails had called up and said come on to the Hawk and Dove and he was there with a couple of staff people and Bill Hermelin.

TM - Yes, I was there, too.

- WSC - I was pretty down at the time and I think that I had two beers and he was having a good time, kind of needling me. I just finally got up and left and went home. And I remember I got back about one o'clock, tiptoed up the stairs and I guess I said, "I've just done the hardest thing in my whole career tonight." "I know," she said, "But it was the right thing." I tried not to wake her up. That was a tough vote that night, as tough as the ultimate vote, I think. The President was saying, take it or leave it, on Monday night, all the material stacked up and there was always that party pressure and that peer pressure. It was the hardest thing to confront. People coming up during the course of the debate on something and saying, I understand that you're out to get him — you are the one leading the charge against the President. And I said, "Why do you say that?", "Well, just because" and I said "You mean because I'm trying to ask the right type of questions to get at the truth." But it was always that notion of, well, here he comes and of turning away. Isolation by the other Members. That was the most difficult point, I guess.
- SL - Which of all the evidence did you consider the most helpful and the most convincing?
- WSC - The evidence assembled? I think the material dealing with the agency abuse, was the most impressive. I wasn't at all impressed with our investigating efforts, I guess. The books were helpful in compiling everything, but I took the Watergate Committee materials and I related that, I read every one of those volumes. Before each session I would go back the evening before and read over the testimony in the Senate and then read what the Committee had done with its interrogation and then related it to the book. I read "All the President's Men" twice, I think just to find out anything that might be different than what someone had said in the Senate or something that we had, and had that all integrated. I don't know if I can point to any one thing that was that impressive.
- SL - Did you talk with any members of the Judiciary Committee at all or the staff people that worked on it?
- WSC - I didn't even talk to any members on our side — that was the strange thing about it. None of us really discussed this until the very end.
- TM - At one point you did engage with some briefings with Cates?
- WSC - Yes, at the very end. He came up to my house on a Sunday. I think that Diane was back in Maine with the boys. Ham Fish wanted to get together and we invited Cates, and we had two or three minority counsel there as well.

TM - Cates rode his bicycle out there!

(Laughter)

WSC - I was impressed ~~by the way~~, with Cates on his presentation during that long session; I made notes that day. I was impressed with him going back to the initial coverup facet of it, what facts to look for and what was persuasive and what was not. I was very impressed with his organization of that material.

TM - How important were the tapes, in your opinion?

WSC - Oh, very crucial.

DFS - Crucial?

WSC - Crucial.

SL - Could there have been a clear and convincing case built, having no tapes?

WSC - I doubt it. Without the tapes you have no transcripts, right? Without the transcripts you were left with John Dean and the President.

DFS - In your opening statement that Thursday night, you emphasized very, very much the strength of circumstantial evidence.

WSC - Yes, well, I was getting concerned with my colleagues on the floor saying "what the hell are you guys doing over there? All you got is circumstantial evidence." The layman's definition of circumstantial evidence is a bit different from that of a lawyers' and all I tried to point out is that most of your cases are built upon circumstantial evidence, almost every criminal case. You rarely have an eye witness to the crime and you build it upon solid inferences and circumstantial evidence and finally trace it to the accused. You rarely get that eye witness. It ~~just to answer this~~ <sup>was</sup> mounting criticism by some of my colleagues, saying "what are you guys <sup>^</sup> doing over there, you're taking so long, why don't you get this thing over with?" And of course, that was because of their concern that the longer that this went on, the closer it came to election time, and ~~which every~~ <sup>with every</sup> way they voted, they knew that they were going to damage themselves with a certain part of the electorate and that they would have that less time to repair the damage, ~~that they would have that little time they were pushing for a quick decision.~~ And we would say, well we have got to take our time, we have really got to do a thorough job, we won't be satisfied without that, and then the criticism came: from all - you've got only circumstantial evidence. Of course, Chuck Wiggins is the one, I think, ~~that~~ who was promoting this. But what I tried to do is to say that, yeah, we've got some circumstantial evidence, but circumstantial evidence can in some cases be far more persuasive and what I tried to do ~~is to~~ <sup>was</sup>



- WSC - point out the example of the Dean testimony. As we went out the doors after listening to the tapes on Dean we were ~~just~~ grabbed by every reporter, "Did he say, get ~~the hell out of here~~, or god damn it"? What was the expletive? The press was focused on the nature of the expletive. Was it "goddamn-it" or was it "Jesus Christ." And I think you had 38 different versions of what was said, and that is just about an example of the traditional fallacies involved in terms of eye-witness testimony. The old example at Chicago University during the course of a lecture the professor *produces* brought a scene where someone was shooting someone else and he asked them to recount exactly what happened and he had almost total diversity.
- DFS - I do that every spring.
- WSC - Of course, those of us who were involved in trying cases, know that reasonable people see different things ~~and so forth~~, but sometimes, you get a piece of circumstantial evidence which is far more conclusive. The snow was one analogy that I tried to demonstrate that <sup>point</sup> with and I found that the public reaction to that, even with the people on the *House* floor, was overwhelming. "Gee, I've never thought about that before, is that what you mean by circumstantial evidence?"
- SL - You already mentioned O'Brien and Bittner, what was your reaction to Mitchell?
- WSC - Mitchell - I didn't think was entirely forthcoming, I went up and talked to Mitchell during the course of his testimony, I had never met him before (I guess I didn't think that his statements were quite as flagrant as some of the others.) O'Brien I thought was lying. Especially after I started asking him questions, he kept turning to counsel to see whether he should answer and Bittman was a very sharp guy. Dean, I didn't think told the truth about that item that he forgot that he had destroyed.
- SL - Henry Peterson, what do you feel his position was?
- WSC - I guess I really.... he didn't say all that much. I didn't agree with some of his conclusions, but I guess <sup>as with</sup> any of the witnesses - I really wasn't too satisfied with ~~them~~. <sup>him.</sup>
- SL - Butterfield?
- WSC - Butterfield was a believable witness. Although I thought he jumped too quickly at the notion, that "I'm not Deep Throat". He called Haldemann the Vice President or some thing of that nature, second in command, and said that I'm not Deep Throat, he obviously had read All the President's Men very closely. But Butterfield was credible.

TM - Kalmbach?

WSC - Kalmbach — he was critical, but I guess I was just disappointed in him. This man looked to me like (when I used to go to the movies as a kid) the man who had the white house, a two car garage, a nice man really, and an insurance job or something. And yet he was going around with a black bag and passing out the ambassadorships, simply on good faith. I didn't really sympathize with him much, I guess. But I thought he was really truthful. Who else? La Rue — I didn't think was telling the truth.

DFS - Well, passing on to your own relationships to other members of the Committee. For example, say on the 10th of July and the 18th of July, there were two Republican Caucuses, I believe. On both occasions, I think, Hutchinson, for all practical purposes, said he just was unable to understand the Republican who could vote for impeachment. Was that pretty much directed — the first time — at you?

WSC - I felt so.

DFS - What was your reaction?

WSC - I was about to respond and Railsback said something. We were then again defending Jenner, or I was defending Jenner based upon something that he had done. He seemed to have a capacity to get himself into more trouble — almost deliberately at times — I was in the process of defending him. That was not the original understanding under which he was hired, we were looking for someone with academic credentials, and trial experience, we didn't look for someone who was simply going to be a partisan advocate. I think that was the point of the conversation on one of those occasions, and then it came back to what Hutchinson said, "I can't believe that a Republican would vote for impeachment. We'd better find out who they are." I know that was directed toward me. And Railsback stepped in and said, "Ed, I'm not sure how I'm going to vote. I might be one of those who votes for impeachment." It got even more heated. I think Chuck Wiggins broke it off at that point. We then had lunch, as I recall, at the Capitol Hill Club that day. Railsback, myself, Ham, and Caldwell had lunch at the Capitol Hill Club that day to talk about the implications of what Hutchinson had said. I think they were concerned about what he was saying at that point. Caldwell was not at the caucus that morning.

DFS - Would you comment on Jenner? So many people had taken obviously different views on him, do you think he did the job for which he was hired?

WSC - Yes, I do. As I understood it when he first came on, there was no talk of simply being a partisan advocate, as I recall. They had some apprehensions about Doar — that he would simply be what they called a "Kennedy-Republican." That was the phrase they used to describe him. And that he would not really be objective and would be a partisan and

WSC - they were looking for some one to balance him. There was discussion about his qualifications, academic credentials, or trial experience, and that he be very well known, reputed and so forth, so that it would enhance our own position. Railsback was responsible for getting Jenner. I think Jenner made some mistakes initially. He never should have made the mistake of giving his view on what was an impeachable offense. He at least should have met with us, and at least reviewed the material. But I thought Jenner made a bad error in expressing himself publicly and I think he damaged himself with the other Members of the Committee who wanted to get rid of him immediately from that point on, but felt that they could not. I think that he made a mistake when on one of the crucial nights he took off and went to Texas on a long standing commitment. That was the night that Doar got torn apart when Wiggins destroyed him and rightfully so. And Jenner wasn't there at the time. He was down in Texas making a speech, and making public statements, I think that he did enough things that could have warranted his dismissal in terms of public statements on behalf of his client which put him in a very difficult position in terms of representing us, serving as counsel yet going his own independent way. But I think as far as what he tried to do in the investigation, I think was the right thing.

DFS - Did the White House ever have any contacts with you during the spring or last summer?

WSC - There was one occasion in which they invited me to go on the Sequoia to which Railsback made his famous statement. Two occasions, one I turned down, the other time they invited me. There was one call I received, from the White House, about an appointment or some position in New England — as to who I would recommend for the position. I believe the call came from V.P. Ford's office.

DFS - Weren't you kind of disinvited to the Sequoia the second time?

WSC - Something happened, I have to go back and review that, something happened where I was called and they called back and said that no there isn't any room or something to that effect. And I had no intention of going anyway and then Railsback picked it up and said "That if you did go, it would be the first time the Sequoia ever travelled into shark infested waters." But I had tried to stay away from any connection because it might be misconstrued.

SL - Just how did you view Mr. St. Clair's performance?

