



1975

Fragile Coalition Interviews - Corrected Transcripts - Flowers

M. Caldwell Butler

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Recommended Citation

M. Caldwell Butler Papers, Carton 54

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Congressman Walter Flowers of Alabama

I - 1.

All talking at once!

DFS - Railsback followed the questions right through, Mann did something else. Why don't you just start 1, 2, 3?

WF - Do you want to do it that way, or there's a couple of things that I had. I gather we got plenty of tape and nothing else to do unless the bells ring and then I'll be right back. There is one ingredient that probably doesn't come up anywhere in this thing, that is the fact of the Alabama primary race which was in the early spring of '74, centering on the election or nomination of May 7th, which was two days before the first meeting of the committee on May 9th. I was the only member absent. It turned out that it was the only meeting of the committee that I was every absent. I remained down in Alabama throughout the remainder of that week, I had an important, dedication, ground-breaking of a lock and dam on the Tennessee-Tombigbee Waterway. Well, in that primary race last year, ~~my~~ opponent was a woman who had run against me in '72 from the extreme left wing. She was an extreme liberal who came out swinging from the word go, claiming more or less that I was Mr. Nixon's man in Alabama. The campaign theme that she had was a broom -- you know, let's clean up the mess in Washington ~~and~~ sweeping ~~that~~ up. "Let's sweep out the old and sweep in the new. Flowers is Nixon's good right hand man in Alabama and he is an ultra conservative and he is just like Nixon and that crowd and we want to get rid of him, on for impeachment now." Later on ~~that day~~, after the vote, ~~she said, well, after the fact,~~ she said, "I was for it all along, he didn't need all that other stuff." Running in Alabama and in the primary ~~against me~~ in '72, ~~she~~ and ~~at that point~~ got about 35-36% of the vote, ~~in the primary. Her support came from a lot of black votes in that district which of course is 40%. Because she kept~~ peppering away at me and it was almost, it was like a design to make me declare on the issue of impeachment. That became the only issue, how do you stand on Nixon? Most times in an election like that, you could throw a bone out there and/or come out either half way in support of the major proposition of the opponent, ~~you could cut the legs out from under them,~~ you know. But this was ~~almost~~ what she wanted me to do, there was no other issue.

WF - Flowers ought to impeach that so-and-so President. If I'd said I'm for impeachment, then she ^{virtually} would have had to ~~eventually~~ withdraw from the race. That was just the way it got to be. My wife reminded me of this ~~at the time~~ ^{recently} I ~~started out doing this~~ and she said be sure and mention the primary. Now it's one of those things that had escaped my mind, but in retrospect, it's probably one of those things that made me so steadfast in refusing to declare ~~was this~~. I think because she was so adamant to make me declare that I just couldn't conceive of a declaration before all the facts were in, ~~and I just~~. It became almost a moral commitment that I would not declare, I would refuse myself the luxury of even halfway forming a judgment until I had everything in front of me. And that's what I said during the campaign and it stayed with me, the conviction that I had to stay in the middle until the end.

DFS - Did she have any different comment after your vote, that Saturday night?

WF - Oh, it was just that I was a fraud and that I didn't need all that evidence, just really sour grapes. There was one other sort of preliminary area of interest in my district that attracted some attention, ~~and~~ we had an NBC crew come down to Alabama in the spring-time before we really got involved. They got with me a couple of days, trotting around my district, the newsman covering it was Steve Delaney. He went to a few of the small towns, just a typical cross-section, that's what he wanted and that's what we gave him there, where I'd meet with various people and I think that he became really convinced in his own mind that there's no way Flowers ~~was~~ going to vote for impeachment. NBC did this with Delaney earlier on and then they prepared to track ~~him~~ ^{me} after we had voted to see the change from my district; they had a crew down there during the week after the committee activity in July and early August. Then all of this washed out ~~and~~ ^{when} the resignation came in the second week of August and instead of a long run on Broadway, we had a short one. I know when I first more or less presented myself to the public, after the end of the inquiry, it was at home and I had a press conference in Tuscaloosa in the Federal Building where my office is located, ~~and~~ ^{it was} on the Monday following the completion of the committee activity, ~~I had a press conference, and~~ ^{that} that was the same day as the revelation of the June 23rd tape came out. My press conference was in the a.m. and that hit the news in the afternoon, ~~and~~ ^{that} that press conference

WF - was old by the time that hit because it was all over. ^{file} It almost became inevitable that he resign and when that hit the news, I think everybody began talking about what was going to happen in the Senate trial. I know in the press conference one of the major things they wanted to know was I likely to be one of the House managers and would I accept such a designation by the Chairman. Of course, I didn't know if I was likely to be one, but I advised that I was, of course, willing to serve should I be chosen.

DFS - In this connection, I know that on about the 6th of August, the Alabama Journal, in Montgomery, said "Possibly Flowers pushed the first rock that started the avalanche that buried the President."

WF - I remember that myself, you had it in the composite there, I think that if anything the question had got jumped on in an unusual way on me because the local media, as well as the national media, began focusing earlier on who might be the Democrats who would do otherwise and who might be the Republicans who might vote for impeachment. And it became clear earlier, that you're dealing with 10 or 11 people at the most who would make the difference. I think the ones who were sure to vote for impeachment were there and weren't going to change. I don't care what happened, even if the Lord had come down in the morning ^{for} on Richard Nixon, wouldn't have mattered. By the same token, you weren't going to change Chuck Sandman no matter what the evidence showed. You had those of us who ~~had~~ for various reasons ~~that~~ thought we were fair, ^{now} I'm very frank, that you ^{can} get conditioned not to make a judgment until it becomes necessary to make a judgment. ^{we've} You got a way of putting it down where I come from, you ~~want~~ "to stay in the forks of the tree" as long as you can. Maybe the old barking dog will go away or something. Maybe you won't have to declare. Some of my people were for Nixon and some were against him, and "I'm for my people". It became ~~ultimately~~ evident that there were 10 or 11, give or take a few, who were going to make a difference, the ones that hadn't declared. And I think we became more interesting to the press because of that. It was not our intention to do that way, but we ^{couldn't} ~~didn't~~ avoid the attention ~~we got~~ and the Alabama press became very interested because I don't think there had ever been an occasion where there had been a ~~House~~ Representative from Alabama ~~had been~~ thrust on the national scene like I was. I think they were enjoying it a little

WF - bit and they didn't know very much about me. I had never run for anything except the Congress and I was relatively new; I was in my third term and all these things kind of built up ⁱⁿ what ^{is} Flowers going to do and it was kind of natural that ~~the papers~~, you know a lot of ^{state} pride. I didn't discourage that either, and I didn't deny it. I think that all of us ~~certainly did it~~. One thing too, I think my staff did for me, they were great throughout the whole thing, most of them were fairly on edge, particularly my staff in Alabama, because they felt ~~like~~ if I voted for impeachment that it was the political end. Particularly my senior staff member in Alabama, he is a gentleman by the name of Andrew ^{Deerland}; he comes from a small rural county, that conservative area, Nixon country. His closer circle of acquaintances, I mean ^{are} the real Nixon die-hards, ~~particularly early on~~. ~~This would be the last election and that's what they believed~~. But the Alabama staff, as well as my Washington staff, pretty much kept the bad news away from me; they understood because I'd said ~~it~~ so many times that I didn't care what happened representative-wise in this instance. Generally speaking, ~~my office and I and my whole product~~, my whole policy is stay in touch with the people, to know what the people want, to inject what we think is best for the people and try to reach a compromise that's my position. But in this instance, that could not be my position, because I thought my responsibility under the Constitution outweighed any representative capacity. I wanted to know what the people were thinking, but I put it in some other kind of category. I didn't run the regular computer on it. They heard me say that and they believed me. They kept away the letters saying "you better, you so-and-so, you better support our President." And that was the way my mail was running from early on. "You-all get this thing over with so Mr. Nixon can get back to being President. You're distracting "our" President from what we elected him to do." That was the major thrust of the communications that we received.

DFS - I got a kick out of your statement that they thought McGovern would take over.

WF - That's right. That's right. Some people thought that if you booted Nixon out that McGovern would become President. There was that kind of frustration running through a whole lot of people. I don't know, people were so tired of it, that here we go again, another crowd, they didn't get their publicity when the Senate had the ball, and they are trying to run with it now. What are they going to do?

WF - Are they going to end up fumbling around and have no finale, like the Senate? What people didn't understand earlier on and I think we didn't have a full grasp of it either, is that there was ~~an~~ end, there was a light at the end of the tunnel for the Judiciary Committee, we were at some point going to vote it either up or down. And the Senate didn't really have that option and it was an entirely different thing. I think that is one of the reasons you can say that our public time was successful. I think it basically was, it was short, it was to the point, it was completely captivating the public's attention. The Senate had it early on and it just dwindled off and at the end it was bad. Ours was on the up the whole way, I think after Saturday maybe, it went down a ~~little~~ bit, but still it was ~~so~~ short and to the point. I think that because the great job that my staff did, it kind of insulated me from certain pressures; I don't mean that anybody would ~~kind of~~ twist my arm or anything, but we had continuing little small licks, "support our President, support our President." There was one big flap which you had in your summary that got on the national wire ~~about the word that~~ *when it was* ~~somebody~~ said that Gov. Wallace called somebody. I don't think anything like that happened.

DFS - You never heard it?

WF - I talked to Senator Allen one time, but he's a close personal friend of mine, and he's such a gentleman that even had Gov. Wallace called him he wouldn't have done it. He might have called me on some spurious thing and say, "yeah, I called Walter; because he is a friend of Wallace's, too," but he would never have tried to influence me on a matter like that.

DFS - On the Tuesday after the vote on the second article, you make this statement about Dick, \$400,000, and so on. Do you think, looking back now, that the fact that you realized then the Republican money was being funneled in and Wallace was being looked at by the IRS - did that have an effect on you?

WF - On me? Yeah, it had; that's not why I supported that article by any means; it was just I think evidence to me that here these people had gotten so confounded arrogant ^{and} they weren't content with manipulating a national election, ~~the feeling of many in Alabama was they~~ ^{were} wanted to manipulate an election in the State of Alabama. You know, way down in Alabama and it wasn't even a general election, it was a Democratic primary in Alabama. That ~~just~~ seemed terribly arrogant to me. It was the kind of attitude that exemplified their manipulation of various ^{intentional} statements which included the IRS. They had peppered away and had the Governor's brother under investigation. It had come to my attention at that time that -- I remember that I ~~had~~ hoped sincerely that it was not politically motivated and it made an indelible impression ^{upon} that this came up last year, and it had been politically motivated. It just didn't really set ^{well}. When I was talking to article two and using those examples, I was frankly communicating with the people that I represented and wanted them to understand. ~~that~~ I felt that would be a good device for convincing them that I was on the right track. ~~And~~ I don't know whether it did or not. The people in Alabama are either all for Wallace or all against him. It's divided among ~~some~~ of the people.

~~One other series of things that I really got across to most of the people that I didn't, was the motion to strike that I filed on the various subparagraphs of article one. What was really the confused time I think. I think there were~~ ^{were} was a couple, three days in there, from the Tuesday morning that our really Unholy Alliance ^{put} it all together, following through the voting on that Saturday night. Those were the action days of course, Tuesday through Saturday, ~~with the motions to strike things,~~ ^{the} at least to my way of thinking, ^{was} the period in which the whole thing was turned around, ~~from what we generally considered a losing proposition when the Nixon defenders started pounding us with their demands for specificity and I think we were really weak in giving it to them early on. If Sandman didn't file his motion to strike which we debated far too long on the first paragraph, I was prepared to use it then before he did. It was unfolding much better if he had maintained his position and filed it as to the remaining paragraphs so that I would not have had to do it. It would not have had to come from one of the ones who were committed for impeachment at that point. I think Sandman is a sharp operator, and it figured that he would play into our hands and he decided not to carry on. and The funny thing is everybody else wanted to let it go at that point, too.~~ ^{would have been} ^{he did} ^{this was} ^{play} ^{to}

WF - Railsback didn't want to go further. Nobody wanted to continue, they were willing to go along with me but I was out there by myself. Maybe Bill Cohen understood and I think maybe Caldwell Butler. But everybody else wanted to get it over with at that point. Well, I didn't ~~kind~~ ~~of~~ see it that way because I felt we had definitely won the round. The initial motion to strike Sandman filed, and so I said, "Well, this is a device that we ought to use any way in our favor" ~~"til someone could continue with it."~~ So I went out and struck out ~~two~~ ^{three} times. We talked too long again. Well, afterwards we limited debate, unanimous consent. I think one of the oddest feelings that I've ever had in my life was on subparagraph three - the first one that we had a record vote on. I ~~didn't~~ ^{didn't} talk about how I was going to vote on my own motion to strike. I had moved to strike subparagraph three and they demanded a record vote. I said ~~I was for it because~~ ^{I was for it} I certainly don't want to strike the material, it is vital to supporting the article. I don't want to vote no, on my own motion to strike, that seems to be absolutely ridiculous position to be in, particularly when I had every intention of filing the same motion on the next subparagraphs. I said, "you got no, and you got aye, and you ain't got ^{but} one other thing and that's present." And in my time in the Congress, that's the only time I ever voted present on any issue. And I had some soul say, "Flowers, all you did was to want to get before a national camera and ~~all~~ this and then you couldn't even make up your own mind."

