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## M. Caldwell Butler Audio Diary, June 5-19, 1974 - Transcript

M. Caldwell Butler

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B Friday morning - May 31st was not too productive a session except that it probably gave <sup>us</sup> an opportunity to air a few things without ~~it~~ resolving ~~them~~. Mr. David Dennis had been insisting all along that we have got to call witnesses and this had been his point as a man who evidently had made his living practicing a good deal in the courts - had a great deal of strong conviction that the interrogation process is the best way to get to the truth and he wants to call witnesses and have full dressed hearings. There are ~~many~~ moments which I suspect that he has a <sup>sort of a</sup> latent Sam Ervin syndrome that might be motivating him in this. In any event, we had some exchange in the committee our rules had already declared that we wouldn't consider this until we had completed ~~exchange~~ the presentation of the evidence so we had an exchange about procedure about whether we could make a motion or whether it would just be a matter to discuss and we discussed it and basically the problem confronting us is going to be how we are going to achieve a balance between our legitimate interest in expeditious handling of the matter - this is more and more becoming a factor. That on the one hand and on the other the pursuit of the truth. So after the meeting - this was not resolved. I asked counsel myself from time to time whether they were preparing a list of witnesses and they assured us that they were working on it but they have been reluctant to produce a list.

David Dennis had a list there which he thought we ought to call and the list was extensive and of course it illustrates more than anything else that we've got to figure out some way to hold it down. And after the meeting I stopped and chatted with Peter Rodino about it because I expressed the view that we would be here for ever if we called all the witnesses and he was in complete agreement with that. And he said we would have to limit it to areas needed to clear up problems. This is going to be a difficult procedural matter but I guess we've got it to do since we've got to decide what area of inquiry we are going to direct ourselves to and limit it. Then the question that will come up will be well, are we going to have all of these 32 38 Clarence Darrow participating in that and Mr. Rodino's suggestion is going to be that we do it by limiting questions to counsel and submit written questions if we have any others. The logic <sup>of this</sup> begins to appeal to me more although I was earlier of the view that everybody ought to have his day. This is another instance in which I have been impressed by the fact that Rodino and Dore had talked this thing through a little further than I had.

My thought all along is that we should have taken depositions - that is that the committee staff ought to go out and interview these people and early in the game I had pressed them on this and pressed the counsel ~~on~~ for a rules on ~~this~~ depositions so that we would know how it would proceed. Well apparently when counsel got to the point of writing these rules, they concluded that it would not work out. I mentioned this again to Rodino and he said you'd better talk about it to Jenner about depositions. And the implication in that was that Mr. Jenner has had broad practical experience in the area, ~~you know~~. It also illustrates to me that we are depending more and more on him for his - as the one man who has had trial experience. I did check with him. I was disturbed that I had to wait until he had finished an interview with reporters because my understanding was that counsel wasn't supposed to give out interviews.

This was on the Friday -

B This was still on Friday after the meeting was over and I wanted to talk with Jenner and I had to wait ~~xxx~~ until the reporters finished with him which was not ~~rather~~ a discourtesy on his part but he didn't know I was there. But I felt like this man can't resist the temptation to comment.

Dennis on witness

B. Chat with Rodino - P's logic on how to limit asking of witnesses B.

Jenner W

J. in  
sympathy  
- B's  
irritation  
at N's  
foreign  
visits -  
over WR  
PR again -

B But his view of depositions was that they would create more problems than it would solve because of the fact that counsel for the witness was entitled to be present and we would have objections and they would come to the committee in the like and he felt it would not save time. And I'm ~~inclined~~ inclined to agree with him - I think time is becoming more important than anything else. I can't help expressing my irritation at the President ~~is~~ choosing this moment to go out of this country - announcing his plans to go to the mid-east and then to Russia - such an obvious attempt to be out of town so he can't cooperate with the committee. I think it's the sort of thing that won't escape the notice of the committee and once more he's prejudicing his case by - and indeed everything - by his pre-occupation with public relations instead of the substance. Irritation doesn't necessarily color judgement in this case but I think it's poor. It's a mistake and his affair.

But after I talked with Jenner I was satisfied that this is correct and we should probably not go the deposition route so that's where we left that.

We had an extensive discussion again about when the evidence was going to be released that is what's been accumulated to date and I think we just wasted time. I put - just made a notation that we had spent a lot of time talking about what we were going to talk about again when we get to it. But it did give a chance for everybody to express themselves and I suspect that it made some headlines back home and we can't lose sight of the fact that this particular jury is an elected jury.

Rep  
members  
still  
friendly at  
this point

The other thing that I neglected to mention is that during the course of the preceding week I just chatted with other republican members of the committee because obviously there are some differences developing in approach and just my own sampling is to try to determine if there is any hostility developing between various people and their different views and my sampling indicates that it does not which is short tempers and things of that nature usually go along with stress and strong differences in significant areas so I'm impressed that we are still at that stage ~~in our personalities that~~ in our exchanges where our personalities - we haven't gotten really to the point where we start falling out - maybe we never will - and that's encouraging.

W The closest to that I guess was the time when Cohen was the only vote. . .