WSC - I think that he did an excellent job up until the final day. And then I think that he made one of the worst mistakes of his career. And that was when, after making a beautiful summation, I thought it was one of the most effective I had seen, he offered a partial transcript of the tape that we were after and it just provoked outrage and I thought just wiped out the effectiveness of the presentation that he had made. I can't imagine why he did it, unless he was instructed to

- WSC - do it. As a trial attorney, I thought, he was superior to Doar or Jenner in terms of his examination and cross-examination in the manner he went about it, looking at it from a technician's point of view. Jenner I thought, laborious as he was, was an old trial attorney who had been through a lot of cases and <sup>you've got to</sup> dot every i and cross every t. And it was painful at times. Our side was shouting at him almost to stop but he kept going and going. So, it's a lot easier in terms of cross-examining especially someone like St. Clair who is very good at it. He is a very skilled cross-examiner. But there were some things that I just couldn't believe, like at one point he's asking O'Brien did anyone ever mention the words to you "quid pro quo," did anyone ever call this "hush money" and he said, "no sir, no sir." Then you had people like McClory behind us who was saying that we affirm what St. Clair just said that <sup>no one</sup> mentioned quid pro quo and no one mentioned hush money. <sup>O'Brien</sup> he has a copy of the transcript in front of him which clearly shows that they had been talking about this for a good many months. And then McClory asking questions knowing that we had been through the testimony. I just kind of had to look over my shoulder and say, "My God the transcripts are sitting in front of him!" That is why I asked O'Brien the question, "I've assumed that you have read those transcripts?" "Yes, I have." And I said based upon your reading of the transcripts do you still maintain that Ehrlichman didn't know anything about it? And he said, which section are you referring to? I just left it because I didn't want him to eat up my five minutes going through which section. <sup>know the</sup>
- man
- SL - In view of your, what almost happened early on when you lost some of the papers, what was your reaction to the constant leaks?
- WSC - I thought they would destroy the credibility of the Committee. I was concerned about it. I made public statements about it, ~~I think~~, to several reporters, <sup>when</sup> and they were asking about it, and I said that the Committee deserves to be criticized, it is an unfair thing that is taking place, and I always had the suspicion frankly, that the news media had access to the reports or the information before we ever did. There was time after time, after I would come out of that room and a reporter would ask me a question about which he had to have prior knowledge. He would then recite a line -- it was directly out of the transcript that we had just been reviewing. He had to have some prior knowledge. I just felt that because of the leaks and what happening that the credibility of the Committee was being seriously eroded. I might say that my staff took quite a <sup>bit of</sup> brunt too. People from the National Committee used to say to Betty that your boss is the only one; everybody else is together but your boss and this created quite a bit of pressure on her, but she is a very strong Republican and had to take a lot of aggravation. <sup>had</sup>

- TM - Now the mechanics of the coalition? It was difficult to try to put this together, I didn't really take notes as to who was present and who was staying away at any one time. But going back a little before the actual first meeting on Tuesday morning, to the best of your recollection what was the earliest possibly informal conversation that you may have had with any members of the so-called coalition about that type of activity?
- WSC - The first contact that I had was with Railsback. We had a little bit of a confrontation one evening when I got angry with him and walked away.
- TM - At what time was this? In relation to Monday or Tuesday?
- WSC - It was a little earlier than that. This was during the <sup>testimony</sup> course of the witnesses. We were actually having dinner with <sup>Steven</sup> Stan (?) and Rails. We had kind of a conversation and Tom at that point made some reference, "Who knows, I might be with you." And I won't repeat what I said to him at that time. But I said that I remember how you were with me back on the letter to the President. I don't put too much stock in where you are and furthermore, I don't care, it was that kind of a conversation. But that was probably the first meeting that I had any contact. We had never really discussed any of this among ourselves. Tom got concerned with an article by Pinckus. In fact while I was interrogating O'Brien, he leaned over to me after the testimony and said, "Gee, that's a great job, come on outside, I want to talk to you." After I had finished examining O'Brien, we went out into the side room, into <sup>Measures</sup> your office, and he showed me a copy of Pinckus' article pertaining to the turning over of information <sup>of</sup> to the grand jury. Pinckus had written an article that had appeared in the Post of the propriety of turning over grand jury information <sup>about</sup> Peter-son to the President. That was the first time Tom said, "this really troubles me." I don't recall talking about it, this was the first time that we had discussed any evidence. We didn't talk again until one time I was on the floor with Flowers and I said, "Somewhere along the way we ought to sit down and perhaps talk about it." "You know Flowers is the Democratic Railsback; they are very much alike in personality and life style. "Why don't we get together sometime and just talk about this thing." I haven't got the date, I'll have to go back and look for it, but that was a week or ten days prior to our meeting.
- TM - Was to you the coalition a natural event? An inevitable occurrence? That these seven would come together?
- WSC - I never gave it a thought. I did not really think about a Coalition I didn't think about being with anybody else or how anyone else was going to vote. I think that I had so steeled myself to say that what ever I do, I'll probably be ~~left~~ alone ~~or that there wouldn't be any-~~ ~~body else there who cared at that point.~~ I had reconciled myself to the fact that whatever I did that it was going to be difficult for me

WSC - back in my district, difficult to explain to my constituents, and as I said, I truly felt I would not be back. But what I was more concerned with was that I did what I felt was right. I didn't really care what others did.

I really didn't think about a Coalition. Two nights after we sent a letter to President Nixon we were on television — ABC network — McClory, Kastenmeier and myself and McClory was kind of backing away from his vote and saying "Well, I didn't think it was compliance, but I don't think this is the route to go." The whole thing sort of shifted at that point. I just felt that I didn't know how they were going to vote and I felt Rails was going to have a tough decision because of his district; Fish had problems with his father; didn't know what Caldwell was going to do, didn't even inquire. I knew that most of the other ones were going to vote "no."

TM - I think it was a Friday before the Tuesday when John Doar circulated the so-called drafts of different articles in a black notebook and I believe that was the first time we actually were able to see in written language the potential articles of impeachment. Do you recall your reactions to reading those articles?

WSC - Well, the first articles that I think I saw were Jack Brooke's. Which I thought were horrendous. As I recall I made a statement to Doar and Jenner one evening, a few days prior to the presentation that I felt that if there were going to be impeachable offenses they could only come under two headings, abuse and the other was the cover-up. Those were the two general categories; you must set these forth in the way of an indictment. In my own mind I had to separate the allegations into abuse, and the cover-up.

TM - Had you put anything in writing up to that point? Did you have any thoughts of about that time: "Here are drafts of potential articles. It's Friday, we're going on TV the following Wednesday. Any of these or some of these?"

WSC - I had assumed that was already done. When we got together we just talked in terms of which one we thought we could accept and which one we could not. But in view of the presentations by Doar from day one up until his final summation, it just did not occur to me that they didn't have something spelled out.

TM - Do you recall how you got to Railsback's office? How did you learn of the meeting in Railsback's office.

WSC - I think that you probably told me, saying that there was going to be a meeting over there between some of the people and I was surprised at who it was going to be.

DFS - You were surprised?

WSC - I didn't know who was going to be over there. I thought may be Flowers, may be Ray Thornton. I had tremendous amount of respect for Thornton - a kind of a mutual admiration society, I guess. He had agreed during the course of the hearings that if I ever wanted any time, he would yield his time to me. So I thought that Flowers, and Thornton would be there and I thought Rails, of course, would be there and myself and possibly Fish.

TM - What about Henry Smith?

WSC - No, I never thought Henry would be there.

DFS. - Or McClory?

WSC - No.

TM - This is the second interview with Congressman Cohen - present are Congressman Cohen, Steve Lynch, Tom Mooney, June 20, 1975, approximate time 1:45 p.m.

*We talked about*

WSC - ^ The special prosecutor last time, that's the copy of the article that I was referring to. The other thing, is I believe the Los Angeles Times. I'll make a copy of this - this is the article to the Globe, it will be coming out on the Fourth of July or on Nixon's the anniversary of ~~his~~ *his* resignation. But I thought it might be of interest to you. *his*

TM - It will, indeed.

WSC - I don't know if you need that material on the Ford conformation or not - the whole thing about Judge Byrne?

TM - I think that is - I think that lays a foundation for some of your thinking in that area. It started considerably earlier.

WSC - Let's see, pages 44, 45, 81 and 82 and 83 - that's some of the stuff on Ford.

TM - I'll get that out of my book, very good.

WSC - I think that covers the tone, the type of examination I would conduct.

TM - Yes, indeed.

SL - I think I recall running around trying to find that book for you during the Ford proceeding.

TM - We left off last time with the mechanics of the coalition. Going back to when you first recall being approached and by whom and how you ended up in Railsback's office and I would like to direct your attention, if I may to, section "Chronology" in your book. It was difficult to try to put this all together, as far as the diffezent meetings, whether or not they occurred in some instances and then who was present. I didn't write down the notes that I would have noramllly taken as a counsel to a subcommittee. Things being as chaotic as they were, I tried to primarily get the substance as far as what people were saying. Looking at Tuesday morning July 23, my recollection is that you were very definitely there and would you want to comment on your impressions of that first meeting in Railsback's office.

WSC - I guess, I was surprised at how many were there and who <sup>was</sup> were there. Obviously, Railsback would be there, I thought, Flowers were and possibly Thornton. I don't recall if I know whether Mann would be there, I didn't expect to see Butler there. Mr. Froehlich wasn't originally there at the 1st meeting, he arrived later. I just recall



WSC - the casualness of it, I guess. I walked through the door and I went and sat down behind Tom's chair. Someone flipped me, I guess it was you, flipped me a coffee roll.

TM - I did, it was a Danish or something.

WSC - A Danish, and I was sitting behind there. Tom had that long table in front of his desk where everybody was sitting down and I was sitting back

TM - And everybody gathered around you.

WSC - I just kind of was impressed with the spirit of the place, it was very casual, "well, let's just sit down and see where we are," it was very informal. If you shake it all down, I think that was Flower's expression, if you take a bag, upside down and dump it all out what have you got? Is there anything that we can agree on that constitutes an impeachable offense. I think that we discussed Jack Brook's impeachment articles that we thought were preposterous as drafted and could not be supported by any of us there. We just started a very informal way of saying what our arguments are and what is troubling to all of us and I think that is about all that I can recall of that meeting.

TM -- Did you expect to see somebody there who wasn't there? Other members of the Committee maybe?

WSC - Was Ham Fish there, was he at the first meeting?

TM - Yes, he was.

WSC - I know that we were. There was some concern on whether we should invite McClory. He was pretty inhumane of us to say no, but Tom felt under some obligation to inform him of what we were doing.

TM - On Wednesday, I think I made a mistake here. I definitely recall you being there Wednesday morning when the Subcommittee met and they started to hash out the different drafts, Wednesday afternoon it was very chaotic as you recall. 7:30 p.m. on Wednesday the debate was supposed to start. And they gathered in Railsback's office at approximately 2:30 p.m. The meeting started and in my initial reaction I did not include you in that meeting but on second thought, this comes back and I would like to search your recollection on that. It was at this meeting that we received a phone call from Frank Polk, wherein Frank said that he understood there are a number of members gathering and actually drafting articles and that he would like to advise us that he was drafting an article for Mr. Clory and wanted to know whether or not McClory could come over something and I went back to that group with that message and my recollection is that you weren't there at that time.

WSC - I think that I missed one of the afternoon meetings.

TM - I came back and I gave them the message, that Mr. McClory was working on an article too and whether or not he could join or what not and there was considerable discussion at that point but it was decided by the group that they would send over their work file at the date to McClory to look at, here it gets fuzzy.

WSC - I came in late ~~I think~~ that day.

TM - Okay.

WSC - I did come in <sup>he</sup> cause we were discussing how we were going to carry it out that night, ~~and~~ still working on the assumption that all this backup data would be available. We ~~got~~ <sup>went</sup> through article one and then we figured that we would still have enough time the next day to get through article two. We wouldn't finish the debate that evening on article one so we thought we would have some time as, I recall, not giving any thought to the strategy of Sandman.

TM - Do you recall when you learned that the Coalition had sent over to McClory a draft of its work? Did you learn that as you came in late?

WSC - I wasn't too concerned. McClory didn't matter to me, whether he ~~started~~ <sup>ever</sup> or what he did. I just figured that there was a wasted effort to begin with. It was a case of -- well, I don't want you to record this so I won't say it I guess.

TM - I think that it's already been recorded by other members, your reaction is what I'm after, your reaction to the news the draft of an article had been delivered to McClory? Do you recall any statement that you might have made?

WSC - Does someone else recall a statement that I made?

TM - Several sources. (very much jumbled talk and laughter) In particular you were very vocally concerned that it was let out to Mr. McClory who you thought at some point might have a tendency to disclose it to people that might not beas interested in what we were doing as you would hope.

WSC - I'm sure that I said something, but I can't remember what I said though -- what did others say that I said?