(Laughter)

SL - How did you finally feel about the paragraph where you finally did vote ~~present~~ ^{for it}

WF - Well, I knew ~~it~~ ^{it} was going to fail, but I think I carried through ~~it~~ ^{it} because I did things that ought to be taken out. I didn't think it was fully supported by the evidence, ~~and I had a purpose in advance.~~ I got a little opening there and Charley Sandman gave me a chance to jab back at him a little bit. I got him. But we had a lot of fun, Sandman and I had several occasions ~~right~~ ^{right} after to be on news programs together, and we had been and still are personal friends and I remember imitating him several times: "It's AMAZING!"

DFS - You've got that down very well.

WF - But there are still some people that say, "Walter, you really did great, but I don't understand still what you were doing voting present." There was one, I don't know if I can describe this, but it is a very significant occurrence to me on the night that Nixon made his resignation speech. The news media were, I'm sure, lining up members of the Committee to be on various programs and I had been locked in by ABC radio and ABC news and ABC television to be at the various studios at various times after the speech. Anyway, this was, ^{with} Charles Sandman and I ^{were} on a couple of these things together. ~~The program was I think the ABC news panel, but we left the hotel where their studio was, that's where we watched the speech on television. I think it was that night, in fact, that we commented on it afterwards.~~ So we went out there together leaving the Capitol a little bit earlier than we needed to. We didn't know what kind of traffic to anticipate, ^{and} it was less though, than what we were getting into. We drove along the roadway out there where you look across the tidal basin to the Jefferson Memorial. This is kind of corny, but I want to tell everything, ^{and} so I said let's go over ~~to~~ it, you know we ^{we} got a little time, let's kind of just check in over there, ^{with} I've been a Jefferson admirer all my life. ~~We talked about constitutional processes and this seemed like the perfect time and so we ended up actually in the Jefferson Memorial in the rotunda there and that night right before we were going to listen to the words of the President resigning. And, as you come up the steps, there's the excerpts from the words of Jefferson which really gave the ~~real~~ basics of what we were doing on impeaching the President. It was just such a startling experience for me in that the analogy was so great. It was a very noteworthy experience for me at that time. I've never attempted to put it down as to what my thoughts were then, but before we get through with this thing, I'm going to do that. I don't think Charley had the same feeling, it was mostly just me and it was my decision to go there. ^{show} ~~and I got just a personal feeling for those basic documents that is hard to describe, but it was so exemplary that experience. That the system which had become to me and always has been but through these turbulent months which we had been involved in this inquiry, The defense of and the preservation of the system is what become so all-encompassing, so over-powering. The man that Richard Nixon, that my constituents felt that I should defend to my dying day, was not the ^{important} way I saw it. It was the system, it was the Constitution.~~~~

WF - That's the way it was on that night particularly. The impression that I'm going to try to recapture in my own words before we get through. I mention it now so that should I forget it...

(VOTE)

WF - One thing that I remember is that one of the members, you might say a main-stream Democrat, told me on the House floor one day, that he had early on decided that he was going to vote for impeachment. ^{was} Congressman Jim Stanton, ~~I remember was getting Feady, one of the times that ticked me, to make a speech, a one-minute speech.~~ Stanton went over to O'Neill and said "Tip, you're just wasting your time," he said, "I'm for impeachment, too, but I don't think Flowers is considering it," ~~Stanton told me that Walter Flowers got tired of hearing you talk about it on the Hill,~~ ^{and} when Flowers starts talking about it that's when I ^{was} start thinking it might. -- (Laughter).

DFS - When was that, would you say?

WF - Oh, that was maybe in June or something like that. Early June, maybe May, shortly after we started the public, not the public, but the actual inquiry. ~~And it occurred to me~~ I had not read the Breslin book, but I understand he gives a whole lot of credit to O'Neill ~~which~~ ^{but} I don't know where that comes from. Frankly, at one point I can remember Tip asking how things were going and that's the extent of it. I don't think Tip O'Neill had any influence over the final outcome or the shaping of articles or even the fact that we reached a decision when we did, because if anything his ~~early~~ pressures on Rodino were to hustle up an early decision. And I think, quite frankly, had that occurred, they would have lost the necessary middle of the roaders that shaped it in the final analysis. If there is one attribute of Rodino, that was his patience. The patience of Peter Rodino was what really paid off in the long-run.

DFS - Bresling was probably just another fellow drinking Irishman of O'Neill, that's all.

WF - I think that's right. (Laughter). I think those were the basic things that might not have come out, I made notes on. I didn't anyway mention all of them. I just leave it to you all now.

DFS - I think we will, if you like develop further on the Jefferson Memorial.

WF - I'll make some further notes on that in the quiet of the night, I can do that. It did make an impression on me and, as I recall, I used it in a speech, and I'll get a copy of that speech, too, to refresh my recollection on it and go from there.

DFS - Just a couple of things we asked the other members. Going back, for example to the 31st of July, when Drinan introduced the first resolution to impeach, that's '73, what was your reaction to that?

WF - I didn't take it seriously. Drinan is a guy that is programmed, you know where he is and you know where he is going to end up. He may fuss around between here and there, but this was to me typical. I don't mean to be disrespectful of him. It was a typical thing for him to do, and I didn't take it seriously and I didn't think it would lead to anything. I know he made a big splash about it ~~on the~~, he had a news conference, he got some publicity on it, but I don't really think anybody took it real serious at that point. It was premature ~~at that point~~. I don't know exactly what was on his mind, ~~even to think~~ *but if not reasonable* to consider ~~even~~ voting to impeach then.

DFS - Now of all these things, you might look at number two there, which one or ones were probably among the first to make impeachment become a kind of possibility?

WF - Well, subsequent to the so-called Saturday Night Massacre, it became something a lot of people started to think about, although even at that point, I thought it was very premature and I kept ~~high places, could arrive at some solution that would apparently pass.~~ I couldn't believe it had gotten as far as it did. I know one thing ~~that~~ in that period, ~~just~~ thoroughly turned me off, was the proposed reference of this thing to Senator Stennis, ~~and the television~~ *← Cf. Was when* and the President himself referred to John as Judge Stennis. Senator John Stennis had been in the Senate for 30 years. I can't ~~see for them to drag out the fact~~ *believe they would* that he had been a Judge so many many ears ago and refer to him as Judge Stennis. Now, I've learned that some of his oldest friends do call him Judge in a personal sort of way. I thought this was, I shouldn't have felt that way, but

WF - I thought it was just a petty ploy to elevate this guy to ~~this sort of~~ a judge type in a role. ~~That's the reasons that they wanted to send the tapes to him for listening and to verify the transcripts,~~ and I thought ~~that~~ that was just a dirty trick, so to state. And that came about in the period just preceding the Saturday Night Massacre, I guess a few days before that, that was when they were trying to work out some kind of solution. At that point you start thinking that there is really something that ~~is~~ not only the lower echelon is trying to hide, but it's way up in high places that can't stand the heat. And, ah, I was embarrassed when the newspapers ^{revealed} ~~showed~~ the fact that the FBI had cordoned off the prosecutor's office, ~~and they had more or less impounded the goods there to make sure it was almost like they were going to purge the whole operation for a few hours.~~ Then things kind of leveled off after that, when Jaworski was selected. We had a ~~sort of~~ potential flap in the Committee over the Hungate subcommittee ~~time~~ and the ^{proposal} ~~set up~~ of the special prosecutor, you remember that bill came out of committee and I was the only Democrat that voted against it. But they never had the nerve to put it on the House Floor because I think they would have been beaten on the House Floor. I think there for just a little while it had the whole thrust of a ~~kind of possibility~~ of becoming a Democratic move to get the President. Because here was Jaworski with the highest credentials, here we were, we weren't willing to accept this man, we were ^{almost} willing to ~~kind of~~ tie it up. ~~It just didn't seem right to me.~~ So I opposed that in Committee and I think that the decision, whoever made it, to hold it ^{was wise} ~~to not elevate it, or escalate it to the House as a form was a wise decision.~~ I think it was maybe not a decision, it was just a reaction to the inevitable defeat of it. ~~But still it wasn't the bringing up a bill that we knew was not going to go over, just as we knew we weren't going to override the veto today, that was brought up anyway.~~ Had we had a long, drawn out debate about the Watergate prosecutor in the fall of 73, we could have lost a lot of the steam for the rest of the inquiry. There were two other subjects that jolted ^{me - made} my blood warmer than any other until we really got down to the review stage, ~~where we looked down that road and saw all that, the wrecked vehicles and the bodies that were lying in the wake,~~ and that is really when I decided that I had to vote for impeachment. The second period was when they first refused the subpoena, and I had a word or two to say that got picked up by a couple of reporters including the Los Angeles Times, about playing games with the Constitution and the President was off in Texas making a speech somewhere and some of these other people were somewhere else and they ~~talked about that~~ ^{was} had all the evidence we needed. They were trying to go to the people over the heads of the Congress and the legitimate process that we were really doing fairly, and ~~subpoenaing~~.

WF - I made some remarks in the Committee; I don't think I even have a copy of the completed remarks I made. But it was just a short statement to the effect that they were barking up the wrong tree and ~~that it was in their backyard and not ours~~ and for them to stop playing games with the Constitution, ~~which would have been in the remarks of March or April.~~

DFS - 21st of March, I have here, "we see developing the intricate maneuver of the strategy to limit this Committee and confuse the issues stop playing with our Constitution."

WF - ~~The next I'd say peak of the responsibility of it came apparent to me~~ was the day we heard the March 21st tape, which I thought was shocking; I thought it was devastating. Because here we had been ~~kind of~~ going along in periods of a lot of verbage, a lot of very uninteresting ~~kind of~~ lulling us to sleep at the hands of Doar and Jenner. Going back to the one in which he had announced the resignation of Haldeman and Ehrlichman, ~~now~~ each time he went public either on television, radio, or news reports, it was downhill. Each time his position, at least in my eyes, was substantially lowered because he was obviously backing. You didn't even ^{next} the hand in front of you, the facts and figures just from your own recollection of what was said in the preceding appearance, ^{well enough} ~~you know~~ ^{account} ~~the second one was a fall back~~. And the next one was a fall back and it was just a series of fall backs, ~~and~~ this began really with his first back in September of 72. I'm sure that after that it just almost got to be a comedy. It was just disgusting to me to say the least.

Remaining on the issue of the next possibility.

TM - Do you recall earlier in the proceedings, the Committee discussed what is an impeachable offense and Doar staff issued a brief on that, the White House issued a brief -- taking a very narrow view that it had to be an indictable offense and the Department of Justice also had a brief and they kind of discussed the narrow and broad view of what is an impeachable offense. Did you come to some kind of feeling or definition of an impeachable offense?