TM - Well they say that you actually said that you were very alarmed that when it was sent to McClory it's as good as printed in the Washington Post the next morning, you said it's as good as out, it's public.

WSC - Why, when McClory didn't want any part of that particular group. Should we communicate it to him. That just troubled me. I guess.

TM - Do you recall being at that afternoon meeting?

WSC - Only briefly. I know that I didn't go on time.

TM - I know from my recollection you came in late. You came in late and you nodded and you were there working for awhile and then you had somehow learned, discovered that the McClory had received the draft. And my recollection that at that point you expressed some discomfort at letting that out.

WSC - I'm sure that's true. As to what they say I said, I have to reserve the right to disagree. Tone it down, I don't know how we are going to write this thing up but he was not one of my favorite people on the Committee. I was upset with his attitude during the course of the examination that we talked about last time where O'Brien would make a statement that he thought it was the first time that Ehrlichman had learned any of this and the transcript is sitting there and McClory is asking him a question, confirming his impression that Ehrlichman was just getting into it. That sort of question offended me, I guess.

TM - Going down through these meetings, do you ah, there were two evening meetings, dinners, that you had at the Capitol Hill Club. The first I do not have you listed as being present, Thursday, July 25th, this was after almost at the completion of debate, but I think that debate was still going on and prior to the Friday dinner that was so chaotic. What we were doing at this dinner was putting the final touched on article one; Hogan was there for the first time, Frank Polk was there for the first time.

WSC - This isn't the night that Diane and the boys were with me, was it?

TM - No, I think that was the chaotic night.

WSC - That's right. I don't think I was at the meeting before then.

TM - Then the third one, Friday morning you recall, the Sarbanes Substitute was introduced and all afternoon on national TV, Mr. Wiggins and Sandman were attacking the substitute. At 6 o'clock the full committee recessed for dinner and we moved over to the Capitol Hill Club. Would you just give us your personal recollections of that meeting?

- WSC - As you say, it was fairly chaotic and the group was in disarray. It had been routed by Sandman and Wiggins and I thought justifiably so; I agree with what Sandman was saying. I was pretty disgusted with our staff that to think we had gone through this process of drafting these articles and had nothing to substantiate the points. There seemed to be no response that anyone wanted to develop at that meeting, and I think that finally I said well "Damn it I'll draft article one myself if I have to stay up all night to do it or whatever it was going to take, but it ~~better~~<sup>will</sup> be ready by tomorrow." I did say something to that effect.
- TM - Oh, you did indeed. You looked over at me and you rattled off to wit and etcetera.
- WSC - I just couldn't understand why they had not done this -- why we had been laboring under the misapprehension it was going to be done and we basically were looking quite foolish. Some members wanted to say they are taking the wrong position but I felt that Sandman and Wiggins were right.
- TM - Did you feel that the Coalition or its work product was in danger at that point?
- WSC - I thought the whole thing was in danger at that point. And it was a question of being publicly and nationally embarrassed. That you go through a nine-month investigation and then have Sandman who hadn't said a word during the entire nine months suddenly say <sup>well,</sup> where's the evidence, will you give us an example. If you had to indict a man you would set forth a b c, give such and such, why do you say that he's abused his powers? For example? <sup>And just</sup> fundamental law, I think, that they were raising and we weren't there. One of the things that I had always prided myself on as a practicing attorney, I was always prepared. Always did the work myself, here I got in the situation that somebody else was doing the work and it wasn't there. And we were at bay. I wasn't too happy about it.
- SL - You talk about the staff, it is really amazing but I think that they got to that point and didn't provide anybody with any information. When you wanted to go to somebody, who did you have to go to, just Doar and that was it, could you have called someone right away and say listen we need this or who are the experts in the area?
- WSC - I never really had much access to the staff at all. I went over I remember, a number of occasions to the headquarters and they would provide me with various books that were there but I never really felt much<sup>er</sup> liberty to call on the individual members for research at a given point or whatever. I pretty much relied on Doar's presentation, what he had there. The interviews I went over and read myself and also relying on past testimony of the witnesses, I didn't really rely on the individual members.

- SL - Some critics have said one of the problems of the inquiry staff, is that Doar was so much in command, that really everything had to go through him, every decision that was made, do you think that was one of the problems then?
- WSC - I think the decisions should <sup>have</sup> be<sup>en</sup> made by him. I don't disagree with that, I question some of his judgment from time to time and I had doubts about what he was doing but I really didn't question his organization methods. I thought he was pretty stubborn; once he got on a point you couldn't really shake him. As you noticed throughout the hearings I tried to get him to attach something to a subpoena and he refused to do it. Ans then he forgot, he said he would do it one time and forgot to send them in another envelope and I said would you please send in another envelope a copy of the items for the justification, and he forgot to do it. He was stubborn in that regard.
- TM - Before we move on any further, just one more point about that Friday dinner, do you recall for the record first of all, your wife and children were present. Do you want to identify them?
- WSC - Kevin and Christopher and Diane.
- TM - Do you recall the resolution of that meeting? It was, you indicated chaotic--
- WSC - It was angry and frustrated. The members had got <sup>ten</sup>stung and they didn't really know what to do. Who was going to take what, how do we respond to it, we got to go back on television that night, how to cope with the assault being waged.
- TM - Do you recall the alternatives developed, the plan if any?
- WSC - The plan was that the Doar staff would come back in the morning with justifications for the bases for the article and in the meantime we were to fend as best we could for the rest of the evening on national<sup>wide</sup> television. Yeah, that was the only plan. I had gotten to the point wher I said, "Look I will do it myself, I intend to stay up all night, I can draft article one to substantiate every portion." I was prepared to do that. I was so mad. I just felt that it was a real snafu and that ~~was~~ I was number one, embarassed, <sup>so</sup> I was one of those who was working on it, was seen and had been perceived as supporting the articles and yet there was nothing there to support it and had I known that they were not prepared, I would have done all the work myself.
- TM - Do you recall the tactics that were developed later?
- WSC - Motion to strike?

- TM - The motion to strike by Flowers. Did that come out of the meeting do you recall?
- WSC - We had agreed that night that I would be given article one, I guess one facet of it.
- TM - Yeah, it was about nine sub parts, I believe.
- WSC - We just agreed generally that we were going to divide it up. We didn't see what the justifications were, we got them first thing the following morning, but nothing that night. Saturday, I have to go back to my notes to find out what time in the morning that I came in. But I got those in the morning and then I went over them and changed ~~them~~<sup>them</sup> somewhat. Then we agreed that morning upon the strategy. We assumed that Sandman was going to insist on his motion, then they would yield to me. ~~Then~~ when he backed off, Flowers picked it up. And they just yielded to me,
- TM - Do you recall a meeting in Railsback's office, Saturday, July 27th between 10 and 11:30? I believe Hogan was present and Polk.
- WSC - Hogan was at the first meeting, wasn't he? ~~He wasn't there.~~
- TM - My notes indicate that Hogan never joined the group but he made his press conference.
- WSC - One day earlier, Tuesday.
- TM - On Tuesday, the first day we met, and he never joined the group until Thursday evening for dinner, at the Capitol Hill Club, the first dinner.
- WSC - I didn't get to that dinner.
- TM - You missed that dinner, to my recollection. Do you know why you missed that dinner, do you recall?
- WSC - No, I don't recall.
- TM - Let's go to that Saturday, I believe that was a meeting on Saturday following the Friday which we had taken the beating on national TV, Railsback's office, I believe, to work and discuss the actual drafting of article two.
- WSC - I don't think that I was at that -- I didn't really have that much time. Once they had divided up the work on the part of the Coalition between Ham Fish and Jim Mann and me and Ray Thornton, I don't recall my working <sup>with the group</sup> I really don't work a great deal with anybody else on anything, rather alone.

TM - I've noticed that over the years.

WSC - Over the years, I guess ~~I personally~~ out of habit I tend to be a loner most of the time and I just do not get involved in work groups, work group activity. So maybe that was it. Once I knew what I had to do then I just assumed that everybody would do what they had to do on their own and I didn't need to be there, unless it was absolutely necessary for me to go, I don't think I did and that's probably been true with everything I've done here. Unless I really have to do it, I don't like to sit around and engage in ~~philosophical~~ <sup>procedural</sup> discussions, I knew what I had to say and if they needed it fine, but other than that I've got other things to do.

TM - Before we move off of this issue, just the adjective has been used to describe the coalition as "fragile."

WSC - That's Railsback's. You recall he used that the first time during the discussion on Article III and on Cambodia. He ~~is~~ <sup>was</sup> a member of that "fragile Coalition" and had some second thoughts, something to that effect. And I recall I spoke shortly thereafter that as far as this member was concerned that coalition wasn't very fragile and that no matter what happens with the article I intended to remain.

TM - You know I don't recall that, really.

WSC - Oh, yes, that's from the debates, I didn't agree with that notion that it was fragile and furthermore it didn't really matter to me whatever it was. When I walked into the room I was full of surprise and a little bit of relief saying that at least you're not alone and there are some other people who share your views as well. That is always comforting. But by that point it really didn't matter to me whether Railsback stayed in or stayed out or what anyone else was going to do, I had already resolved myself as to what I was going to do. And I just didn't want Tom to ~~use~~ <sup>use</sup> the characterization of ~~being~~ "fragile."

TM - Number 11 deals with involving drafts of articles one and two the last week, and we've got primarily the project down at Hilton Head, when the group gets together and try to discuss the drafts, some of the thinking of what was going on --

WSC - Well, doesn't Jim Mann have copies, we each have copies and they were all initialed and we turned them in <sup>'cause</sup> I wanted mine back.

TM - I've got a couple of yours, with your name on them.

WSC - Now that you remind me of it, this was probably my reaction to sending over to McClory that here we went through this whole process of turning the drafts back in, initialed them and make sure that we keep them in one spot, <sup>so</sup> it's not disclosed and then they turn around, after we go through all

- WSC - this work and send a copy over to McClory who wasn't a part of the group and I thought that was kind of inconsistent to say the least.
- TM - Maybe just one other point in recalling the final week, the intensity of the work, the pressures, the press, the phone calls, we may have covered this a little bit earlier but just a comment on the pressures, time wise and otherwise, that you may have been under that week?
- WSC - I would have to go back and look through my notes and my day-books in terms of what I was doing during the course of that time. The pressure was building up following Jenner's statement on the preceding Thursday or Friday?
- TM - When was that Steve?
- SL - The Saturday, the 20th, after Garrison was through with his presentation.
- TM - The 20th of July.
- WSC - I guess my own position at the time was one, I was disappointed, I was angry, at what happened those final days, Railsback and I came late to a Republican Caucus, we walked in and were advised that they had just taken a vote to replace Jenner with Garrison as counsel and each of us said, please record me as being against that, but we were the only two, Ham Fish may have been the third, but I think that we were the only two that said no.
- TM - There is no record of that.
- WSC - No record of what?
- TM - This caucus, wasn't it a Republican Caucus?
- WSC - I see what you mean, but that's what happened that morning. And when Garrison made his presentation, I can recall making some public statements about it. The press came and <sup>said</sup> what do you think about this -- I tried to gloss over it without getting into any contest on it. But the whole shift of things during the final days in terms of what was taking place, built considerable pressure I thought. I've really got to go back and look at my notes on what I was doing. It would be more helpful I think. As far as the pressure, I wrote my speech the night before it was given. I was up until about 2:30 or 3 o'clock, as I recall with Diane, and just sat up and just talked to her on what was going to take place. I think she went to bed around three o'clock and then I started writing it and then that's when I started reading, ~~and~~, I had a copy of the Federalist <sup>papers</sup> and I was reading through ~~that and was going back through it.~~ And I started writing about 4:30 or 5 o'clock in the morning.