WF - I probably was somewhere in between in my own mind and closer to the broad view than the narrow view. I don't think you could anywhere accept the narrow view, that it had to be a criminal offense. I was never at that point; I do remember that I read a couple of rather long articles or books about the Johnson trial which were interesting, but I didn't think they would help us very much in 1974. I didn't go way into it in a real scholarly manner ~~on the whole thing~~. I probably relied on gut reaction more than anything else and my own basic assessment of what the Constitution said. I just didn't feel like we ought to be tied to the letter of the law on a criminal offense in this instance. Although, I felt like it had to be a highly significant offense, ~~I didn't think it could be a non-criminal sort non named sort of trespass on the Constitution; it had to be significant; it had to get into~~

- WF - the guts of the whole matter, ^{governing the country} I think of the Office of the Presidency ^{governing} or the country, it had to be an important & significant offense. But it didn't necessarily have to be a criminal offense. Nor did I think ^{any} criminal offense would be necessarily an impeachable offense. In other words, you could have a criminal offense, ~~it~~ wouldn't be an impeachable offense, and you could have an impeachable offense and it wouldn't be a criminal offense. Either one could be exclusive of the other.
- TM - Involuntary manslaughter, for example.
- WF - Right, or running a red light, all kinds of things. Besides, ~~I didn't think it had to be a criminal offense.~~ I think in the same vein, I don't know if this comes up anywhere, I think I had a different to some extent view of our Committee's role ^{from} than some of the others. Some people looked upon it ^{as a} grand jury ~~that inquired on the prima facis sort of thing to indict or vote articles or a House extension.~~ Our Committee's function was derivative of the House and that's the position the House was in, ^{even} I never felt that way. I felt that, and I said this publicly many times, that in order for me to vote as a member of the House of Representatives to impeach the President, I would have to be just as convinced of the evidence that was before me as I would require if I were a Senator to vote conviction. I didn't think that the degree of proof was any less ~~required~~ in the House than in the Senate. ~~Any this was to the discredit of some people who~~ used it as a crutch that they were going to send it on to the Senate and let the Senate decide. That's a terrible way to shift the burden. The burden was on us and we couldn't pass it. Now I realized all along that it would have been different in the Senate because the defendant, of course, the President, would be the impeachee/ respondent and would have the opportunity to present evidence which was not necessarily the same manner in which you would present evidence ~~if the House didn't inquire.~~ The trial in the Senate would be different. You would have a better balance in the prosecution evidence and the defense evidence and that would make a different element before you if you were a Senator as opposed to a House member. If you were a Senator and only had the evidence we had in the House, I would view it the same way as based on the evidence that was before me. ~~had I been a Senator voting to convict or a House member voting the articles of impeachment.~~ I can remember when I would tell some of the media coverage this was my view and they would give me some kind of hazy look; that wasn't exactly the way they wanted me to look at it you know. Throughout, I was impressed with and apprehensive of the fact that unanimously I think the people covering the inquiry wanted to see articles of impeachment voted. I can remember remarking on several occasions to the newsman at the stake out -- they all got to be friends of ours to some degree -- "Aren't any of you guys for Nixon?" I don't even think there was a cameraman that was for Nixon; ~~you know, they had all been popped and they knew~~

- WF - exactly where they were. They wanted to get the dirty so-and-so and there was no balance to it in that respect. That further determined me not to be influenced by anything on the outside, I was insistent that there be fairness shown to him. And I said so on several occasions. And I said so during the public debate at one point, too.
- SPL - Did you have a degree of belief concerning what you have before you, how much do you have to be convinced, that's clear and convincing, etc., the evidence?
- WF - Well, I think clear and convincing became my standard as opposed to beyond a reasonable doubt, and by the time we got to the public debate, John Doar had adopted that posture clearly and, he didn't start out that way at all. I think the Chairman's conception, staff conception, at least on the Democratic side of it was that we just make a prima facie case. I think they learned through the initial statements that was not going to satisfy enough of us, ~~to make it a legitimate complaint against the President.~~ So, clear and convincing became more or less the standard in my mind, as I think it ultimately ended up in almost everybody's mind, ~~except for some of them.~~ Maybe it was ~~their~~ ^{their} standard, too, but ~~they~~ ^{some} were clearly and convincingly convinced at I think about 1972. You know, right after the election. (LAUGHTER)
- DFS - Harper's quoted you as saying that you would be satisfied as "beyond a reasonable doubt." Now that shows you were changing in the next couple of months.
- WF - Now I remember reading that article. I think they kind of pushed my position at that time. I don't think I ever felt "beyond a reasonable doubt." I'm not sure of that. ~~But I'm still falling back on what I said that if I were a Senator I think I would be satisfied with clear and convincing.~~ You know, when you say beyond a reasonable doubt, you almost rule out any circumstantial case and at the point we were at, even up to the disclosure on the June 23rd 1972 tape, we were dealing with circumstantial evidence and disclosure. That tape came after we were all finished. Some people could argue that we had direct evidence against the President, but they had pretty much taken all that, I think, and erased it. I think we were still dealing in circumstantial evidence up until after our inquiry. So, I think this was after I finally got it all together in my own mind.
- DFS - In your TV statement that Thursday night, you said you'd vote on two things, evidence and the Constitution. Take this situation, let's say the facts, the evidence was there, it was clearly against the Constitution, not a frivolous thing, but that thirdly, you were not convinced that the American people so apprehended, so understood it, would that third element be necessary for impeachment in your mind?

WF - Yeah, probably. I thought that this was a part of the gymnastic that perhaps I went through during the public aspect of this thing. I thought that we had the responsibility after we had declared to bring the people along. I don't mean if there was going to be a trial, ^{we} we should try the case in the public eye. You ~~got a hand~~ ^{must have} a line there, of what would be appropriate and what would not be. I was still preparing to accept the challenge personally to convince my constituency and anybody else that I could have any influence upon that what we had done had been the right thing for the country. Because I was so totally convinced that we had to do it at that point. ^{What} ~~That~~ was reached in a negative way that we would have been more wrong to fail to impeach than it was to impeach. You know the argument that the country can't stand impeachment; well, I think we are a pretty big country and we can stand almost anything. We had already been through a whole lot, and I believe that we could suck it up for a little bit more and obviously we could. But as I said it was not looking for the approval of my own constituency and it was apparently a mixed bag around the country and we'd just about as likely have bloodshed one way as the other, I guess. I didn't think it was the kind of thing that was going to cause a revolution either way. The pros and cons were going both ways all over the country.

DFS - In your statement, you put a lot of emphasis on Presidential truthfulness. In your mind, would you say that Presidential untruthfulness in itself is impeachable or is the substance of what he is untruthful about?

WF - I think we've had a recent history of certainly more than the President being untruthful or denying the truth of us, omission as much as commission. I think the degree of it was so appalling. The apparent total disregard of the truth, it was just "what can we tell them that they might believe". "We don't have to worry about the truth, what can we tell them." It was so all-pervasive that it ~~all~~ ^{just} elevated ~~it~~ to another level of transgression. ~~Anyway, when you kind of shook it all down, it became obvious to me that you shouldn't even arrive at any kind of misleading or dealing outside of the truth between the President and the people. I'm really not so naive to think that there are periods in international history where we haven't gotten some lying, introduced some things that you know maybe they lead to prevarication.~~ ^{But} In terms of the kind of lies that the Nixon Administration would tell, it just became black and white, it was not even gray anymore. It was totally black and totally white. What they were doing was the deepest, darkest black.

DFS - Well, let's move to something on not such a high level. Among your friends and family, for example, in the McCall's article on the wives of the seven members, they are quoting Mrs. Flowers as saying that you brought your five-year-old to Washington.

WF - Yeah, he was five then, my youngest son.

- DFS - Right, and she was quoted as knowing that her husband, you, were going to go for impeachment.
- WF - She didn't know a thing, ^{fully} because I didn't know it then. But she was up here and we were all at my apartment, which is just a couple of blocks away, during that time. I normally commute to Alabama and they stay down there but she's been up and back three or four times. We had one of our kids in camp, the seven-year-old, then the fifteen-year-old daughter, I don't know what she was up to; I guess she was staying with her grandmother in Tuscaloosa. So we just came up and they were visiting with friends around here and the thing had unfolded with our private meetings and so on and I think that at some point during that period I came in and said, "Eoney, I'm going to have to vote to impeach the President," and this was really just a couple of days before we went on public debates. I think that when we all faced up to it was that Tuesday morning. It was ~~almost~~ the same kind of electric atmosphere that morning that we had that Saturday night later on that week. It was less formal, we were ⁱⁿ a friendly kind of thing, ^{we} we knew that we were dealing with matters of high importance and we kind of got to that issue.

Congressman Walter Flowers, Alabama

- WF - State allegiance here. A lot of my people moved up to Alabama Ave. (Laughter.)
- DFS - Mrs. Flowers, would you discuss the case or situation with her? Did she have any effect upon you?
- WF - I don't know that she did. I think she's a pretty conservative person, but she's never been pro-Nixon. She was following it very closely, and we talked about it considerably but she could take what ever point of view it looked like I wanted her to take to discuss it and then we'd both repair to our own corners for the next discussion. I might be the Devil's advocate on the other side and she knew that I was not going to declare and never really tried to influence me one way or the other. I know maybe Caldwell's wife had a different point of view and they operated in a different manner. My wife was privy to my thinking on a day-to-day basis for the last 10 days or so, because she was up here and was aware of how serious it was to me. It was that serious and it was obvious that I was thinking seriously about going for impeachment.
- DFS - What would be your reaction to our getting the seven wives together at a very informal sort of thing at Hilton Head?
- WF - I think it would be very good. She's the one who suggested that I definitely ought to mention the primary and it is something that I really picked the thing up at a later date and in a quick reflection on it, it very definitely had an influence on my. The fact that I was ~~to~~ adamantly refusing to stake out a position until the very end was partly because of this primary race I had in early spring. So I think it would be good.
- DFS - Fine, were there any other people, outside the Congress now, that you were in communication with or influenced you?
- WF - No. As it got closer and closer to the final gun and the possibility of voting for impeachment became a greater one for me, (I mean, we're political animals) and as I said I thought one of our obligations was to lead, and help other people at least legitimize what we had to or might do. I talked with various people, ~~and I mean not only people you know~~ I'd pick one person here and one person there, but amongst a fairly intimate circle of friends in Tuscaloosa.

WF - When I would see them on another occasion, I made damn sure that they understood that there was a distinct possibility that I was going to vote for impeachment and I didn't want it to be a complete shock to them and naturally the people that I talked to in this vein were people that I was fairly well certain were pro-Nixon at that point. I found a willingness amongst the reasonable ones, to listen, and part of it I guess and I hope was confidence in me and my own thinking. Part of it was -- ~~I kind of thought even at that stage which was backing up from the vote, or anywhere from a couple weeks to maybe a month before, it became~~ obvious that people hadn't really thought about it in terms of what damage might be done to the Constitution, to the system by this group, if we allowed it to go unchecked, the next group might even do it incompletely. I can remember putting it to some of my conservative pro-Nixon constituents -- that ~~you know~~ this time the plumbers broke in Dr. Fielding's office to get information that they thought they could use against Elsbeg and you don't like Elsbeg, I know you don't. But what if next time there was another regime in power and they were breaking in your Doctor's office to get information that they might use against you? You know people started thinking about it like that. It did take on entirely different dimensions to them and it wasn't "let's get the dirty commies anymore," it was "let's protect the system that protects me, just like it protects Dr. Fielding's records inviolate and Daniel Elsbeg's civil rights." It becomes an issue of principle rather than of person and that was the way that I was going to put it from then on to the people.

DFS - Steve, do you want to go on to number six?

SL - Okay, I'd just like to cover one thing, we've covered about everything else in five -- threats against you and your family, did you receive threats at all during the inquiry?

WF - We got a few obvious crank phone calls. I'll put it this way, Steve, nothing I ever took seriously. We got some letters --

SL - What about your family in Alabama?

WF - No, nothing, nothing. In fact people were exceedingly kind and thoughtful and didn't really seek us out to bother the family with it at all. All during this period I was in Alabama on the weekends. During the preceding couple of weeks I was not in the greatest of physical shape, but I ~~did~~ ^{had} have this lingering bronchial situation that was diagnosed

WF - pneumennitous. Everytime I coughed, it just ^{like} sounded like broken ribs, and the weather was so bad in terms of the air quality then and stuffy -- even if you'd been well with the pressures that we were under, it would make you sick. But I was sick. (laughs). I'd never been a nervous person, I didn't ever get nervous or anything like that, but it did take its toll on my physically and I was a long time getting back to normal. I guess it was maybe on into the late fall before I ever felt decent again. I put it off as an ulcer, in just a joking fashion to Cohen one day, and darned if he didn't use it in a statement that was on national television. Walter Flowers has got an ulcer. It wasn't too bad though.

DFS - You didn't like Waldie: - have a scotch during the proceedings, on TV?

WF - No.

DFS - He's supposed to have done that, you know. If you watch carefully, did you ever watch a replay of, say, Wednesday night or Thursday night -- He would lean down occasionally and some people say come up looking much better than when he went down.

MUCH LAUGHTER.

WF - You know, of course, I was sitting right next to Jerry and we've been very friendly. I know it was very convenient for both of us to get out of the room, in the position that we were in, and I'd go outside just to keep stirring around rather than just sit there under the hot lights. They had a television on back there also. I would watch it on television for a while and come back in and just stir around a little bit, rather than get stir crazy. He could have had something besides coffee in that coffee cup. ----- laughter ----- I wouldn't want to say one way or the other. Given the right circumstances, I wouldn't turn it down.

SL - What information or evidence did you consider either most helpful or most convincing?

WF - You mean the mode of it or the specifics?

SL - Specifics.

WF - Well, the March 21st tape. The evidence of the initial delivery of cash to Bittman, Hunt's lawyer, and then all that was wrapped up on that. Like the telephone calls and the fact of it, the manner of it which it was, when it was, you know, the whole bit. I thought that was helpful in the sense that it was devastating evidence. I guess the other thing that really remained with me as significant evidence and kind of capsulized it, ^{was} ~~is~~ the arrogance and the abuse of power -- the manner in which Henry Peterson was used. And he ~~was~~, his testimony made an impact in this regard. Kalmbach's did too, but to a lesser degree than did Peterson's. It was Peterson, a civil servant of the highest order. He had risen beyond that which you normally think a career person does in the Justice Department and it was on merit, a very impressive man and impeccable credentials and he had honestly been trying to do a good job in this respect, and he was torn, totally torn. I don't think that after the fact we could hardly put ourselves in the same position he was in during this period, when he was being used and abused by none other than the President of the United States. The fact of this really, was the most direct evidence of Nixon's abuse of power which would come under article two. The ferreting of information from Peterson by the Commander-in-Chief telling his lieutenant in the fray of battle, "you tell me." Now, Peterson had really no alternative but to tell the President. He told the President, and what did the President do as soon as Peterson left? -- he brought Haldman and Ehrlichman into ^{the} ante room and he spoon-fed them everything that Peterson had told him, not with a view towards -- "let's straighten this out boys, let's get it ship-shape" but it was a view towards patterning their defenses, getting their stories in a way that would sell. This was a sticky situation to me, and I just couldn't get away from thinking about it. I had been one of the larger proponents of taking more as opposed to less live testimony. I remember when the initial decisions were being made as to who would be interviewed, I was shocked that they were talking about personal testimony, from I think about five witnesses. I said you mean we're going to go to bat on this thing without having Chuck Colson in person? And Colson kind of got to be an issue because of the principle of the thing to me, and I said "you know we ^{do} got to have Colson." ~~but~~ The Republican side proposed 10 or 12 guys, some of whom didn't seem really necessary to me but because of the Colson thing, I stuck with the larger number of witnesses. Then, ultimately, Rodino, and this was again

evidence of his

WF - patience, his attempt to conciliate ~~To~~ Brooks and some of them. ~~They~~ thought ~~they~~ were giving me and Jim Mann and Thornton ~~maybe~~ everything, although I don't think Thornton really asserted himself as much as Jim and I did. ~~Maybe Jim did as much as I did,~~ 'cause Brooks laughed about it - he is such a funny guy anyway. He said, "you just let Flowers have everything he wants, there ain't nothing he can do anyway." I was adamant about Colson. A couple of others I thought we ought to insist on were Ehrlichman and Haldeman. I think we could have ultimately got them but nobody seemed insistent on that. I just couldn't generate any support for that. I think they ultimately would have come although they had sent word they didn't want to because of their trials coming up and all that. ~~But this really wasn't doing anything with the most important issue of all and to think we were going to just rely on evidence that had been deduced in another tribunal, where the issues were different, the people were different.~~ What we were relying on mostly was the Senate's word and I'm still disappointed in the investigative job that our side did. I think they did a fantastic job compiling, of putting it together, of timing, they must have ^{had} a sixth sense about it because they let us have just enough to keep us satisfied. But I don't think we did enough spade work on our own and had we done more, I think ~~maybe~~ we could have made a case out under article five. The tax money article. I think we could have done some more because we had a great wealth of information and material that had been accumulated by all these people, including Woodward and Bernstein and everybody else. We didn't really do anything but compute it, more or less.

TM - You had some Grand Jury testimony --

WF - And we had some other stuff. But it was other people's investigative work, wasn't it Tom?

TM - All of it, I don't remember any original ---

WF - They interviewed a few people that I might have, but ~~it was~~ the new stuff was the grand jury stuff, wasn't it, that's all it was. All the stuff that came from the various departments was confidential or secret.

DFS - An interesting little footnote here is Lattimer Pringle who was forman of the Grand Jury, was a graduate of St. Joe's.

WF - Is that right?

DFS - Pure coincidence.

WF - Is that right?

LAUGHTER

DFS - Anything else about this general area of information, of evidence?

SL - Just the tapes -- Do you think they could have built a clear and convincing case if there had been no tapes?

WF - If there hadn't been the tapes, I think it could have been done possibly but it would have required far more investigative work than we did and I can't say that we wouldn't have done it. But the tapes were such a key part of it. It just is hard to imagine something taking the place of the March 21st tape or the tape that really developed the interplay with Peterson. Everything that becomes really important centered around the tapes. The transcripts -- we only got them because there was the tapes. You wouldn't have ever had the transcripts to go with if you hadn't had the tapes.

TM - Was it necessary to listen to them, do you think? Was that important? As opposed to reading them?

WF - I think you could have gotten it in a transcript. I think listening to them put an entirely different dimension to it. In some respects it made it lighter on the President and in some respects it was more of a devastating blow. The tone, you got a real feel for these guys sitting around in the room and their feet up on the desks and they were just kind of talking, you know. Early on you kind of had the feeling, at least I did, that Nixon was just a front man for Haldeman, that Haldeman was in charge. Anytime the subject changed it was Haldeman that led the discussion over into another area. It was Haldeman that talked in short sentences to the point, made the point, and then went on to something else. He'd sum it up. Nixon was indecisive, Haldeman was decisive. It became more obvious later on that they almost acted as one. They became almost a part of each other and when one acted, it was certainly not just with acquiescence, but with full knowledge and almost in concert, one with another. But you had a different feel, sometimes, it seemed to help the President's position that there was this conversation tone and at other times you got a real feeling for the kind of

WF - arrogance though. "This is where it's at and these other guys are lesser persons that we don't need to consider." It didn't help them. The tapes themselves or the material that was on the tapes were of great importance in the final outcome. I'm almost inclined to say that it would have never occurred without them. And I think probably that's the case.

SL - What was your reaction to St. Clair's performance?

WF - Well, I kept waiting for him to do something significant. Here's this guy with fabulous credentials ~~of~~ a trial lawyer and he sat over there like he knew something that we didn't know. We were all getting more and more bored with Doar and Jenner and the da ta da ta da ~~that~~ --- I don't like long jokes, or shaggy dog stories, man I just want somebody to get to the point. ~~I like~~, sometimes I pick up a book and I read the last chapter first. I get kidded by everybody for reading Time and Newsweek from the back - forward, you know I just want to get into the issue, and then I'll unveil the other stuff. We just went through the shaggiest of shaggy dog stories on the thing and we kept wondering when are they going to tie this thing together. It was worrisome, it really was. We kept thinking now, St. Clair's to be different, he's going to ream them a new one. (laughter) - I think that maybe it was the most disappointing final act that I've ever seen. There was never anything really substantive that he proposed or suggested or put forward. Never anything that gave a new twist to it. At least to me. This was one thing that I think turned the tide. Here is obviously a talented guy who'd been hired to defend the President and you can't change the facts. He didn't have the facts on his side. The best of lawyers can do no better than the facts given them in the case to argue. It was obvious that he was not getting full disclosure from his client. The last go he had at us when he disclosed something that had never been brought out before - it was a --

SL - Partial transcript -----

WF - Part of a transcript, yes. I thought it was a real bad show. I couldn't believe that ~~they~~ ^{he} ~~guy~~ was doing it. Plus it didn't help. Number one, here was a lawyer dealing with lawyers and you know you don't say you don't have something to start off with and find it at the last minute after the other guy doesn't have a chance to dispute it. It is suspect. It was suspect. It set him back, if he had made

WF - any progress in his presentation he was set back and then some by that low blow, I'd call it. Additionally, it didn't help at all. The substance of it, if you could even look away from the manner in which it was presented, it was no good. It became obvious later that the President had insisted that he do that. But he had objected, to doing it. Mr. Nixon said, "Now you do it!!" It's kind of like he told Peterson, "You tell me!!" You know he had no choice. I think St. Clair was broken by the case pretty much. It was kind of pitiful in looking back at the final analysis. Here was a guy, a great lawyer, at least supposed to be, and he goes to handle the President's defense and there had really been no defense. I don't think that there ~~was~~ ^{was} ~~had been~~ a case put forward at all.

DFS - In your opinion, it was Cates that was able to make it a little less shaggy doggish somehow?

WF - Yead, Cates! Cates was extremely helpful. ^{By} ~~But~~ nature everybody liked him, he's kind of swashbuckling, a big handsome guy, a ~~trial~~ ^{trial} lawyer, the facts man, the actionable facts is what he ~~was~~ ^{helped with} not the shaggy dog part of it and I think he assisted a lot of people. I didn't spend a lot of time with him, but he was there if you wanted to bite something off him. We had good access to him, real quick. He was always available, I think that was a very important ingredient in any staff work.

DFS - On the 28th of June, two important things. -- Rodino's supposed to have made that statement to the Los Angeles Times, that all the Democrats are going to vote for impeachment. And the other, at the Caucus that morning, I believe, you and Mann and Thornton indicated and I think Jordan, too, that you just weren't certain whether a case had at that point been made and evidently Rodino was surprised at that. By the fact that you were just not convinced. What were your relations with Rodino during that time?

WF - Very good! He might have made the statement. I know Sam Donaldson and I know Jack Nelson and they are honorable guys and great reporters and Rodino is like the rest of us. he could get carried away and say -- "I just know all the Democrats are going to vote for impeachment." The manner in which he said it would probably be more "I hope that they are going to vote for it." I can't help but feel that no matter what his choice of words, might have been, that would have been the way that he intended it because at that point, he didn't know that he had my vote. I can be

- WF - sure of that, because I'd had a number of private discussions with him. He and I have been quite friendly since I served on his subcommittee, when he was subcommittee chairman and we worked together very closely. ~~I just~~, I didn't want him to be surprised by my point of view either. Just like I was not going to let my constituents cast my vote, I was not going to let my Chairman cast my vote either. That's why at every point in Caucus or in private discussions with him or anybody else, each time they'd get this group therapy of "let's bring everybody along" by the time we got to the end of the session, Flowers would say, "Now I want you guys to know that I've got an open mind about this entire thing and I don't know how I'm going to end up." That very day that this was supposed to have happened I had been talking in terms that I didn't think that a case had been made at that point. Jim and Ray and I, and to a lesser extent Barbara, had chimed in somewhat in frustration that the slow movement of the staff work didn't point in a really clear direction at that point. We didn't think that they'd really gotten us anywhere. All we had was generally in the public domain and we hadn't really improved upon it -- no investigative work of our own. I think I was disappointed ~~in that~~ at that point. I remember when this hit the wire, and the great furor that was caused by it. Rodino was looking for me. He wanted me. He was going to make a speech on the House Floor and he wanted Flowers to be over there to agree that he hadn't said that. I didn't know whether he had said it or not but I knew that if he had said it, it wasn't a fact because he didn't have my vote. I could certainly say that and so I had said something like that, but I said, Mr. Chairman, I have got to go to Alabama and I was gone to meet a two o'clock flight at the time that he took to the House Floor to make a little short speech that the reports were not true.
- DFS - Didn't you say that you denied it all the way to Alabama and back?
- WF - I told him that and then he said that I said that. (LAUGHTER) What I denied all the way to Alabama and back was that he had my vote in his hip pocket. (MORE LAUGHTER)
- DFS - Another thing about the Committee business -- leaks. Now in your opening statement on TV you said that they were great, grossly over-emphasized. Is that your general view?
- WF - Yes. I don't think that there was anything that was leaked that really made a difference. It was unfortunate because obviously a couple of people were using this to get a little publicity. They enjoyed the sneaky conversation here and there and most of us were trying to be straight about it and it cast the Committee in somewhat of a bad light. It gave those who wanted to detract something to use as an example. You know, occasionally when somebody wanted to appear to be fair to Nixon, they'd criticize the Committee for the leaks. The leaks didn't really matter, I don't think, one way or the other. That's what I meant by that.