- TM - Where did you pick up the idea of the description of circumstantial evidence, of tracing footprints through the snow?
- WSC - Oh, I had a long talk with a former employer of mine, Thomas Lambert, the American Trial Lawyers Association, he is the man that I talked to. He is probably my closest friend. I had called him in the past about getting advice about Jaworski, for example. Tom is one of the top prosecutors in the Nuremberg war trials, and he was an outstanding man at Nuremberg, he was a Rhodes scholar, he was the president of a law school down in Florida when he was 26 years old. Just an outstanding man, the most eloquent man that I've ever heard speak. The most gifted orator, I think, in the country. Anyway, I spent a year and a half working with Tom and from time to time we call each other. And I called him one night and it was late and just stayed on the phone and talked to him and told him what it was like down here and we had kept in touch from time to time. And we started talking about circumstantial evidence and going back, I think I recalled to Tom that classical example he used to give of circumstantial evidence was by Thoreau "when you find a trout in the milk." We talked for an hour and a half just dealing with philosophy basically and Tom is really a great philosopher. We didn't discuss any facts but only philosophy that night and the whole discussion of circumstantial evidence evolved into a long conversation.
- TM - After the vote and prior to the release of the last Nixon tape, as a lawyer, anticipating the Senate trial, did you feel that the case was defensible?
- WSC - Yes, I felt comfortable with making that presentation to the House without that tape.
- TM - And now what about the Senate? Going to trial in the Senate, actually?
- WSC - In the Senate, I would have reviewed the request for the tapes and had insisted upon them; failure particularly in view of the Supreme Court's decision, to turn them over, I thought would have warranted negative inferences. I did before anyway but it was even more clear-cut after the Supreme Court decision. But I felt that even without that particular tape the case was provable.
- TM - Were you approached during that particular time as a potential manager?
- WSC - Bob Eckhart, as I recall, on the floor one day said he wrote an article for some local magazine and they asked him who he would recommend as prosecutors, the managers, of the bill if it ever went to the Senate and he said, "I hope that you don't object but I recommended you. You were one of those that had the type of qualities that we were looking for" and he went

WSC - into a very complimentary dissertation of what they were looking for. Who would make a good manager and what qualities. That's the only suggestion that came; most of it came from reporters. But no one ever asked me and I didn't inquire. I didn't really want to be asked, just avoided the whole issue. I said that I would have to give it long serious thoughts but I'm not inclined to, and then some people picked up that as saying that I would give it serious thought, they just misinterpreted it, saying that I was looking forward to doing it and I wasn't. I didn't want to do it.

TM - What was your political situation in Maine at that time?

WSC - I guess that it was unpredictable at that point, prior to his admission. I think I had very high approval rating the first year in Congress and I still had one last year, even after the thing was over, so I knew that I had strong approval with what I was doing and I had very low disapproval, very little negative comment. And I just had another one done, confidentially, and I have about a one percent disapproval. So that's very low. But within the party, itself, it was pretty bitter.

TM - Did you say bitter?

WSC - Bitter. The letters were running against impeachment. I stopped counting after awhile, I just reached that point where I said that I'm not going to get into a tallying contest. If I had to guess at it, I would say that the majority were opposed to impeachment. Of the letters that I received, the sentiment expressed to me, I think, that the majority favored resignation but they were opposed to impeachment. What I had done all through this whole period saying that I would make a judgment based upon the facts and the Constitution and that even if 60% (I remember using that figure) were opposed to impeachment and the facts warranted, I'm going for impeachment. I would vote that way. But if the facts didn't measure up, then I wouldn't. I just said that I hope I can come back and explain to you what I will be doing or what I've done and that I've done the right thing and if I don't, then don't send me back. I went to a Republican Convention and spoke at the Convention. One woman was down on the front row and said, "Have you ever heard of William Pitt Tesseden" and I said, "Yes." (You know Tesseden is the one who participated in the Johnson impeachment. He was from Maine. He voted against impeaching President Johnson.) And she said, "Have you read Him?" And she was there shouting, and I said, "Yes, I have." And she said, "Well, do what he did." And I said, "Well, but he voted against his party." And she said, "That's not what I meant."

Laughter.

SL - Did you go on TV, statewide, in Maine?

WSC - Yes, I went on a statewide telecast. It was a very interesting experience. I had been getting increasingly run down. I had averaged only about three hours of sleep a night for almost two months. In fact, I didn't go home for dinner one night for almost eight or nine weeks. I was always at the office going over material or going over to the headquarters. I got quite run down during this time, then when Saturday finally came, after the vote, I had promised the people that I would return to Maine and explain to them my vote. And so I went up on Sunday and I met with the Bangor Daily News editorial board. I went in and all three networks, I guess, were up there and they were crawling all over each other, bumping into each other, fighting. An actual fight almost broke out between cameramen, and we went into the editorial board of the Bangor Daily News and I explained to them my vote. Then later that day Diane and I took a plane together to Portland where I was going to go on statewide television and I had a very bad headcold at that point. We ran into some bad weather and the pilot came down rather quickly and it popped this watch I had on. It popped the crystal on my watch and all of a sudden my ears just filled up and I couldn't hear anything. It completely filled my eustachian tube and my temperature went up to about 103 and I couldn't hear anything. I lost my balance. I had no sense of equilibrium. I was very shaky. Well, there is nothing more un-nerving than to be so plugged up you can't hear. I couldn't hear my own voice; I couldn't hear what I was saying, I couldn't even hear a hum, nothing. So they had all the major networks there plus statewide television and there were some people in the audience, and I went on that night to give that speech. I should probably give you a copy of that speech I gave in Maine, it is somewhat different than the one I gave the night before or several days before, and there has been an analysis done, by a student at the University of Maine, studying English, or speech or whatever, picking that speech apart. I guess not picking it apart but analysing it, to determine what I tried to accomplish. It wasn't too far wrong. But back in Maine, I reduced everything down to the level of the Governor of Maine. In fact I was going to include that in the first draft I had written. I was going to give that one from the rostrum over in the Committee, but I decided there wasn't enough time to get that all in. I was very conscious of the 15 minute limitation. So, I deleted it. I think that Hungate used something similar to it. Yeah, I remember grinning to myself saying, son-of-a-gun, I was going to use it and I'm glad that I didn't. Because Hungate came a long time before I did, so I was just as happy that I didn't. That was in my first draft, so I when I went back to Maine I put it back in. What I had before and changed it somewhat. What if the Governor did this, this, this, and this -- what would your reaction be? It was very well received.

- WSC - I was nervous because I couldn't hear and I couldn't tell if my voice was loud enough. I was perspiring rather profusely at the time. It was a very uncomfortable feeling, the knowledge that this was my statement to the people of Maine and I couldn't hear it. It unsettled me, but it was well received I guess. It switched everything around as far as public attitude was concerned.
- SL - Do you remember on the day before, the actual vote, do you remember your immediate reaction?
- WSC - Let me come back, Steve. I remember I felt so bad when I got back here, it was on Monday we were bringing up article two, and I can recall that there was one point where I found myself getting a bit strident, which I rarely do. I hadn't done that while I've been down here. But I recall during part of the debate on Monday I got into that bit, "Isn't this amazing, isn't that amazing." I was being overly sarcastic and I was getting so fed up some of the arguments that were being made. But normally it would not have gotten to me. The problem was that I could hear just a little bit that day; I had to do some lip reading, I couldn't really hear everything and I was pretty hoarse at the time, bad voice, felt lousy and I think that contributed to my stridency. I felt bad about it, and I said something about the American Gulag Archipelago. I think that was on Monday. I think there was a little bit of over statement there, but I had been reading that book and it had come across. There was a section in there where Solzhenitsyn starts talking about the fear that was being generated by the police tactics in coming to the door and dragging the citizens out and after awhile, he said you just became so apprehensive about when they were coming, you wait and wait, you finally thank them for coming to end this kind of terror. There was something similar to that in All The President's Men when a secretary went out to that lunch with Woodward or Bernstein and the fear she experienced just being seen with one of them and when she returned the word had already gotten back to the White House that she had been at lunch with one of them. It was that kind of thing. I think it struck my mind that here are the seeds, where you're being watched constantly and that's what prompted that statement about the faint specter of an American Gulag Archipelago. It was a bit overstated, I think that was just because I was irritated, sick.
- SL - Do you remember your immediate reaction right after the vote, that Saturday night? It's interesting in a couple of interviews so far of the members of the Coalition, they said one of the things that struck them was that some of the members of the Committee were acting, in other words they had been

- SL - preparing for quite a while for the TV cameras for that vote, and that sort of upset them at the time —
- WSC - I felt that was true. I wasn't one of those who cried. I guess I felt like "the deed is done" type of thing. Measuring up to this, what you had to do, doing it and not feeling particularly happy about it. Kind of asking "why did I have to be in the middle of all this. But it's over and I'm satisfied that I did the right thing." I had no regrets about the decision itself. I guess it's something you come to at the end of a long ordeal and it's finally over. And the hardest thing is to get over the first step I guess. I guess we were all struck by the historical impact that it was going to have, the historical and contemporary impact. And you are saying okay, the deed is done. It is kind of a sense of relief that you made the decision and it's done. Now it's irreversible and it is over. But I felt that there was an awful lot of acting in terms of the members of, not so much on our side but on the other side, there was no acting on Chuck Wiggins part. He really deeply felt sorrow, and when his head dropped when he heard the vote, that was Chuck Wiggins. But some of the hard partisans on the other side were feigning. I thought that their emotions were inappropriate. That may be ungracious on my part. You just know that there wasn't too much room for sympathy or empathy or anything else for Richard Nixon on their part.
- SL - We were asking about article one and two, now what about article three?
- WSC - You mean McClory's article three?
- SL - Yeah.
- WSC - I had no intention of supporting that because I just felt that you can't rarify a failure to comply into an article of impeachment. If we had cited him for contempt, which we didn't, then I think it could have been an article of impeachment. But I had preferred and had announced for some time all along that he had failed to comply with our subpoenas and I would simply draw the negative implication that the information was damaging and that would be persuasive with me. But unless we were willing to bring a citation for contempt so that the House could pass upon his failure to comply, then I just think we could not raise it to the level of an impeachable offense.
- SL - In your assessment of the various offenses presented, what role did the offenses of past President's play?
- WSC - Well, none. You mean Andrew Johnson?
- SL - Any of the past Presidents.
- WSC - You mean what action on the part of all past Presidents in the field of abuse and so forth. It really wasn't a relevant fact to me. I had lots of mail on this issue saying, "Look at what Kennedy did; look at what Johnson had done." And I said, "Yes, that's true, but is

WSC - I said, "Yes, that's true, but is that the type of conduct we want to ratify and say these are

- WSC - the standards which we would hold up for our children or ourselves as the type of conduct that we want to let officials engage in. What was done in the past really didn't have a substantial bearing for me on this.
- TM - Do you think it possibly has been say from FDR's time a gradual build-up of Executive power, there has been somewhat lessened because of this exercise of impeachment. Do you feel that there was a concentration of power?
- WSC - I think that there has been a growing concentration of power ever since FDR. That is one of the reasons why I would not have voted for impeachment on the impoundment issue. It wasn't so much the President's usurpation of powers, it was Congress yielding it up, turning it over. I just felt that there were some abuses in past administrations and if there had been an impeachment article, it might have warranted their impeachment as well. But I didn't think that whatever they had done in the past was dispositive of what standard we hold this President to. We are not talking about a retroactive application of unfair standards. Because Kennedy may have abused his powers that simply didn't decide the question of whether or not the President has abused his power. We have lost control of our appropriations process because we don't have a system; only last year when they couldn't overturn the vetoes, they decided to pass the budget reform act. I didn't think we could turn around and impeach him for what we had some complicity in. So the role of Congress in all this was very important to me. They also had the 45 day resolution which allowed him to continue to bomb Cambodia, which I voted against. I voted to have an immediate cut-off of the bombing and that failed and Congress went with the compromise, but I felt that even if there had been some secret bombing, if we had knowledge of it afterwards and still gave it support, we couldn't very well say that the President should be removed.
- SL - Do you think as a result of the inquiry future generations will have a clear definition of an impeachable offense?
- WSC - I'm not sure that there will be any clearer definition. I don't think we came to a clear definition of an impeachable offense, other than the general statement that it is when you have abuse of power granted or usurpation of power not granted. There are some broad guidelines. I think it will serve as a sobering thought to future Presidents. Remind them that power is there and that it can be used if they engage in similar type of conduct.