TM - I had difficulty in trying to make notes and put the thing together myself from my recollection. With regard to the Coalition, going back before the Tuesday when the Coalition actually met, your earliest recollection of this type of thing developing? Maybe even discussing it with somebody?

WF - Tom, I couldn't put a date on it. You know Rails and I have always been good friends, going back a couple of years. We've been together on trips, we've played ball together, played paddle ball together, you know, kind of just knocked around together a little bit. I was also closest on our side to Jim Mann probably because we came to Congress ~~together~~ at the same time. We'd discuss the thing, as we have a lot of things that would emerge in the Committee. We could help each other where it wouldn't do us any good to talk to Conyers, or Waldie, or Kastenmeier, ~~not that~~. They don't react the same way that we might to various issues. I think earlier that we had had just a sort of tacit understanding that Jim and I -- that at some point we were going to get together and make our decisions but until we got to that point it was kind of fruitless to try to narrow the issues until all the issues were laid out. And it was the same way in talking with Tom and I think ~~King Cohen~~. ~~Cohen had a friendship that enabled a discretion there.~~ Caldwell and Ham came into it, just sort of drifted in somehow or another. It was kind of hard to say the others were not a part of our group but they weren't, it was just the seven of us. In talking to Jim, it was always just assumed that we'd talk to Ray, too, because I knew Ray geographically, politically ~~he~~ had the same basic situation that Mann and I would have, ~~and~~ ~~he~~ was a moderate, independent, liberal, conservative Democrat. You know he could end up doing what everybody else would based on the issue. He was independent. Jim was, too. And that's where I view myself. It was inevitable that we ultimately coalesced. We were forced to just like everything else around here by the time element. Our timing was forced upon us. You deal in deadlines, you know, you get an assignment and you prepare it right. You get it finished right before you ~~get~~ ~~it~~ ~~don't~~ you? (LAUGHTER)

DFS - Well, maybe you don't.

WF - Well, that's right. Or ~~as you are getting it~~, I remember one of those statements I made over there. I was reading the first paragraph and writing the last one. It's all you've got but we had a Democratic Caucus on Monday evening before our Tuesday morning meeting and they were all trying to have one of these group therapy sessions. "We're going to do this, aren't we?" I didn't declare. I said that "I'm not ready to but I think we ought to get together, oughtn't we, Jim and Ray?" And so, we left the Caucus over in Rayburn and went over to Jim Mann's office and this was 10 o'clock Monday night.

- TM - Were you aware at that time of the meeting the following morning to take place in Railsback's office?
- WF - Yes. Tom and I had made that -- we had already made that sort of proposition that we would have that meeting the next morning.
- TM - That was on Monday morning or afternoon?
- WF - That was sometime during the day Monday. We said Monday afternoon probably, "why don't we get together early tomorrow morning in your office. We've got a Caucus tonight and I'll talk with Thornton and Mann and we'll get together early tomorrow morning." We didn't have a whole lot of time left. So that's when Ray and I stopped off in Jim's office. We just sat around with no notes or anything else and we basically had the same kind of three-way discussion that the next morning turned into a seven-way discussion. Or eight or nine-way discussion. We came basically to the issue that we thought that the evidence was there. It was sufficient. We had some concerns, we had some reservations, but basically were prepared to vote for impeachment. We had put it together right. We were all planning to go to the meeting the next morning, which we did. That next morning was the key coalescing of the Coalition. It was Tuesday morning, I think.
- TM - Was there any strategy worked out among the three of you as to how you would approach that meeting on Tuesday morning?
- WF - Not really. It was subject to the personal, subjective feelings. We had come together totally independently. I don't think any way that anybody could have said -- "well, I'm gonna be in charge and do this". It was really like acting as one because of a single interest. These kind of things don't happen around here much. It was very, very unique ~~that way~~. I don't believe that there was any strategy amongst the others either.
- TM - Not that I know of.
- DFS - Was there any cause and effect, would you say, between the fact that the Doar articles came out on the preceding Friday?
- WF - There had been all sorts of articles. Brooks had circulated some articles. There was talk the Coalition came together as a response to the articles which were unsatisfactory to us. I think that's totally overrated in my judgment. There was a whole lot of discussion that what we wanted to get were articles that would, you know, soft-soap the thing. And, well, that's exactly the opposite. We were interested in narrowing the thing to what was the strongest possible proof. But like I said one time, it's got to be a God-awful offense for me to vote for impeachment. And I don't want to just cuff him on the wrist, I want to charge him with the worst possible provable items.

- WF - Because I have got to tell my people that this was significant enough for me to vote to impeach the President of the United States. You don't do it for a traffic ticket. We wanted to put it in language that would be suitable. We just wanted to narrow the scope down to what we thought was provable and not be scattered all over the ball park with somewhat tenuous proof. We wanted it to be strong. But we wanted to be shooting with a rifle and not with a shotgun.
- TM - Would you look at the meetings? You were at the early meetings. That's my recollection, you were always there it seemed to me. But there were others that I'm really not sure of.
- WF - The first meeting, Tom, I think we were all there. There was another meeting that I know that Ray Thornton said he was not present at, I don't know whether it was the next morning or what. Tuesday morning I would call a meeting on substance, very much so. The next couple of meetings we had were on form. On the form of the articles. Of crossing the t's and dotting the i's. It's just like I said, "that to me was really not the most important part." Maybe it's because I'm not really interested in pleading. I've often said to people when they say you practice law, and I say, "sometimes, mostly I practice the facts." I had a professor who said that, insisted on saying "~~now~~^{Set} to the facts of the law arises," and I think I took that to heart more than anything else. The facts were the most important thing here, and that's why I say the pleading, the articles had to reflect the provable facts and to me it was less important how we stated it. As for the fact, we stuck with what we really had him by. ~~Not~~, let's don't hang him by a string when we can hang him by a cable. I think Wednesday was more devoted to how we wanted to draft the articles. I was more passive in that than I was in the facts and than how we were going to present the case. The meetings at the Capitol Hill Club became strategy on the presentation of the case. I remember particularly the Friday evening when I think we were at an important junction ~~there~~ because we were concerned that we were not looking good at that point.
- TM - The Sarbanes substitute, which was your draft of article one, was introduced Friday morning at 11:30 or thereabouts.
- WF - I thought we were really bad, we lost on Friday.
- TM - Sandman and Wiggins -- they were pessimists.
- WF - We were losing and we were discouraged. This is where -- to my mind or ~~attitude~~ at that point -- ~~was~~ we'd been spinning around here and we'd been letting these guys that are really not, you know, Sarbanes, and Donohue and these guys, that really weren't making the case. They were not going to put it over to the American people because the American people identified with those of us in the middle. I just was so conscious of this that I felt that the independence of the seven of us, give or take a few on either side, was the great middle ground

WF - that Mr. and Mrs. Average American were looking to to lead them, and we couldn't put that burden off on Paul Sarbanes. He was for impeachment all along. I may have said this to somebody, I recollect it anyway, "If we are going to impeach the President of the United States, we are going to have to do a good, clean job of it, and it's time we took over." That led to my decision to make the subparagraph motions to strike if Sandman had not done it. Now this was on Friday evening. The Thursday night meeting that we put together over to the Capitol Hill Club, I can remember that one too. I know how nervous Tom was at that point because he was going to have to make his presentation later on that evening. His initial presentation. I don't think he had really thought through completely what he was going to say. He was very nervous about it. ~~I know~~ At that point, I didn't know what I was going to say and I was nervous for him because my time was going to come the next morning ~~at some time~~ and I didn't know what the dickens I was going to say. Mine was put together in final form right before I made it, that was it. I worked most of the night and I know, my little boy, the five-year-old, (he's six now,) he was -- you know how kids can ~~kind of~~ have a feel for what's happening -- he was awake, too. He was sleeping on the floor. I had a very small apartment and he was sleeping on the floor there in the little living room. Every now and then he'd come in and he and I were talking back and forth, all night long, but my wife was fast asleep. I was just formulating in my own mind the train of thought, and I came over real early in the morning, Friday morning and drafted it in longhand. I wish I had it now but I don't know what happened to it. I threw it away, if I'd saved it it'd be worth more to me than anything. I did it in longhand, crossing ~~and~~ stuff, just like Abe! (LAUGHTER)

DFS - I was just going to ask about Sarbanes, for example. How did it happen that he and Hungate, who you said were already pretty much committed or very much, why were they chosen? Why didn't a man like yourself or say Mann, someone who had the independent image, the middleground image, --

WF - Well, we talked about it. ~~It was that~~ I think that we still wanted to retain that image until you got the article over with. I was not prepared to move the adoption of the article because at that point I was not prepared to indicate my favor of the article. To some extent we were playing games but they were very important games. You know, we almost had a serious flap over ^{it} when we were going to vote. We didn't almost -- we did! We had a very serious collision over when the vote was going to be taken. Didn't quite get to the name calling stage, but it darn near did.

DFS - Was that the Kastenmeier resolution?

WF - That's right. Which was a real frustration to me. It was because a few of them thought that I was going too far or that we were, the three of us, with me kind of taking the lead ~~there~~.

- WF - The reason that I was so insistent, and I thought I had Rodino and everybody's agreement to put off the vote until the final thing. Jim and I had more or less made that commitment to the Republicans. We could avoid a vote until after the final thing. You know, we could have one big gusto, instead of a whole lot of smaller ones. I remember in that first meeting where we got at the issue in Tom's office that Tuesday morning. I'm the one that broached it, I said, "you know, we're talking about form and what kind of articles. Gentleman, I think the issue is whether we're willing to vote to impeach the President. That is what we are talking about, isn't it?" Everybody kind of looked around for somebody to say something first and old Caldwell did. He said "Yeah, that's right." I said, "Butler do you realize that every pick-up truck in Roadnoke can be up here within three hours after you do it, the same day!" It kind of injected a little levity in it, because I think we were all concerned about the pick-up trucks being representative of the Middle American that we wanted to be with us, not that we were thinking about votes in the next election. We wanted them to be with us because it was important for the country. And Caldwell said that yes he realized that. The rest of us were more than one day's drive away.
- TM - We want to move to the actual day of the meeting. Would you comment briefly on the initial moment of that Tuesday morning meeting when we got into the room and closed the door and for the first time there were seven Members of Congress looking at each other?
- WF - Well, we didn't really know where to start. Everybody had their little testimonial business, sort of. I'm not sure that everybody did. We just kind of went around the table and different people said what was troubling them and I think we all knew that we were all troubled by the same thing. We didn't operate in a vacuum. We were together day in and day out, for weeks and weeks, and weeks. We went to quorum calls together, various people at various times. We walked to our offices together. We all knew that we were troubled but we were not committed one way or another. We knew who had declared and who had not. I think it was inevitable that we come together at some point and that there weren't many points left. It was a relief to all of us that we virtually excluded the same things and we had included the same things. We were all basically concerned about the same two things. And that was the actual cover-up and the abuse of power. At some point, maybe it was the next day, we thought seriously about could it maybe all be put under one all-encompassing article of impeachment. It's my judgment that it could have been. And it all could have been included under article two, with article one just being a very major subheading under article two. But I think it was, looking back, it is well that we did it the way that we did.
- TM - But at some point, a question arose at that time, "How the Senate would vote on that kind of article." Whether it was several, ever before the House, whether it could be several on the Floor, and