- SL - Has your opinion about the news media in the country changed as a result of your experience?
- WSC - I don't think it's changed much, I think it's reaffirmed my original opinions. I think it's slanted. I think it was slanted during this.
- TM - In what way?
- WSC - I think there was a bias toward impeachment. Or against Nixon or whatever, it was there. I think that there are more liberals than there are conservatives in the media located here in Washington. I won't say it reached the point of being completely unfair but it was and is somewhat biased. I find it in my own State too at times but I think there is a definite bias toward the left and not to the right.
- TM - Could impeachment have occurred without the press?
- WSC - No, it could not have occurred without the press. As a matter of fact, impeachment would not have occurred at all but for a good many other factors involved, the press being one of them. It would not have occurred without the Senate Watergate Committee. If you stop and think of what we did in terms of our investigation, we did very little. All we had was a compilation of material that had already been gathered by the Senate Watergate Committee. If you take away the Senate Watergate Committee, if you take away Judge Sirica, who I think even went beyond the bounds of propriety in some instances in getting at the truth of Watergate, I think if you had any other judge you probably would have had a different result. Not too many would have handed out a 35-year provisional sentence to make sure that someone talked and told the truth. If you didn't have the Supreme Court Ruling on the necessity of turning over the tapes — that's another factor I think that lent a lot of weight to it. I would say that without all these other factors you wouldn't have had impeachment on the merits of what the Committee did on its own. It would not have voted for impeachment. The media was necessary I think in terms of the coverage. It was an educational process to come from the thought of impeachment at one time being the equivalent of capital punishment of a President. The initial reaction of people talking about impeachment over that long period, constantly writing about it, hearing about it, built up a certain credibility because the more you talk about it the less dangerous it seems in terms of upsetting the stability of the country. The more people heard about it and learned about it, and read about it, the more acceptable the discussion of it became. And no longer was just something for cocktail party talk by the elite. It became more familiar to the people and less threatening.
- SL - What benefits do you think came out of this for our system?



WSC - Perhaps it's too early to tell, but I think it has had a good effect upon the country as far as what the meaning of the Constitution is and redefining our allegences. That's what that article I gave you is all about.

TM - Why did you wait until May of '75 to make a decision to tape your recollections and your role in the Coalition?

WSC - Well, I think it's going to be important looking back, 50 or 100 years from now. As we look back over the Johnson impeachment for some illumination and help and guidelines, and so forth. I think that's important — an important part of our history that the public understand how this all came about. I told you I'm writing something of my own because I want one day to disclose how in my mind it all really happened, into what everyone else saw and all the public posturing, but how I think it all came together. So I think it's important, it's important that someday someone have this. I'm not sure that now is the time as far as I'm concerned. Because I think it would be lost in much of the junk that has been written about Watergate and about impeachment and that is not what I want. I would like to see someday that each of us write our own stories as how we came to our separate versions of the Truth.

TM - Very good, thank you.

WSC - Okay.

END OF TAPE THREE

When corrected group interviews  
copied only pages w/ corrections

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].

AS' was the  
Judiciary  
Committee  
meeting



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~~ <sup>impeachment</sup> [?], 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

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 committment 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 proably 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 ahd 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 voiting 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 waan'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 Tom 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.

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~~ how 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 a~~ part ~~of~~ this, I had to somehow hold Rails....  
have in ✓

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~~ <sup>Breakfast</sup> Sperlins. 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 haven'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

Delete ref.  
to Hutchinson



Tape I, pll

- 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."
- ↙ Ehrlichman*

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~~ <sup>the</sup> other way around, that if a Democratic President was sitting in that office that day, you could have the same facts, ~~and~~ <sup>but</sup> you wouldn't have any committee hearings going on right now. ✓



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 ~~just~~ boiled down to a ~~couple of consensus~~ we had. When we were being interviewed afterwards—Jim Naughton did an article in the New York Times—we were ~~known as~~ dubbed the terrible seven, remember that? And I said, "No, it is not really <sup>the</sup> terrible seven, it was more like <sup>the</sup> 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 ~~then~~ knew they had some kind of job to do. They all met in this one place and there was a consensus immediately. ~~That 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.

*a couple issues*

*NA*

Tape I, p22

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 Rainsback 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.

Change to  
"Crap" for pubicist.

- 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 *impression* 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 impaachment, 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 II, p2

TM - For the second meeting of the coalition, I came up with draft five, and to this moment, I have not been able in my own mind satisfactorily to conclude whether or not the group met Tuesday afternoon. The first meeting was with the definite intent of getting back together at some point. I recall drafting in my office when Railsback called and asked, "Would Hutchinson fire you if he knew that you were working on articles of impeachment?"

HF - Certainly.

TM - And that kind of took me by surprise.

LAUGHTER.

TM - Do you have any indication that he is thinking that way? What happened, I believe, was that one of the Post's writers, Cannon, had contacted Railsback, saying he had learned that there is a group of members gathered and were drafting articles one and two. And that this was a quiet, silent, secretive group. By noon the press had had this and of course it was overshadowed that same day when Hogan had his press conference and announced his position.

JM - As a matter of fact, after our first meeting, didn't we sneak out the back door because the press was outside?

RT - Right.

WC - May I go thru my notes on what happened, Tom? That first meeting I arrived about 8:30. It lasted to about 10:00. Railsback and I went to a caucus and we were late getting there. There was a unanimous consent that Garrison should take over as chief minority counsel, and Railsback and I asked to be recorded as "no" on that. So at 10:00 they were still caucusing with the Republicans there.

HF - I was not there with you at that time.

CB - I wasn't there either.

WC - The meeting of the Judiciary Committee started at 10:30 or so. They were anxious to get the caucus over to get down to the meeting, and at 11:35 I have a note here: "meeting of Judiciary started. A mess." "No one knows what is going on."

CB - It was supposed to be an informal meeting.

WC - At 11:35 Hogan received a call from Jerry Ford, the vice-president.

TR - I don't remember that. / Hogan had scheduled his press conference that afternoon, and he got up and walked out and then we had a general discussion.

WF - You didn't know what Hogan was going to do then?

Even - corrected

Tape II, pl

A continuation of Tape I: those present, site, and time - same.

HF - I sat right next to Dennis and Wiggins, and I had never seen two people, no matter what came up in that evidentiary presentation, who were less moved.

TR - It seemed that St.Clair by his demeanor kinda acted like Wiggins should cave in. [?]

WF - No, I think those guys and some other politicians had given him too much credit. I think we had virtue on our side. We had it. They knew it. They were on a losing team, and they found something they could grab hold of in St.Clair.

CB - That's what I thought.

WF - They got him where he [St.Clair] was the only one out there.

TR - Carlos Morehead was another...

HF - St.Clair killed himself. All that talk about national security....

JM - I'd just sit and fume.

WC - I was fuming all along. Caldwell and I were talking most of the time in this entire proceeding, and yet I didn't know what you [CB] were going to do. You shocked me one time on Kalmbach.... I felt sorry for him. He was a pretty decent fellow, and he was on the rocks like everybody else. I heard your comments, Caldwell, you said, "Bullshit, he's stuped, Even when they tell him what the facts are, he would still simply go out and do it." Your reaction was that the guy is not that dumb.

CB - That's right.

WF - You know I still can't believe that they haven't indicted Bittman.

TR - I don't get it either.

CB - and O'Brien, that poor fellow.

WF - It was the soldier with the commander-in-chief. Pat Gray was a political operative to start off with. He wasn't a career civil servant; I put them in a little different category. In fact, Gray was not one of our witnesses and I never did see him in the place, so I didn't feel the same way about him as I did about Peterson.

JM - Maybe not, but he was a career man, wasn't he?

WF - Gray did something and then they wack him in as an FBI man — that was something!

Tape II, p3

TR - No, I met with Hogan that morning, Tuesday. I tried to convince not to come out against impeachment precipitously, and he would not give me any clue. I met with him in Mooney's office.

WF - He was really playing games, wasn't he?

TR - Yeah, he wouldn't give me an inkling what he was going to do.

CB - Here is what my notes say about that meeting. Big news was that Larry Hogan is getting ready to have a press conference and announce how he is going to vote. While he was sitting there the vice-president called him. There is a pretty little girl over there who is coming in and out and upsetting everybody, and she came in with the word for Hogan that the vice-president was calling him. Well, Larry was obviously a little bit upset. We knew the vice-president was calling him and I will anxious to find out which way. He came back, and then went on and made his statement.

WC - That afternoon I had an interview with a guy from the Bangor Daily News that took most of the afternoon. Hogan at 3:00 made his decision to vote for impeachment and was immediately attacked by Dean Birch, who was running the president's campaign, as a purely political decision. I have here: at 5:20 we resumed a meeting and a reading of the resolution—that is a pretty cryptic thing—I am not sure which meeting we were referring to. ✓

CB - I will tell you — if you want me to interrupt —that was the business meeting where we decided on the rules of procedure. It was where we came in with our coalition and we were going to take over and vote on everything at one time at the end of it, and Kastenmeier said.... ✓

WF - That afternoon earlier we had been in a Democratic caucus, backing Rodino. Don't you know that was a real heart-rending thing back there?

CB - And that's why we didn't get together again that afternoon because we had to avoid the Democratic caucus.

WF - We had made more or less a commitment to these guys. We could handle the Democrats and we thought it was all in our best interests to vote one time and not be peppered by the whole lot of 'em. I think I was thinking more about you than anyone else, Caldwell, because, as I said, a pickup truck in Roanoke can get up here in three hours.

LAUGHTER.

CB - I was on your side.

WF - And only but a day to get up from Tuscaloosa.

TR - And only two days from Moline.

Tape II, p22

TM - And then we moved on to the conclusion.

HF - That is well supported in the committee report by the extracts from the presidential utterances on television throughout the period of a year and a half.

TR - Yeah.

CB - They were all fish in a barrel.

TM - The conclusion you get in draft 6 is somewhat different, quite different in fact, from draft 5. Looking at number 2 under points for discussion: "an unindicted co-conspirator" was listed in this conclusion and that generated some lively discussion, it is my recollection.

TR - I surely don't like it, I can tell you that.

WF - Do you mean the question of whether we should leave it? I think we quickly came to the conclusion that it should not be in there.

TR - Sure.