- TM - But at some point, a question arose at that time, "How the Senate would vote on that kind of article?" Whether it was several, even before the House, whether it could be several on the Floor, and certain parts voted for.
- WF - I'm certain that played a part in our final decision, of course. We talked around a little bit. At times we'd think the House would and we didn't know. I think we had pretty well determined that if our group did not vote to impeach, that the House would not impeach. But at that point, I was not sure that if we did vote to impeach that the House would vote to impeach. After the public aspect of the thing and after the three articles were voted, and after the kind of reception that we received at the hands of the rest of the Members of the House, it became ~~publicly~~ obvious that the House was going to follow our lead. There would be no dissent. ~~It~~ started, it didn't take them long to come around either. I think that based upon just the evidence that we had there, ~~that by the time the President resigned,~~ that he would have been convicted in the Senate, too.
- DFS - Within the Coalition, did what turned out to be article three play a role?
- WF - For various reasons we were, I think, against article three. I thought it was just unnecessary over-kill. ~~Tacitly, for one thing,~~ technically I thought it could have been an article of impeachment, but I didn't think we'd ever elevated it to that point by either citing him for contempt or having the House authorize the issuance of the subpoena. There were a couple of things that we could have done ~~and gone forward on~~ that would have made article three in my judgment a viable article of impeachment. But it wasn't a real major matter to us and I think all of us voted against it, didn't we?
- DFS - No, Thornton voted in favor of it; he was the only one.
- WF - Thornton did, well we talked about it because I remember we talked about it with Thornton. He was sort of either way on it, and finally came down on the side of it, as voting for impeachment on it. Oh, well Hogan voted on that one, too, didn't he?
- DFS - Yes,
- WF - He did. But he was johnny-come-lately to our considerations.
- TM - Comment just briefly on that Friday night meeting at the Capitol Hill Club, the atmosphere.
- WF - Well, it was frustration. We all, you know, we deal in reactions and whether you're there or not I perceived we were losing the battle of the hearts and minds of the people at that point. I think we all felt that way. Some of them wanted to hurry up and get it, ^{you} Tom wanted to get it over with. That's what he

- WF - wanted to do. He had renched, spilled his guts already. I think he wanted to get it over with. I think the others felt the same way, maybe as much as I did or maybe less, I don't know. But it was my perception ~~then~~ that we had an opportunity then that we'd never have again. To bring the people along, because the audience was there. The American people were watching the thing and they were glued to it. We'd never recapture that ~~again~~, and if we lost them, we might not ever get them back. We were losing^{ter}. We had the vote, we were going to vote to impeach the President, we were all committed at that point, there was no possibility of that falling by the wayside. But the specificators on the other side had licked us on Friday.
- TM - Do you recall the options that were discussed -- of filling in or rewriting the articles to include the specifics?
- WF - Yes. We decided that it'd be better to talk of offering proof under the articles as drawn as opposed to ~~that~~^{redrafting}. Froehlich was one. He was over with us that night, don't you remember? I don't think he understands how he ended up voting for impeachment himself. I think he just blurted it out. We were all surprised when he showed up.
- DFS - So was his District.
- TM - Do you recall the next following day you developed a strategy of motions to strike?
- DFS - He talked about that before you came in.
- TM - Did you develop that at that meeting at the Capitol Hill Club?
- WF - Yes, that's when it looked to me that that was the way to do it. We didn't have any other ~~really~~ parliamentary method of getting the floor. We had all used up our five minutes on the article ~~and~~ in addition to our other general debate time and you had to file an amendment to get the floor and this was the method.
- TM - Would you comment on the Democrats that were looking at the articles as they were being drafted?
- DFS - Oh, Conyers, Brooks, Edwards.
- TM - We don't really know who they are.
- WF - Yes, well, there is very little I can help you with there. My dealings on the articles were generally with Jim. Occasionally in a Caucus with the others we'd talk about it a little bit but there had been some people kind of kid-gloving it then because we had had a near explosion over the manner in which the vote was going to be taken. There was some frayed tempers there and several of them were giving me a very wide berth. It was a part of the maneuvering. We were all playing the games.

- WF - Kastenmeier still is not sure that I am not mad at him, which I'm not. I think a couple of them thought that I was going to let that change my position on the final vote, ~~which, as I said before, it was too important to let the people decide.~~ ^{but} I certainly was not going to react to a disappointment and let that change the manner in which I was determined to vote at that point. I think that they were wrong to go back on their commitment in open meeting. I mean you just don't operate that way around here and shouldn't anywhere else. I don't think in the final analysis that it made any difference, but it could have worked adversely to the political interests of the members who were in the middle. ~~It could even~~ I was thinking in terms of the audience and we were on public television and we had everybody and my concern was that if we voted this thing piecemeal ~~after the initial vote that we'd lose~~ ^{the audience} we'd lose the attention of the audience, and I think we did pretty much. The crucial time was over Saturday night. Nobody remembers what was said Monday.
- DFS - How about the famous and argued-about adjective "fragile"? Do you think that has any validity? The fragile Coalition?
- WF - No, we were united by spirit and we weren't paper thin. I think we allowed the others to think that. Because you let somebody think you are having a hard time making up your mind and they bend over backwards to keep you with them. They thought that our Coalition required accommodation, so they ~~are~~ ^{were} going to accommodate us because they all knew that they had to have us. We knew that they had to have us and they knew that they had to have us. We were in the driver's seat. We really were. I don't think we took unfair advantage. But there wasn't a whole lot of compromises that we needed to make. Because we could vote with those other guys on anything and have a majority, as long as we stuck together.
- DFS - How about your own personal reaction on that Saturday night after the final vote on the first article?
- WF - I was personally more drained physically and emotionally than I've ever been. It had been the most trying experience of my life. That day had been a tough one for me because ~~when~~ I had decided that it was getting screwed up and I was, for better or for worse, going to take charge as best I could within the framework of what I had at my disposal and that was the motion to strike. And this went on all day long ~~and with me~~ ^{and} ~~I was kind of~~ in the hot-box. I don't yet know how I did it, but I got Rodino to let me talk for 5 minutes, at the ^{very} last ~~minute~~. Brooks kidded me a lot about that, too. I was very emotional at that time and when I walked out of the room after we had voted and Rodino and I met in the back hall inside the Committee chambers and I tried to say something to him and he ~~tried~~ ^{tried} to speak to me and nothing would come out. I just couldn't, you know, I didn't know what I was going to say but I just couldn't talk. I turned and came back over here.

- WF - If I'd had anything on my stomach, I'd ^{have} just thrown it up, I think. I just had to hold back, you're just so emotional ~~that~~ ~~it's~~ like it'd be after the death of a close friend. We were all teary-eyed and I couldn't talk to anybody; I just had to come in here and shut the door. My staff was out there and the phone started ringing off the wall and ~~I just said, you know.~~ I just came in and shut the door and they knew that I couldn't be bothered, ~~and they didn't.~~ Fifteen or twenty minutes I just sat here and thought and hoped and just kind of let it all cool off for a few minutes before I could even discuss it with anybody. Then I took a few telephone calls and I talked to the office ^{about} and how we were going to handle it and go on. It wasn't political until that point. From that point on it was, "Let's figure how we are not going to get burned in the next election based upon this." It was still what are you going to do tomorrow, too, that sort of thing. We had already gone back to meeting the next morning on article two, Sunday morning. It was a very, very emotional experience. I think for everybody, even those that had never thought doing anything but voting for impeachment. I think even they were filled with the emotion of the moment. The air that Committee room was filled with Saturday night was as thick as ocean water ~~is normally.~~
- DFS - Someone had made the cynical comment that he thought that some of those who for a long time were in favor of impeachment were acting that Saturday night, that this was a truly difficult thing for them to do. Did you notice that kind of reaction?
- WF - I don't know. I wouldn't impute that to anybody. I can think of the persons that they would be thinking about because they did put on what you could say was a pretty good show. I know how emotional I was and I'm not going to charge them with having any less potential for feeling, although they were ^{more} certain. I mean, I was certain how they were all going to vote, and I'm sure they were too, in all honesty, ~~with themselves.~~ ^{but} There were some pretty drawn faces that had not been drawn before. ~~I don't know if I ought to allow that to stay in there.~~
- SPL - As a result of everything, do you think that future generations now have a clearer definition of an impeachable offense?
- WF - Gee, I don't know. I think they, yeah, yeah. I think that they also have the red-eyed law that you can't really define it. I mean they have a clear knowledge of it, if not a definition. They have a clear knowledge that it's got to respond to the facts. And I think that's the way it ought to be, I wouldn't try to give a hornbook definition. It's got to be case law. It's got to fit the facts and that's the way it worked in this instance. Like I said, that 200 year old law was sufficient to the task and it measured up in 1974. So I think that future generations have a method of operation that I think will be invaluable. I think the Committee's work in terms of how do you move from here to there is a model to go by, generally a model of behavior as well as bipartisanship, hard

WF - work, all kinds of things that ought to be helpful should anything like this ever arise in the future. You're going to have to rely on whose sitting in those chairs in the future ~~just~~ as much as it just happened that it turned out well this time. You know, our Committee was unique in a sense and the fact that we were all lawyers and such a wonderful cross-section; you know, you had the feel ~~that~~ looking at it-blacks, ethnics, WASPS, you know you had it all, just a beautiful, beautiful cross-section of America and what really had gone into making this country unique in the whole world, ~~and they~~ were wrestling together as hopefully the founding fathers wrestled together. ~~just as diligently as we did.~~ I like to think that they did. It's got to be a model in the future. But still it's going to come down to ~~what~~ the people just like I think ^{that's} an impeachable offense. ^{They are going to have to see what the facts are.}

DFS - What do you think are some of the beneficial effects of the whole process?

WF - You know, I hate to think the troubles that we've had subsequent to it -- you know, economics, foreign policy defeat, other adverse things on the American scene, had they come along without the intervention of our Committee's performance in front of the American people, it might have really caused some ^{problems} ~~changes, or looking elsewhere than to our system.~~ It might have caused some people to get turned off ~~that~~ hung in there, I think, because their faith was renewed and restored by what they saw accomplished in the summer of 74. I think that's probably the best thing to come out of it. And we kind of ~~in a sense~~ turned the clock back to old traditional values of right and wrong. "Yes, Virginia, there is right and wrong." It was very timely, very timely. I think young and old alike, and some people say the young people had renewed faith, I think the old people, too. That the broad cross-section of America got a renewed confidence in government that can be responsive, can be responsible because of what we did. Now to some extent it goes up and it goes down, Congress had a great rating after that, in the Gallup and Harris polls, and now it's back down again. But you know that's politics. You can't go anywhere now that they don't remember. I get recognized places I ought not to get recognized, on an airplane somewhere, people say, hey, don't I know you from somewhere, and I never tell them ~~where they might know me from~~ but they sometimes figure it out and sometimes don't. People have a good recollection about it, I mean they remember it ^{at} good, whether they remember something I did or whether their favorite guy was Chuck Wiggins or ^{to} many of them ~~in favorite~~ guy was Charlie Sandman. It all comes out good. Even if they supported Nixon, they remember the hero on the Nixon side; it comes out they remember something good about it.

- DFS - It has been said that up to that time the White House, not just the President, the White House had become a virtual fourth branch of government, responsible not to the people, the law, but to itself. Do you think that's an extreme statement or would you say it's substantially accurate?
- WF - I think it has a whole lot of truth to it. I think that what happened in our Committee last summer went a long way towards restoring a balance of power between the legislative and executive branches. I think I had something to say about that at the time. That you know what we did with that power was going to be up to us, we might fumble the ball and I think we have not used it very well ~~and~~ ^{and} that we've still got the opportunity to use it. Part of this is because Gerald Ford's natural desire and propensity ^{is} to let the legislative branch be more of a leader. But there is no question ^{about} what we did knocked the executive down a notch or two, maybe more than that.
- DFS - That was, of course, last August, 10 months ago, and by this May you made the decision to tape your recollections, which of course we're doing. What were the factors that caused you to say, yes, now, that might not have made you willing last August or October? Is there a difference? Would you have been more reluctant to do this last October than now?
- WF - I don't think so, I would have been receptive to it then, just as now. ~~It~~ ^I would probably have a ^{fair} more even recollection of it, although we may miss some of the specifics of it now. It's probably less subjective now, maybe more objective although we lose some of the specific hindsight that we would have had earlier on. But I would have been receptive to it at any point. It's just a question of available time and thanks to you fellows help putting it all together. I think it's good that we do this. I hope that it will be worthwhile to somebody along the line.
- SPL - I have one final question. Would you comment on the treatment the inquiry received by the media. I think you began your opening statement making a few comments about that.
- WF - As I said, I think that everybody was against Nixon, but I think that the media had its finest hour in terms of the investigative reporting, Woodward and Bernstein are darn good examples of it, although they violated a whole lot of ethical rules of the profession, but their diligence and their perseverance paid off. Because without them, I don't know what would have turned up. All of these pressures kept things turning up that it ultimately ended that what we had what we did. They hung in there, they were interested. I know everything I did or said or thought was fairly reported.