WF - We couldn't accept some other tribunal, which this grand jury was.

JM - That is a detailed factual allegation, it has no charge....

TR - That's right.

HF - Let's carry that a little further, because we never really became public on this issue.

JM - Well, we did. In all my criminal law experience I have drawn thousands of indictments and that is why I probably may be in a minority on this. I think you have to allege general terms that deal with essential facts only — no details. I don't know how this got into the draft.

HF - Is it not true that except for the fact that he was President of the United States, he would have been named as a conspirator? Right?

JM - Yes.

HF - It would have been done.

TR - Is that from John Dear?

JM - But on the legal question of whether the President can be indicted....

WC - That was a totally "inoperative" fact. Do you recall in the Mitchell-Stans trial in New York, when they were found not guilty, the press canvassed us: what is your reaction? It has no bearing whatsoever. The fact that they were found not guilty does not influence my action. And I said by the same token, if they had been found guilty, it had no bearing. We cannot base our decisions on what somebody else does. ✓

- WC - I had a different perspective on this from the outset — on whether or not a President could be held responsible for acts of agents, an agency theory. You simply can't have it both ways. You couldn't do what Nixon was trying to do by concentrating all the flow of the power thru Haldeman and Ehrlichman with the supercabinet that he had tried to develop and concentrate power in your executive office. And then when it came time to be accountable for what was happening, ~~not~~ be in a position to deny knowledge of whatever they were doing. I didn't think they could have it both ways. I just felt you could not just set up this man; you had a positive duty to know what's going on. ✓
- HF - I think it's grounded in the language of the Constitution: to "take care" in the oath of office. You cannot just walk away from it.
- TR - Can I just express my different feeling about what you are saying? If I understand it, my feeling is that under article II, he does have a duty to faithfully execute his office. My feeling is we could prove he had violated his oath of office, because he did or did not do certain things we could prove. We could prove that he tried to misuse the CIA, we could prove he was a party to a misuse of the IRS, in other words, I am not conceding that a man can be impeached if his subordinates do something completely without his knowledge, even if those acts are wrong. You might say he should have known, I am saying the bureaucracy is so big that I don't think we should impute that.
- WF - I don't think we disagree. He has a reasonable duty to check on his subordinates. He can't substitute a lead wall between him and Haldeman and say it stops here. He has a duty to take care that his alter ego is doing what is right.
- TR - Then you are talking about misfeasance.
- WF - Approaching malfeasance.
- HF - He cannot position himself to avoid knowledge.
- WC - You are talking about an isolated example. Someone commits an offense and it might be on your own staff and you don't know about it. How can they hold you accountable for it? That's not what we are talking about. This is where the "plan" comes back. This was a course of action over a period of years, of holding meetings, and the tapes and so forth. That's what you have to consider. There is a difference, isn't there? The President used the word in his March 22, '73 discussion with Mitchell: "up to now our plan has been one of containment" and with additional references to "we are adopting a new plan now" to use executive privilege. That is how we bailed you [TR] out.

LAUGHTER.

- TM - Before the Thursday night meeting about article I, I had a difficult time convincing Doar about the use of "unlawful." We finally got that changed, <sup>from</sup> "illegal."



- DS - Yes, we had thought of that. Perhaps one of you could set the stage by writing to them. That is important to get their recollections.
- CB - When did they join the group and so forth?
- HF - I heard Froelich on the floor of the House, just sitting there, saying to somebody — a kind of tip-off to me — several days before this, that he was really bothered by the interference with the agencies, particularly the CIA. This was really the thing, it seemed.
- TR - Yes, that bothered him all right.
- TM - Do you recall Wednesday afternoon, after the McClory-Frank Polk call, I think, that we did talk about bringing other people into the group and at that point you [TR] got up from the table and walked behind your desk and called Froelich?
- TR - Yes, I did. When I first talked to him, he did not respond affirmatively, but he was not disinterested, in other words, he didn't turn it off but he couldn't come over that first time I asked him.
- WF - Now Polk came in strictly at McClory's request to do his work, didn't he? He was working in McClory's office. I hadn't known that before.
- HF - Yes, Frank Polk was working with McClory.
- WF - Polk sorta appeared with us from then on, didn't he? He was very helpful, too.
- TR - John Davisson [?] — wasn't that his name? — wasn't he helping you and got into trouble over it?
- WC - I tried to get Davisson to prepare some stuff for me and Garrison found out about it, and asked him to stop what he was doing or get off the staff. And I told him that Garrison did not have that power, that he couldn't decamp at that point. He was to complete whatever I had asked him for. I was still doing the agency theory. ✓ ?
- DS - Was there a similar problem with Tom here?
- WC - No. See, he [TM] was not on the impeachment staff, while Davisson was. That became the question once Garrison succeed Jenner. I guess my antipathy to McClory goes back to his shift around on a Friday. He wanted to take over the Republican leadership role and he was going to be the new leader of the Republican Party as such, and Hutchinson was no longer. He would be ranking — it's been a long-standing thing, since Hutchinson and McClory came on the same year and flipped a coin and Hutchinson became ranking.
- TR - I didn't know that.
- HF - I didn't either.
- WC - And because of the lack of leadership, McClory was simply going to take over the reins. That's the Friday when they thre\* Jenner out. There was

Tape IV, pl

SESSION II: Friday, July 11, 1975, 6:45pm

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

JM - I am curious about one little situation that was alluded to this morning, and that is how Jerry Waldie comes off as a kind of good guy in this deal in that Caldwell and others are communicating with him?

CB - I spoke to him one time.

WF - I was talking to him about what a good looking chick there was in the third row back there.

JM - Somehow I had the same recollection that Caldwell does — that is either Jerry and I were walking over talking about us getting together with the lowest common denominator idea, or that maybe it was after you spoke to Jerry that you came over and said, "Maybe I ought go and meet or something," and had I known that, I might have been suspicious.

LAUGHTER.

WF - Those guys were so anxious to get an article of impeachment they would take it any way they could get it. Waldie and that crowd were ready to impeach Nixon on November 7, 1972.

HF - '69.

WF - '68, I guess, yeah, right after the election.

WC - ~~That~~ probably revealed wisdom. ✓

CB - One of the remarkable things was that all of those gentlemen had such restraint when they got on national television.

HF - Was there some control? Did the word go out that Drinan and Conyers and those guys were supposed to be quiet during this thing?

JM - It wasn't expressed in our presence, but I have got the distinct impression that there must have been a little rump session somewhere with Rodino maybe, putting Conyers particularly and one or two others under control.

WF - I think the others were pretty much capable of exercising some discretion. Except Drinan, and the guy they were more fearful of than anybody else, Seiberling, because he has got diarrhea of the mouth.

JM - Exactly.

LAUGHTER.

WF - He can't stop when he gets started, and he doesn't know where he is going to end up anymore than a man in the moon. You can have a full-grown idea in John Seiberling, where he knows exactly what he is supposed to do with it, and he will be turned around 180 degrees in three seconds, won't he?

Tape IV, p4

WF - All during that period when he and Hutchinson were going thru the transcripts hours and hours each day, it kind of boggles the mind — them not communicating at all, doesn't it?

LAUGHTER.

CB - And those insidious remarks about the Italian-Americans, you know.

RT - It's been mentioned on numerous occasions, but I think deserves repetition here, that one of the key decisions made by the leadership was to have the inquiry conducted by the Judiciary Committee, rather than forming a special blue ribbon committee for that purpose. It may well be that by letting that burden fall on a committee which was not specifically selected for that purpose, you got among that committee a group of people who approached the problem as those here and some others on the committee did approach it — namely, trying to do so objectively. I think that was possibly one of the key decisions of the entire process.

JM - I don't think we can overemphasize two things: one, the fact that Rodino did not do any arm-twisting with the individual members of the committee to my knowledge, and two, that the Democrats did not act in concert on but very, very few issues — the only one I can really recall is when we recessed the meeting and went back and had a little brain session and came back and voted the other way. But otherwise not.

WF - We were not in concert even then; I was on the other side of that issue.

JM - Yes, but it was about the only part of the "plan" that I can recall.

WF - It was a 20 to 18 vote.

JM - Now you Republicans had a little difficulty understanding that.

TR - Well, I will tell you, Jim, that is not exactly right. There were some procedural things where we got into fights about....

HF - Early on, too.

WC - Let me tell you that I think Rodino almost blew it one time. That was at the beginning of the issue of St. Clair's participation in the sessions. You recall that was very crucial as far as the Republicans were concerned. The Democrats mostly said at that time that St. Clair can't come in, you can't cross-examine. ~~This~~ issue erupted. Well, Peter was outside the speaker's lobby one time and advised me that they were not going to allow St. Clair to actively participate and I said, "Well, Peter, if you take that position, you had better forget about any bi-partisan approach to this whole thing."

TR - Sure.

- whether St. Clair could participate at the deposition stage ....

Tape IV, p8

WC - Virtually nothing.

WF - Compared with what the Senate did in about the same amount of time, you know, thank God that the Senate cut the mustard, because we borrowed of their investigative work all the way, all the way.

WC - The fact of the matter is, there would never have been an impeachment process if you didn't have the Senate's work.

WF - And the tapes.

WC - And Sirica, because what other judge would have given out 35 year provisional sentences provided you talk — not too many that I am aware of.

WF - You all remember the matter that preceded impeachment <sup>that</sup> I think had something to do with the ultimate outcome. And I'm going to make myself a hero here, but Jim just got caught in the crack there. I refer to the matter of the Hungate subcommittee trying to backtrack on Jaworski. You remember that? The committee voted on partisan lines except me voting with you guys, 20 to 18, to report out a bill that would have required a new special prosecutor.

RT - A court-appointed special prosecutor.

WF - Which in effect would have voted Jaworski out, and they never even brought it up.

WC - Well, I don't want to engage in any self-<sup>a</sup>hypothothesis either, but you may recall it did come out of the full committee to go to the House. ✓

WF - It was never brought up in the House.

WC - No, but they passed it out of our committee, it went to the House. And I had the opportunity to write an article which the Post printed, and wrote an editorial one or two days before it came out, saying, "Don't do it, don't put a new man in." My reasons were entirely different. I had been talking with Elliot Richardson, drove him in from his house one day to downtown, and asked him about what the situation was with Jaworski. What had happened <sup>as I said in my</sup> was that the White House originally intended when they fired Richardson and got rid of Cox and Ruckelshaus, they expected Peterson and Bork to take over the prosecution. And when that didn't fly after about two days of public vitriol being expressed, they decided they had to come up with some guy. They picked Jaworski with a long, safe tradition, ~~head of the ABA~~ <sup>not</sup> president of the ABA, chances are, representing a lot of corporate fat ~~cats~~. ✓

WF - A wolf in sheep's clothing.

WC - OK, when they appointed him, they expected him to can all of Cox's men. He didn't do that, so once he came in, he then became the captive of Cox's staff, and that is why the White House was upset with him. They expected him to fire everybody, bring in his own people and start fresh. So now he couldn't back away from any issue that Cox had begun without them blowing the whistle. So the White House wanted him out, and that is the article that I wrote for the Post, saying why you shouldn't create a new special prosecutor.

Tape IV, pl2

HF - We might just contemplate what difference it is now from a year ago: two to one plus one — there is a lot of difference between that and 21 to 17.

JM - There sure is.

TR - Peter was trying to control the crazies.

CB - I don't think the matter would have been referred to the present committee, do you?

HF - It might have been. But the Republicans would not have been shown all these considerations.

CB - Well, I feel that now it is not that representative of even the whole body.

SL - What if Cellar had still been chairman?

WC - What if Jack Brooks had been chairman? <sup>WF -</sup> If Cellar had been chairman, it don't think he would have brought it along. He would have stifled it somehow or another. I don't think he ever thought that Nixon should have been impeached. What do you all think?

TR - I just saw him the other night. He is looking senile. Good guy.

LAUGHTER.  
*typical*

WC - A <sup>^</sup>Railsback remark.

DS - On that autobiographical remark [TR - That was great, thank you.], I would like to make one more comment. Do you recall that in most of your interviews, I told that little analogy of Lincoln saying that if you want to stop religion or a church — well, this is the time to give the credit to the real author, Ray Thornton. Tell 'em right.

APPLAUSE.

RT - If you want to stop the construction of a church, don't start an argument with the religion, but over the location of the building.

DS - We showed that again tonight. Shall we adjourn? You know the agenda for tomorrow.

END OF TAPE IV AND OF SESSION II.

Tape V, p5

TR - Ray, if you'll yield. I want to congratulate and compliment your statement, which I thought was excellent, and this is very, very important, I think, in our meeting this morning. I don't agree with you, but I thought your statement was just excellent. As far as going to court, I was voted down, you know; I think we got six votes to go to court.

RT - Reasonable men can disagree.

TR - But I just wanted to add a postscript: that Alex Bickel, who I think knows more about it than Bill Cohen -- he was a hell of a great constitutional expert --

CB - I hope so.

WC - He <sup>was</sup> does. ✓

TR - about ten days after that vote was taken, came out with an article that said that we should have gone to court. Very strongly arguing from a constitutional standpoint and then shortly thereafter he died. But there was a very important part of the precedent-setting....

WC - Being punished, probably.

CB - The whole question that you are directing us to is really that we didn't just go far enough down the road.

TR - No, two things, altho that was part of it. We didn't exhaust our traditional remedies. In not exhausting them, we in effect, took away some of the rights of our due process that I think are guaranteed to other possible persons to be held in contempt, in other words, witnesses. We didn't protect them by us seeing that they had the traditional rights. And the second part is executive privilege. All during these proceedings, the President was arguing executive privilege. That is where you get into the court tests. Is it proper to test that argument by going to court? I think we would have won and settled it. I think the Supreme Court would have held that we did have a right, and executive privilege would give way in that case. We did not see fit to do so.

CB - And summarily so.

WC - I think your position was best expressed on page 16 in the report where it reads, "Before the President's refusal to comply with committee subpoenas can be raised to the level of an impeachable offense, the committee at a minimum should wait until the House of Representatives has found that non-compliance to be wilful, contemptuous, and illegitimate. Since the committee did not pursue this course of action, it should not now seek to raise non-compliance to the level of a separate and independent act."

Tape V, p7

HF - But by then the House would not have voted articles of impeachment.

CB - But the argument that you keep advancing is the failure to cooperate and to comply with the subpoena is of itself impeachable, and if that is the case, you can hang a man not for the crime but the failure to cooperate in his impeachment as such.

WC - You could do it, but it would be wrong....You're saying "crime"....

CB - I'm using the word rather loosely.

RT - The point is, whether there is an attack on the constitutional system of government itself, at least that is what I think it is. That is what the question is. If there is some evidence to support the idea that the President is about to dissolve the Congress by an executive proclamation, because it is no longer needed to carry out the affairs of the United States, and if the Congress hears of it and has some reasonable basis to conduct an inquiry as to whether the President is indeed about the issue such an order, I think the Congress would have a right to inquire into it and to subpoena whatever documents the Congress needs to determine whether he is about to dissolve it. And if the President refuses to honor that subpoena, even by the production of exculpatory material, then I think he has committed an impeachable offense, because he is in effect denying to the Congress the sole power of impeachment.

WF - You can make the analogy in our work just as well, Ray, you don't have to make up this story. Let's say that he had just totally refused to give us a damn thing, totally, and the courts had not come to our aid on the tapes, but they just stood mute totally and disregarded it, where would we have gone?

CB - If they had denied jurisdiction....

WF - Yeah, what we are saying is, what would we have done if we hadn't had the tapes?

HF - The situation in India today, by virtue of having the majority of parliament, the prime minister can incarcerate political enemies. Now if this started happening here, and we did not have the impeachment power, we'd be in the position of the parliament of India.

CB - If you don't have enough evidence to impeach the President aside from he has in his own limited domain, then you got no business impeaching him.

HF - Even if you have identified with precision, as we did, the tape, the hour on which it was on tape, the people present at the conversation — not just a fishing expedition?

CB - You're entitled to access to it, but you are not entitled to impeach him for invoking executive privilege.

RT - I just don't think that executive privilege applies in an impeachment process to the extent that it does in the normal legislative process.

Tape V, pl2

WC - My concern was that we had, in my opinion, a fair and ~~not~~ impartial investigation. Let us suppose you go back to the Johnson impeachment. You got people like Benjamin Butler leading a charge against the President, not, in my opinion, on valid grounds, but for purely political reasons. Say you have a heavy majority in Congress who is opposed to the presidential policies, whether it be impoundment or dismantling of OEO, or whatever, suddenly saying, "Here are our subpoenas, ~~we~~ got to bring it in or otherwise <sup>we</sup> impeach you." ✓

JM - That's the danger. ✓

CB - Suppose you had two to one plus one.

RT - That is exactly the hypothesis that Raoul Berger poses in discussing judicial review. And I want to say that your position seems to me to be identical with President Ford's in the Douglas case — that impeachment is whatever you make it. Let me tell you Berger took Ford to task there.

HF - You raise a good point, just make it two to one plus one, three to one totally politically hatchet job. But first of all, we do have a standard of what constitutes an impeachable offense, and what you're saying would not measure up.

TR - You disagree with Ford, then?

WF - I also disagree with it.

HF - Secondly, to see your argument, you have this impeachable offense which is a crime against the government, the structure of the Constitution, and so forth. Clearly what you are saying it would not be that, but nevertheless, the Senate votes it, the trial held, and they convict the civil officer. Now the court of review is the people of the United States in the next election, as it is in so many of the things we do. You are posing a most extreme position, a most extreme breakdown in the civilities that are essential to our system.

WF - I agree with you, Ham. The only and final recourse is the people.

TR - Ham, you are stating the argument very well. I think it is very important.

WF - I think <sup>you</sup> could have a totally political impeachment.

TR - Sure, that's possible.

WF - When you get down to it, the system is no better than the people that are operating it. If you had even two to one plus one Republican, that could impeach a Democratic President.

CB - They would.

DS - That was Butler for the record.

LAUGHTER.



Tape VI, p2

TR - I doubt it.

RT - After the later events, I think it might have. I believe after the 23rd tape, if that had not been followed by resignation.

CB - I thought about that since you asked me the other question the other day. I feel that it would not have passed the House, because the pride of the Judiciary Committee was at stake when we passed article III thru the committee, but the pride of the House would not have been there, and for that reason I don't think the House would have had the same feeling.

WF - Good point. It would have made a difference whether the three of us would have been on the same side of it, too. I think if Jim and I had changed at that point, the southern Democrats would have gone along with us. Don't you think so? If we hadn't, it would have been a divided thing.

HF - Aren't we still talking about the possibility in terms of the House, that it might amend I and II ourselves to insert the essence of III?

RT - Bill and I had agreed that if it came to the floor, we would make an effort to add article III to preferably I.

HF - There is another thing that I noted in my talk about that article. I actually put the question to McClory. That we were still hoping that the President was coming across with the documents, the Supreme Court decision had made it seem perhaps that we would get some more subpoenaed material, then I asked, if we did, prior to going to the floor, get the response from the President to our subpoenas, would we then withdraw article III? And he said "Yes."

WC - Ray, in my remarks to Article III, I said that even if the President stated reasons for his refusal to ~~comply with~~ <sup>comply with</sup> our subpoenas, the evidence before the committee even before the release of the June 23, '72, transcripts, was more than sufficient to find the claim of executive privilege was illegitimately and improperly invoked, not to protect the office of the President, but to protect the particular President from the disclosure of his personal participation in the obstruction of justice, accordingly the President's non-compliance with the subpoenas formed an integral part of Article I and possibly Article II, and rests more soundly there. ✓

TR - I agree.

RT - I agree.

WF - Don't you all think our colleagues in the House are due a great deal of credit — I am thinking provincially here, I admit, but even my Republican colleagues from Alabama specifically avoided saying anything critical of what I was doing, and they were very strong Nixon fans, and their constituencies were. Even a right-winger like Bill Dickenson never stated anything like that. You all undoubtedly had about the same experience. They were unusually kind in terms of the highly charged political atmosphere that we were operating in.

Tape VI, p8

HF - We all thought that through. That wasn't our job, was it?

RT - That's right.

HF - It was always a possibility.

TR - What we are showing right here now is that we each reached our individual decisions differently, and there is nothing wrong with that. I made up my mind, as I told Father Shea, after hearing John Dean give direct evidence of presidential involvement in what I thought was a very heinous offense as far as abuse of power. That influenced me, plus listening to Cates, and then taking that summary of information which for the first time, as far as I was personally concerned, put everything together so that I could form a judgment that the President had indeed lied to the American people, and that he had done certain other things that I thought were so serious at that point that he should be impeached, at least held to account by the Senate. That is what really motivated me.

JM - My decision arrived 90% of the way during the time of the oral testimony of Dean, Kalmbach, and others, and then the summary helped bolster what was then a kind of an emotional feeling, but up until that time I had just absolutely refused to let my ownself consider the possibility.

WF - I refused myself the luxury of forming an opinion until all of it was in. And I way I thought about it, we travelled a long road in which there was a stop here and a stop there, and after the oral testimony, that was it. You know, that was all of our evidence, but the summary was coming later, but in my own mind I looked back down the road and there were just too many bodies laying around. I didn't necessarily think about one thing or none of it; there was just so damn much there. There was so much smoke, there had to be that big, roaring inferno that we knew was there.

HF - Did any of you think during this process differentially between our task and the responsibility of the Senate? And of what would result in a failure of the Senate to convict? Did any of you think of the possibility of being a manager on the part of the House?

WC - Ham, let me go back to something. I came across in my notes something you probably won't recall. One time you and I were walking out of the Rayburn Building, and we were told, I think by Mike Waldman, that the Republicans had had a meeting, and I will get the date — we were not present at the caucus — where it was suggested that ~~these~~ Republicans should not support impeachment because it was not going to carry in the Senate and there would be two years of unmitigated hell for all those who voted for impeachment to pay, and then you quipped back to Mike at that point something to the effect, "Well, hell, you are looking at two of the prosecutors in the Senate right now." And Waldman said, "Can I quote you on that?" And you broke out in a big laugh.

HF - We were standing in the horseshoe drive outside, getting into the car, and there was Sam Donaldson of ABC there also. I remember his expression when he said, "Can I quote you?"

LAUGHTER.

Tape VI, p9

DS - Here is one the things that you disagreed on when we talked with you individually. Could there have been a case without the tapes? Now Mr. Mann just got thru saying the thing that was most convincing to him was the oral testimony and so on. Would you direct yourselves to that?

WC - Without the transcripts, all you had was John Dean versus Richard Nixon.

TR - Yeah. I can speak to that. If we did not have the tapes, here is waht I think would have happened: the question of giving immunity to Ehrlichman and Haldeman and other witnesses would have been raised.

WF - Where did you get the evidence even for that?