- WF - They were anxious to know why I thought they were being unfair to Nixon. It was a very fair sort of job that I think that they did, within the confines. Everybody ^{was} ^{for} ^{impeachment} anyway. The manner in which it was covered and transmitted to the American people was so helpful I think. It enabled us to do what we did I think, because of the instant total exposure. I think that the television debates, if they were debates, the television time that we had really is what transmitted to the public the necessity of what we ended up doing. You can falsify a whole lot of things or ~~put~~ make it look like something it's not but when it's a man or woman on that tube it sees right down to the soles of your feet. The American people perceived that these were real people and the media helped that come about. The news media, the newspaper people did a tremendous job, too. The media ~~from that sense in~~ news reporting rose to its highest level during the coverage of our time.
- DFS - Well we want to thank you not just for the primary historical information, but really for your just wonderful geniality and informality; we really appreciate it.
- WF - Well it's fun to relive it. Seriously.
- DFS - The only stipulation is that you have to relive it more informally at Hilton Head.
- WF - You betcha.

Tape I, p3

- WC - And Flowers says, I want to be sure we are not going to lose this thing on the floor if I vote for impeachment. You got to have a solid case. Mann says we got 98% of the evidence. Flowers said, you may have 105% of the evidence, because some of this could never be used as evidence in the Senate. That was the line of conversation, which we then discussed. I said that there are only two areas of impeachment, agency abuse and obstruction of justice. Jim Mann agreed. Not Cambodia, allowances [?], not the sale of ambassadorships—that has been done by every administration. That was standing right there in front of the committee room.
- WF - On the Republican side.
- JM - Not, 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 ^{at the time} then. I felt that was absolutely absurd.

LAUGHTER

Tape I, p4

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

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

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

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

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

TR - When was that now?

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

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

WF - It was inevitable that we have a meeting soon ^{because time was} ~~because we didn't have~~ ~~any tapes to talk on.~~ ^{running out and we didn't have our TV scripts}

LAUGHTER

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

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

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

JM - Two little items of interest. In spite of our chit-chat during the previous two weeks when things had kinda started jelling, we never made a 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 ^{to agreement} ~~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 voing for impeachment. It was a chance meeting.

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

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

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

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

Tape I, p6

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

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

WC - Yeah.

TR - I am talking about another one.

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

You got your good guess.
TR - They took me.

LAUGHTER.

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

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

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

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

LAUGHTER

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

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

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

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

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

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

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

Tape I, p7

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

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

TR - Yes, that's right.

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

LAUGHTER

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

HF - Let it all hang out.

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

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

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

TR - Yeah.

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

WF - There was press speculation to that effect.

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

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

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

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

Tape I, pl5

- TR - What prompted you [WF] on that Monday afternoon to come over to me and say, "Let's get our guys together"?
- WF - The time frame.
- TR - White said, I think, that you were asked to do that by Rodino.
- WF - No, it was the time frame, strictly. We'd all been talking, and hell, we were all going public a day and a half later. We had to get our ~~data~~ ^{thoughts} organized ~~[]~~.
- RT - The only thing we had is what Doar had put together.
- HF - This is what troubled me, Jim. The perfect story to me was that, being scheduled for television, we voted anyhow on the scheduled start, Wednesday evening, and here we are, Monday, and where was an article of impeachment? Where was anything to put before us? I heard about a group that involved Edwards, on the Democratic side, but I never knew any more about it—that they were writing articles of impeachment. But doesn't it seem strange? If we hadn't met Tuesday morning, we would still be there.
- TR - Yeah!
- JM - My recollection of that little steering group is not very good because there wasn't much said about them then. I just see Pete looking at 'em every now and then; obviously there was Edwards and Sarbanes and Brooks.
- WF - I think that Pete had the feeling, Jim, that it was going to have to emerge from the middle or it wasn't going to fly. He had some kind of confidence that it was going to happen—~~he pointed~~ ^{in that} direction, just by faith.
- TR - It was just inevitable.
- JM - That group never presented any words, any articles. I met with them one time to show them what we were doing. It was either the first or second article, I don't remember which.
- HF - They were not independently preparing anything?
- JM - Yes, they were studying and trying to prepare some language, but it was never presented to me, and I never did see it.
- HF - But they did get the word on Tuesday to hold off—that the actual product would come out of Railsback's office?
- JM - No, not in that fashion, although they could have been getting some word from Doar, with whom I was working very closely, as we were preparing those things. They could have gotten the word in that fashion.
- HF - Sure seems a sloppy way of approaching the thing....

Tape I, pl6

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

LAUGHTER.

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

LAUGHTER.

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

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

CB - That's right.

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

TR - Yes, that's right.

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

LAUGHTER.

WF - *you know, this is where* The only show in town ~~when~~^{where} you guys have ~~got~~ a majority.

LAUGHTER.

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

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

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

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

Tape I, p23

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

CB - Absolutely.

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

TR - Sure.

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

TR - Sure.

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

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

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

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

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

TR - It would have been different.

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

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

END OF TAPE I.

- JM - We really need to interview John Doar; why not just call him and get his recollections? He came to see me that previous week before the committee drafts were made available to the members. Labovicz had also come to see me. John Doar had come to see me with those drafts two or three days before the committee got them, and he had the habit in this period to meet me at 8:00 almost every morning. He would call and say, "Can I come over?" And I said, "Yes." And that happened one morning during that prior week he came over and brought those drafts and wanted me to study them over and give my opinion about them. I don't recall reporting back to him on those drafts. I had the same reaction that Tom has expressed: I thought they were overstated and just kind of turned 'em off, and started to think about drawing other articles. During the process of drawing article one, I think his input was substantially less than it was on article two. My work was primarily with Bill Blunt and John Labovicz. And of course I have no recollection of what I might have done during the afternoon of Tuesday and prior to 10:30 Wednesday morning in the way of working on article one.
- WF - Well, article one didn't really constitute the problem that article two did.
- JM - That's exactly right.
- WF - I know that all thru the thing we were worried about article two in stating in common parlance a viable ~~course~~ ^{course} of action [?].
- JM - We mentioned just a minute ago, when the tape went out, that even in our initial meeting we spent very little time talking about obstruction of justice. We went right into those nitty-gritty problems of abuse of power. So it was just kind of a drafting and language problem that caused me to think that I should continue to work on article one. I'm sorry to say that I am more of a last-minute man than most of you are; I really can't work until the pressure is on, so article two could wait.
- TM - At that time was there a Democratic group, a steering committee, to whom you were talking?
- JM - I recall absolutely no input from that group.
- TM - What group, for the record, are we talking about?
- JM - Well, I only visited with that group one time that I recall, could have been twice. I went to a room near Jack Brooks' office in the far corner of Rayburn and just gave them a progress report and went over the language I had, and they made one or two suggestions, but nothing of any substance. That was that.
- WF - Rodino's drafting group was Sarbanes, Edwards, Conyers, and maybe Brooks.
- TM - Was this draft 5 or 6 that you were talking about?
- JM - No, I am inclined to think this was on article two.

Tape II, p7

CB - You don't think there was anybody that edited our article one?

JM - No, I do not.

CB - It was accepted pretty much?

JM - I don't recall any other....

WF - Jim, I think we on the Democratic side need to volunteer more here because Tom's stuff here is orientated to the Republican side. I think we sloughed off some more important stuff on our side than even these guys know about — that was the kind of friction that was building up on the Democratic side probably aimed more towards me than you guys because I had been more outspoken and I had been more the cutting edge in making sure that we seven were in the driver's seat. Some of the guys were getting ticked off at me and I knew it. I think if there was an operable strategy it was to get at my position ^{get the committee} [?]. You were going to be the go-between on the articles because you had not made them mad at you, but I think some of them were suspicious of what we were going to do right down to the last minute.

JM - I recall one theme that ran thru the Democratic sessions, and we had two types of sessions. One was back in Rodino's office behind the committee room, usually at mid-day. And then we frequently had a early morning session in Jerry Ziefman's office back on the hall. There was one theme that built up during that time as we started off, when we more or less laid down the law that there wasn't going to be any radicalization of this process, and that there would probably be no more than the two articles — or three. The ones only that were found in the documents. And we thought we had agreement for a while that Brooks and Mesvinsky and Drinan or whoever else were not even going to introduce their articles on Cambodia, on taxes, and the like. We thought we had that kind of agreement. That started eroding and the chairman indicated he couldn't prevent them from doing that.

WC - Jim, did that start eroding after the procedural vote when Waldie and Kastenmeier kind of snuffed out Walter's theory about not going back to vote each separately? Is that when it came apart?

WF - I think some of them thought that they had lost me at that point. They thought I was going to end up voting the other way on account of this flap. I don't think that lasted very long.

JM - The erosion—well, you can see what folks went for those — affected some people that we really thought would not stick to the idea of not giving any credence to those other articles. We expected erosion from several people like Drinan, Holtzman, Conyers, Mesvinsky....

HF - But the Democratic caucus had agreed, had it not, to withhold votes on all articles until the final article had been considered?

JM - Yes, that was right.

TR - What happened?

HF - What happened with Kastenmeier?

Tape II, p8

HF - I was the one the one who suggested that to Rodino. I said that I think [?] it would make it easier and he would get more people on our side if there was just one vote.

WF - And we had tacitly assured you people that we could handle that. And then this caused a flap in our group. I just laid it out to them and they very reluctantly agreed to go along. I am not sure that Kastenmeier was in there at that time. Then when I introduced the resolution a lot of guys on our side played ~~gold~~ ^{rough} and all of the other fellows on your side wanted to make it rougher on you guys — ~~the~~ ^{Wiley} Wiley Maynes. went along with the Drinans and the Conyers and the Kastenmeiers on our side. Bilberg was very cross with Kastenmeier; he thought he'd broken a deal that was an understanding.

TR - Exactly.

WF - Don Edwards walked past me, and I was down at that point, because I thought that we had been done in and we had broken faith with you people — that is what bothered me. And this had been the first time that we had said we could do something and it hadn't worked out that way. And Don Edwards — he is such a nice guy, even tho he is on the other side of most issues — said, "Walter, I don't blame you." In other words, his old buddy Kastenmeier had violated faith and Don Edwards is not the kind of guy who would do this. And I said, "Well, Don, I try and not get mad but somewhere down the line I am going to get even." I hadn't done it yet.

LAUGHTER.

HF - You have a long memory.

JM - You will find frequently during that week the Democratic members met pretty often. Most of the meetings were merely for progress reports on the preparation of articles and questions. And of course there were two or three meetings on the specificity problem that arose.

WF - So many of our meetings, as Jim as said, were times taken off the front end of the schedule of the committee time; that's particularly because our drafting effort was also a last minute effort. We walked in with article one about thirty minutes late because it had to be redone at the last minute. I know this put the TV announcers and commentators in a heck of a bind, because we'd schedule a meeting for 7:00 but not emerge into the main committee room until 8:15 or 8:30.

JM - Getting back to article one. I had no independent recollection of having met with any group of Democrats. I am certain I didn't, frankly, to approve that language. But I did with John Doar and so he had an input.

WF - Jim, I don't think they really cared, do you? The main line Democrats weren't really concerned about what it was as long as they got their articles.

Tape II, pl9

JM - And Bittman lied like hell.

CB - Of course he did.

WF - Well, I think you were right, certainly in retrospect. That was a cold operation.

TR - Sure.

WF - Typical, you know, deception.

TR - I am sure sure you could have proved it.

WF - It was my feeling that it was not as strong as the other, and we were getting into trouble to put it into that category.

HF - That's right.

JM - I really don't mean that Bittman lied like hell. Bittman was at our hearing and when asked that question by St. Clair, he gave a partial answer that said something that clearly indicated that he wasn't being candid, making full disclosure, and I had the urge to follow him on the question, but I didn't and so we really didn't develop from Bittman what all we could have.

WF - I thought that Bittman was the true ^{go - between} ~~Wadini~~[?].

WC - I spent a considerable time with Bittman on that one thing, about his approach to Colson.

WF - I didn't think the truth was in Colson.

CB - I don't want our little record here to indicate a weakness on this solicitation of false testimony. The examples just don't occur to me right now, but there were several cases where basically he told McGruder It's the bar association that he is really worried about. [?]

WF - "We will take care of that, too. We can get his license back too."

CB - Yes, all those discussions.

RT - He'll know who can get his license....

TM - "Tell him personally I said hello, that I inquired about his family."

CB - That is the Doar theory all along, a wink is enough if you wink at the right time.

TM - Looking at H, disseminating information received from the Department of Justice" — that's Peterson.

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? ^{WF -} /If Cellar had been chairman, it *el* 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.

WC - A 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, p3

JM - That's why I finally gave in frankly, because I knew that even tho you all were going to vote on the article, you were unhappy.