TR - I think we had Dean.

WF - Oh, God! Evidence warranting immunity for Ehrlichman and Haldeman came from the tapes.

WC - They lied in the Senate. Does it make any difference if they would now lie to us?

TR - No, what I am saying is, I think it would have been a very difficult case frankly, but I think in asking that question, you have to assume that we would have conducted our inquiry much differently. You would have had the question whether to call other witnesses.

WC - That is so removed from reality, in terms of what that committee would have done.

TR - Well, it is a difficult question.

WC - We did not do any investigation on our part.

TR - I know that, we already had it.

WC - But the point is, we were operating under time pressure. You may recall, we took the vote — we had to get this thing over by April or May: "Come on, fellows, hurry up. You are dragging your heels on this." We were under tremendous pressure to conclude this, quote, "as expeditiously as possible," and so if we had to conduct our own investigation....

TR - I agree with you.

WF - If you hadn't had the tapes, you would never have had any inquiry.

JM - That's right.

WF - There would never have been any Saturday Night Massacre. With no tapes, no one would have gotten off the ground. You would have had Drinan's reolution flying around, that would have been it.

HF - I hadn't thought of the question that way. I thought you meant, if we hadn't the tapes, did we have enough evidence otherwise? But I see we might never have gotten to the initiation of the inquiries.

Tape VI, p11

WF - You ain't got the President tho. You got everybody else. You got the pay-off, you got Hunt, you got Liddy, you got Bittman, O'Brien, you got all those birds, but you ain't got Richard Nixon.

CB - Going back to what basically Bill said, those guys were tough enough to make up their minds that they were not going to tell the truth, and stick it out. But they are also tough enough that when they make up their minds that the ship is sinking and I had better get off — unload the whole way. And I just think in time this thing would have developed and come out.

TR - You need<sup>a</sup>/credible, corroborated informer.

WF - Another stoolie.

WC - But we did not have the time.

CB - What do you think you could get out of John Ehrlichman today if you promised him immunity? You could get the whole God damned world. I don't know about Haldeman.

WC - That is because he knows you got the stuff.

HF - Listen to him today — everything is peaches and cream — lovely people in the White House.

WF - Ehrlichman is working for the Indians in New Mexico or Arizona.

CB - He figured out we hadn't fleeced the Indians a 100% yet, but there must be some way.

LAUGHER.

DS - Under new areas for discussion, does anyone have a comment on the kind of report that came from the Committee?

WC - I had some complaints about it. I think my initial reaction was that it was handled like everything else — we got it at the last moment with about 24 or 48 hours to make our comments. And it was a document which couldn't even be read in that period of time. We had a very legitimate complaint on our part that we were always getting things at the last moment, and without any real opportunity to have any input. You either take it or leave it. "Here it is, fellows, and you got to go with it." ✓  
^ ✓

WF - When was the final report filed?

SL - August 20.

WF - I don't think it matters.

Tape VI, p13

RT - If you want to justify the charges of history and get worrying about your individual opportunities, I think you are flattering yourself when you think anybody would pay any attention to it. I am just glad that John Doar took the time to set out the facts, and I am sorry that he did overshoot in many instances, but I think his greatest value is in terms of history. It was a compilation of a record here that it was not an impeachment that was politically motivated, but justified by the facts. And if the facts are a little bit fictitious, that strengthens it in value rather than hurts it.

WC - But those opinions expressed are more important when you get the ten who voted against it, saying let's make it clear for history: "We did not drive Richard Nixon out of office." ✓

CB - Would you modify the use of the word "fictitious" and say "overdrawn"?

RT - Overdrawn, overstated.

DS - In your absence, Mr. Mann, there just for a moment, I asked the question, what were your reactions to the final report of the Committee, and Mooney says that you had some at the time.

TM - He had a lot of input. I think he may have drafted it!

RT- I had an input on the portion on article III.

JM - I'm looking for the conclusion of the report.

RT - The original report language did not seem to me to sufficiently establish the theory that I tried to articulate, so it was necessary to correct it.

TR - I'll tell you truthfully that I don't think that the final report had much to do with this coalition. By then it was all over.

CB - My view is the same. As far as I was concerned, I was sated with the whole business.

WF - I was on the banquet circuit trying to explain what I done.

LAUGHTER.

WF - I hadn't thought about my next election until about June 27, late in the evening, and then I really did.

DS - The second item here is — I have only two very poor copies unfortunately — the June 28th letter of David Dennis, concerning the five minute allowance to all members to question witnesses. Did that play any part in your thinking or procedure then?

RT - Not much.

CB - I doubt if anybody paid any attention to it.

DS - Rails had said just then he thought it affected none of your tactics or votes.

Tape VI, pl6

TR - Well sure, he's in jail.

WC - He said when he was in the A.G.'s office, he had to twist arms to get members coming in to serve on that committee, because under the leadership of Manny Cellars it really wasn't all that interesting to serve on.

TR - I disagree. I certainly wouldn't switch.

HF - That is because Manny Cellars kep the good stuff for his subcommittee, you can bet on that. He packed a lot of power.

WC - I wouldn't change either.

TM - There are periods and trends in this. When the committee was working on the Civil Rights Act in 1964, it had the nation's focus, and it was developing a lot of controversy. It wasn't a prestigious committee, tho. However, it is a committee which has a lot of tough political issues, the death penalty, abortion, amnesty, gun control, and down the whole list.

WF - You get the nuts and bolts, you don't get to authorize any money. It is a whole lot of tough issues. They might not get you ary votes.

RT - It was not at all my first choice, and I was frustrated in not getting my first choice of committee assignments, and after I failed to get on the appropriations committee, Wilbur Mills called me and said, "Well, Judiciary is a nice quiet committee. You get on there and serve and get some experience."

LAUGHTER.

WC - That's good! Ray, here's how I got on the Judiciary Committee. This is the Harvard influence. I went to that special course they had, an experimental one for freshman Congressmen in 1972. There were four of us, Barbara Jordan, Ivonne Burke and [?] and myself. And one of the people there told me that in selecting committees, what you really should do if you want to get on a committee of your choice is to put all the other ones first, and the one you really want last. Because they think if you want that one first, it is for some ulterior motive, and they will check you out too close, and you won't make it. I put appropriations, ways and means, armed services, and judiciary last, hoping the strategy would work.

*Alan Steelman*

CB - Same as in World War II -- Mr. Roberts.

JM - Let me make one statement here for the group that I made privately. I was not satisfied that the drafting ability of the impeachment staff was enough to write an appropriate summary or conclusion to article II on the abuse of power. I thought it should be done philosophically and so forth, and when expressing that opinion to John Doar, we agreed to call Phil Kurland, the professor at the University of Chicago, one of the constitutional lawyers of national repute. John Doar seemed to think he was a better man for the job than Berger or Tom Bickel or Tom Atchinson [?] from Yale. So I called Phil Kurland, but he was just leaving for his home in the north woods up in Michigan, and he said he just couldn't do it. So then

Tape VI, pl8

CB - on holding, on debating each one of those subparagraphs, and it turned out to be the best strategy — the best thing that we did, and it is another of those things that you just slop into as you come along. It surely worked out well.

WF - We were being routed that day, I think.

CB - What I wanted to know, who had a different view?

DS - The substantial difference, as I recall, was that there were several of you who felt that, no, the morale problem of the specificity issue was not as bad as all that, you were not on the verge of coming apart that much, that it was a much calmer situation than others of you indicated.

WF - Well, I think that my morale problem was that we knew the minds and hearts of the people were being lost for our side, that we were losing the battle in the public forum, and you know it's going to be a long time before it got elevated again to the 100% Nielson rating.

DS - One or the other of you went so far as to really wonder if the thing was going to hold together at all.

WC - My reaction to it was that after nine months....

TR - Bill Cohen is kind of flaky. He was scared to death.

WC - ~~I~~ I wasn't flaky so much, but just disappointed at what was going on. You had nine months of pregnancy and then you had the birth on television, in which Sandman, who said nothing during the entire nine months, now was tearing us apart. "Give me an example, give me a specific example," and not one word was coming out from us. I thought we looked like hell.

WF - We were letting those other birds handle it, though, and I resolved there that the hell with that, let's take charge, we're the ones that had the political exposure, we were the ones that the American people were going to have confidence in, we were the guys that made the objective decision, and we might as well go on to take charge. What the hell, it's just politics.

WC - I do recall saying that night, "Look, I'll stay up all night if I have to, but I'll write the specifics for article I." And I went on to say how we were going to handle that whole thing. But I recall being just totally disgusted. ~~Yeah, then you came up with the specifics! [?]~~ I recall that my reaction was one of anger that we ~~got~~ <sup>were</sup> let down by the staff.

CB - My reaction was one of terror, that we were going to collapse and were ~~going~~ to strangle ourselves over specification.

DS - Right at the outset of that dinner, Tom [R], wasn't your first reaction to live in and say, in a certain sense, yes, we will list with the articles the various specifics?

Tape VI, p24

WC - Do you think it would be beneficial if after we correct our versions of our tape that we share them with the other members?

DS - Perhaps not quite yet, so that not too many copies are floating around.

CB - After we get it back, then what are you going to do with it ultimately?

DS - When I came to this project in February, and then on the 7th of May when we met for lunch, my frank impression was that when we got thru with today, it would be locked up. So I would feel perfectly content and not at all disappointed if nothing else happened to the corrected transcripts. But I want to be frank that among the three of us, there is some disagreement. Steve feels differently, in other words, that this should go on, so we may take different views on this. My view is that I frankly don't care. I am an historian; I think the historical record is essential. I'll give myself a little compliment and say that I think what I've done so far has gone well, but I am not competent to write a best seller, a journalistic sort of thing, that just ain't my area. And I know this. Plus the fact of the time factor: in six weeks I am going to be teaching full time again at St. Joseph's College, and this is not going to be a half-time job for whoever puts it together. This is a major job. And I am just not going to have the time to devote to this project. I'll be most willing to help anyone to. Meanwhile, I am going to get the transcripts ready for you by the time you return next month.

TR - Father, after we correct and edit, I personally think you ought to be able to do with it whatever you want. I think what we are discussing also is whether we want to take part in it. It could be a very, very worthwhile thing. Whether it would sell, I don't know, but I do know this, there is interest.

WC - I would like to direct myself to that, because, Tom, most of the members know that I had given strong consideration to writing a book myself, just about my own participation, how I got there, what I perceived to be the truth, and so forth. I had agreed to do a book with Jim Naughton who I think is one of the finest writers in Washington, and who had covered the Watergate thing from the Senate side and our side and is really a gifted writer. We had written five or six chapters actually, and I submitted it to a number of publications. I had a lot of reservations about this — the timing, and the market is so glutted right now with a lot of junk. Frankly, I had given strong consideration of not doing anything for several years, ten years, just waiting and going back and doing it from my own notes. And so we just kind of pursued this on an experimental basis, let us write something and see if there is any interest out there. We contacted most of the major outfits, and I talked to David Obst specifically myself, and he said, "Look, it's a great idea, but frankly there is no interest in it. The market is filled right now." Woodward and Bernstein coming out, "Nixon's Last Hundred Days, Sam Dash is trying to write a book. It isn't going to make it." And I talked to Simon and Shuster, Ferrar Strauss, Little Brown, and all said the same things: great material, but we don't think it will sell, and we don't want to make any investment." Frankly, I think it is just as well it came out that way, I think this has all got to shake up and settle down, to use your phrase, Walter, and look back in some years. I think it will have more impact from an historical view than.

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