RT - The indication was that you would vote for article II whether or not that addition was included.

TR - Exactly. I could have supported it, with it or not.

JM - Your position on that finally caused me to make a separate article.

WC - It really belonged as part of I rather than of II.

RT - You're correct — the obstruction of justice. But the discussion was whether to add it to article II.

TR - That's right. But I think that at one point, we did discuss making it part of the Watergate coverup.

WC - That's right. When it came up for debate during McClory's article III, I believe, Ray, you said something and I said something at that time that we were supporting an amendment on the floor or something to that effect — to have it included in article I or II, and not as a separate article.

RT - That's right, but I would have still supported it as a separate article.

WC - That's right, you did say that during the debate.

TR - I just felt that we had not exhausted our proper remedies to enforce the power that we had, there were also other measures.

HF - Do you still feel that way?

TR - Yes, I do.

[?]- I am not sure that I do anymore.

[Mr. Mann takes telephone call].

TR - For the record, let me just state that I felt there were certain customary, traditional procedures that the House had available to it to enforce subpoenas, and also to enforce compliance with subpoenas, and they involved letting a guy come before the House with an attorney to confront the body.

CB - What you call due process.

TR - Yeah, due process. And the other part of it was executive privilege. I thought that we had a right probably to go into court and I thought that it would have sustained the House in its attempt to get that material against the argument of executive privilege, but I thought the President had a right to assert that.

WF - Well, I didn't support anything to do with it, but I initially felt that we did not elevate it to that status because we should have ~~even~~ cited him for contempt for failure to comply or we should have gone to the

Tape V, p9

HF - I think the example that Ray gave, if we had been thwarted from the start, and gotten nothing we'd asked for, you're saying then that we just would have said, "Yes, you're absolved"?

TR - Assume that there is a threat, that the President is going to dissolve the Congress, but there is no evidence of it. I'm saying that in the past Presidents have exerted executive privilege and failed to produce certain things that they felt belonged to the executive. I think that doctrine gives way....

HF - Do we find that in the Constitution?

WC - Where is the doctrine of executive privilege spelled out in the Constitution?

TR - It is not.

HF - You're balancing a specific authority written into the Constitution, vested in the House of Representatives, with something that is implied from custom and practice and respected as an important principle but not specified.

WF - But not on ^{invest} impeachable proceedings [?].

TR - No, it's never been.

WF - This is not a normal information-seeking device for the Congress to find out about an authorization bill.

TR - Now wait, let me make it very clear. I think that executive privilege gives way in this case. I am not agreeing with what the President did or what he asserted. What I am saying is he did assert it, and there has to be somebody to determine whether it should give way. I am saying the impartial arbiter would be the Supreme Court.

HF - When you have the sole power, where is the arbiter? There is not any distinction or need.

TR - I'll tell you, Raoul Berger would disagree.

WF - Who's he?

WC - That was a minority view.

JM - I would agree that it would be appropriate under the circumstances to have a contempt proceeding, as a forerunner of impeachment, but should Congress determine that the refusal was unwarranted, then impeachment is our only remedy.

TR - Exactly.

pe V, p10
RT - That's it.

TR - But you exhaust every avenue first.

CB - Now wait a minute.

WF - You don't think you got to go to court, Jim?

CB - It is not your only remedy, because you can go to court to enforce your subpoena.

WF - We could ^{file suit} ~~send~~ Fishbait Miller after him.

LAUGHTER.

TM - How do you sacrifice your sole power of impeachment by permitting the court to determine whether or not certain information should or should not be turned over?

TR - Yeah, how does that affect your sole power?

CB - I don't think the court would go that far. The court would have to determine if it was related to our impeachment inquiry or we had a reasonable basis for it, not whether we were entitled to the information or not. That would probably be another question.

JM - It might not have been an impeachment inquiry initially.

WC - The court would have to determine whether you are seeking relevant information, and in order to find out what is relevant, they'd have to find out what is an impeachable offense.

WF - If they do that, then they are invading your power to impeach.

WC - That's correct. That was the argument that Jenner used to defeat Railsback's motion to go to the court in the first place.

HF - A solid argument.

WC - Once you get into the question of relevancy, you have to define impeachment and then you have the court defining an impeachable offense as opposed to the Congress.

TR - Alex Bickel came right back and destroyed in effect Jenner's argument.

WC - I agree with Nora Ephron that you wear ice cream suits and that probably affected the validity of the argument.

Tape V, pl3

WC - I think one other point could be made so long as we are on this light note, and it's the one you made last night, Ray, that all of us thought during the course of the impeachment, how in the world could someone, who knew he was being recorded, had his own taping system set up, and having engaged in the conversations he did and they did, how could they allow the recording to take place? Then when we compare it with what we did the past day, and what we are doing now, the answer becomes rather clear: that these will never see the light of day.

LAUGHTER.

HF - I certainly want these edited before they do see the light of day.

JM - Let's don't fail to recall though, contrary to the impression that I got a moment ago, that there was a brief discussion concerning these matters in our meeting, because it involved the position of Rails and Walter with reference to whether this should be an impeachable offense, and that discussion caused Ray Thornton in effect to develop an amendment to article III, which was presented to the Democratic caucus, and I guess to the full committee when it was considered.

RT - Right, and it was adopted.

CB - It was salutary in every sense of the word. It surely did improve it.

RT - What it did, Tom, once again was to tie the right to have an article based on a failure to comply with subpoenas to two elements: one, that it was a clearly identifiable effort to get specific evidence related to an offense which was demonstrated to be an impeachable offense by other evidence.

CB - It was the finding of a jurisdictional prerequisite for impeachment. Yeah, that is a good one.

JM - I just looked at article III. I don't see that language ended up in it.

RT - Yes, it does.

JM - Yes, I see it now.

RT - It, second, was necessary in order to resolve by direct evidence factual questions relating to presidential direction, knowledge or approval of action, demonstrated by other evidence, to be substantial grounds for impeachment.

JM - Right.

HF - Frankly, it just boggled my mind that we were going to get down to what at the time I considered a rather technical kind of legalistic approach to the matter, when we were dealing with these offenses—and in retrospect I changed my position — but then these God-awful offenses like obstruction of justice, abuse of sensitive agencies, and things that would be politically sexier ~~by~~ back home than failure to comply with a subpoena issued by a bunch of Democrats in the House of Representatives. And you know, how many times have you heard Eddie Ebert say, "we got fifty subpoenas sitting on the Armed Services Committee, and the Congress doesn't honor subpoenas of the judicial branch, if they don't want to."

Tape V, p20

HF - Why was it that Sarbanes and Hungate were chosen, and that you yourself weren't interested in presenting the substitute?

TR - Yes, that's a good question.

WF - He's ^{not} smart, but he ain't dumb.

LAUGHTER.

JM - I think that says it as well as anything. In the first place, politically, I did not want to be out front. I think that is the most obvious answer I can give. Secondly, I knew that these were both people of ability and moderation and the image would be just the right one to present.

WF - That's the way I view it too.

JM - That's the only real answer.

CB - I think it was a pretty good choice, all things considered. It would have been hard for Kastenmeier or Edwards to put that over with the same conviction that Hungate did, the same standard.

WF - It would have been hard for you all to go along with it.

CB - Yeah, that's what I meant.

WC - Let me say this about Hungate: my opinion changed. I wasn't terribly impressed with his opening statement because it was too light, flippant for the gravity of the proceedings.

TR - Yeah, sure.

WC - And so he would not have been my choice because of his Missouri humor, his Mark Twain quotes, and so forth. I would not have picked him, but I would have picked Sarbanes as opposed to Hungate, but then during the course of the debate, my opinion changed on Hungate, because he did a serious and good job.

CB - I have a note that Bob McClory came over to me and asked me if I would be interested in introducing one of those things. I can't figure out which one it was, but you know I thought it was a little bit presumptuous and I didn't give that a whole lot of thought.

LAUGHTER.

CB - But where in the world did he get that from?

TR - There is one other thing about McClory. I had heard that he was really going to come out strong against article I. So I called him and in effect said, "McClory, if you come out too strong against article I, I think we are going to make a monkey out of you. Here is what we have." And I listed the chain of events where we could prove that the President had not told the truth.

WF - He's got to be schizophrenic to come out strong against article I and support article II. You got to be kidding.

LAUGHTER

WF - Well, one, go back to before that, when Ziefman became general counsel to the committee — I thought that was a miserable choice. He was a nice enough guy, and he was always solicitous of me for some reason or seemed to be, and maybe he was that way with everybody, I don't know. But he never never made a point that made any sense. He never had any input into anything. All the committee work he had any input in or control over, even before impeachment, floundered. He was no aid at all to Rodino. Now perhaps in compiling the works, the documents, he did a helpful thing — you know, the first thing we got from the staff. It was pretty good. But Ziefman was jealous of John Doar from the word "go". He was backbiting — every time he could put a barb into the committee staff, he was doing it. He was sowing discontent on our side all the while. This is a terrible thing to say, but I think the guy would have liked nothing better to see the whole thing blow up and make Doar look bad. It was totally sour grapes, I think, that he wasn't in charge of the proposition.

RT - You said that a little more delicately than I would have, Walter.

LAUGHTER.

HF - Wow, outspoken. That takes care of Ziefman. Now do you have the Breslin [sic?] book answered satisfactorily?

WF - Well, what I really got mad about is he didn't list me as a damn eagle in that statement right there.

LAUGHEER.

CB - How do you know?

WF - I just read it. But I'm not a chicken either. That's worse, I come out kind of neuter. None of us have been mentioned. We are neither the eagles nor the chickens. We don't have anything to do with impeachment. That shows how dumb he is.

LAUGHTER.

HF - I think that is basically it. He was too close to a couple of people who didn't know what was happening.

DS - On article II, are there any other matters that any one would want to comment on?

WC - I wanted to put in at one time, as I recall, something on the Judge Byrne case and that was quickly dismissed. There wasn't too much support for it, but one item that had been talked about.

JM - You know, there was a laundry list of maybe eleven areas, but they were quickly cut down. Somewhere along the line, and it will appear from these drafts, a decision was made, or I acquiesced in — I will put it that way immodestly — taking that subparagraph out of article II and letting a third article be drawn. I assume that John Doar drew the third article.

rape VI, p5

TR - Of course we wanted him involved.

HF - Will Doar be able to help us out there?

TM - We intend to interview him in the next few weeks.

WF - Incidentally, on Doar — I arranged with him to go to make a ~~lobbying~~ ^{Law Day} speech in Birmingham, Alabama, to about 400 blue ribbon, fat cat lawyers, two-thirds of whom I am sure were card-carrying Republicans. And he made the damndest speech. Of course I was in the audience. He included everybody, and he gives the committee all the credit, and he, John Doar, was just there to help us develop the facts and he likened us almost to saving the Constitution, to the guys that wrote it. Now he may have gone a little bit too far, but I recommend him to any of you to make a good speech.

HF - Does he come across negatively at all?

WF - Not at all. He comes across as a decent guy who isn't very colorful.

TR - A decent guy.

DS - Could we get a copy of that speech, because here is a public statement about the coalition by Doar. I would like to get that before we see him.

WF - I think we surely could. You also ought to get Jenner's public statement about the committee. Tom, remind me to write to John Doar when we get back to Washington, and I am sure he'll send me a copy.

TM - Fine. We might also ask for an interview with him in New York.

WF - Good.

DS - Isn't it true, that quite apart from the merits of article III, or whether it should have been with I or II, once this group had in fact written and gotten accepted the first two articles, the pressure was off?

HF - Yes, the reason for that is that it goes back to the fact that this group had individually made up its mind on the basic, two-pronged approach that was embodied in I and II; that is what got us together in the first place.

WF - Yeah, and do you know something else — now let's talk a little politics — we all didn't mind having something to vote against. It wasn't very difficult to find a reason. It was easy to vote against IV and V, but, man, here's another chance. There was a fairly good case either way, and to vote against it, I think, raised our credibility back home. Does anybody disagree with that?

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 ~~the~~ 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~~; ^{another} 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 those 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.

- 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 what 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 ^{concerning} ~~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 revolution flying around, that would have been it.
- WF - 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.

- 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 ^{had} done.
- LAUGHTER.
- WF - I hadn't thought about my next election until about ~~July~~^{July} 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.

- 3 - Well sure, he's in jail.
- MC - 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 kept 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 - ^{Don't} 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 any 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.
- 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