B Yes, that's right. And that was certainly not at a degree that you would expect in a ... (telephone interruption)

no people  
with  
latent  
hostility  
to Bc

what  
was going?  
✓

Now, of course, there may be some latent hostility developing to me, but it hasn't been apparent in anything that I've noticed. I have a notation here that the intermidable discussion of Friday morning - and I was a little bit impatient because I was anxious to get away - caused me maybe to reassess my earlier ~~of the status~~ of the committee the day before but that's interesting - it's interesting that I felt that way this morning. I also noticed when we got there on a Friday morning that the small crowd that we - the public interest in what is going on is waning a little bit - if the presence other people and the press is an indication - there is an area set aside for each member of the committee has one chair for staff member or wife or ~~relation~~ whatever relationship you might have with the particular person that occupies your seat there and most of these those seats were empty on Friday morning. There were two or three rows for visitors which were full but there wasn't a big line out in the hall so public interest may be waning or maybe they're becoming more perceptive but in any rate Friday morning was not the sort of thing that would restore confidence in the

*Personal anecdote*

B Now, All the weekend was pretty hectic weekend for me. I had - I drove home on Friday - and it takes most of the day to drive home. Friday night nothing unusual occurred. I had a speech on Saturday night and Sunday was my birthday and M Jimmy's baccalaurate and Monday I had an all day Senior Citizens seminars all over the city - information seminars which incidentally worked out very nicely . I was real gratified to know that this effort was working out and then I had another speech on Monday night before I came back early Tuesday morning. I got up and caught the 8 a.m. plane Tuesday morning. I had nice articles in the Richmond Times Dispatch about Charlie McDowell and my mother in law was kind enough to call up and tell me she'd read it. Also in the Washington Post - a view of the whole committee and I was gratified to find myself described as a thoughtful ~~one~~ member of the committee. All of them weren't so good.

*Funny Aside*

I was interested to find that Joel Maraziete was described as the man first out of the room and available for the tv cameras. And so I wasn't surprised when I came in on Tuesday morning to find several people referring to him as "Streaker Maraziete."

*Some want no talk in W. Coast*

The interesting thing over the weekend was - I had ~~spe~~ a speech to a telephone company pioneers which are veterans of the telephone company and it was a dinner speech and I was received at least two letters in advance of it and several cautions there that they didn't want to talk about Watergate which was interesting to me. It is a service organization of telephone employees but the implication in it was as loyal Americans they didn't want to be reminded of the situation and there must be something else to talk about. So I told jokes for 30 minutes which may or may not be a change of pace. But it was interesting even to ~~me~~ me.

*Others want to hear it*

Now the bakers, on the other hand, whom I spoke to on Monday evening, would have wanted, I would have thought, a little talk about wheat which is a major problem - indidentally, my wife's family is in the baking business, so I had a lot of in-laws there also - but they wanted to talk about Watergate, not Watergate - about the impeachment inquiry, so I was able - so ~~xxxx~~ I've gotten to the point where I can make a speech on impeachment while thinking about something else. So I of course was glad to do that. But its interesting the view that people take. We didn't have too much contact elsewhere except at the Baccalaurate so that not many people stopped me on the street or talked about Watergate.

*not quite*

The Senior Citizens Seminar simply didn't mention the subject - all those poeple I saw - none of those people mentioned it - maybe one or two. Old folks say we're still with the President but that's about as far as it went. So I didn't do much toward sampling opinoin this weekend.

*Jenner's bow tie*

Tuesday morning I got here on the plane in plenty of time for the 10 a.m. meeting. I noticed Mr. Jenner in a little informal chat before ~~the~~ hand I admired his bow tie. I told him that I thought they were always so distinctive - that he couldn't wear them more than once or twice because everybody would recognize them immediately and a man of his stature couldn't keep that up for very long and he promptly showed me that he had four-way reversible bow ties which means you can turn them over and use them four different views which I thought was some insight into the man. But I don't know what' it's worth but a reversible bow tie was something and a four-way reversible bow tie is really news.

*his "day" in evidence ITT*

This was Jenner's day as far as presenting the evidence - up to this - as far as presenting the Watergate stuff - John Dore had done it. But this was ITT and Jenner w is very systematic in his presentation. He made - his attention to his presentation was very good - it was very good in itself - he had his staff man there helping him and feeding him his lines from

B time to time. Course he read from the book like we've been doing all along. ~~After~~ And it wasn't much in ITT - there was a whole lot of interesting - but I thought that Jenner's preliminary comments were good - he gave us a new list of players - ~~plays~~ playbill or whatever you call it - and then he described the size of ITT and we were able to worm it out of him that his law firm represented one of the cases involved in the ITT antitrust suit in Illinois and we ~~were~~ wormed it out of him that that case was won by his - he gave us that gratuitous information. He also pointed out that that was before any questions were raised in this so there certainly wasn't any conflict there. But I think it was appropriate of him to mention it.

Style of J&D monotone etc

I guess basically there is a difference in Jenner's style and Dore's style. it's hard exactly to put your finger on it but each one of them has perfected the monotone - that's for sure - and Jenner has a tendency to beat a dead horse ~~than Dore that's for sure~~ I noticed at the end of the day and we really couldn't speed this thing up and not lose anything - Jenner felt compelled to comment on each paragraph while Dore would simply go to the next one. I remember the one toward the end where it said - there was a short paragraph where it said Kleindist was confirmed by the Senate on one day and Kleindist was sworn in on such and such a date. If there ever was a situation where you could pass on to the next paragraph - it spoke entirely for itself - that was it. But even then Jenner felt compelled to give us a little gratuitous comment. Dore would have passed on. I think that's one of the differences in style.

Jenner is more of a stuffed shirt when it ~~comes~~ comes to being patronizing - not deliberately patronizing ~~but~~ but he's not a quite as down to earth as John Dore and that's <sup>more</sup> makes his presentation a little bit difficult and he's also inclined to bluff his way through when he doesn't know - John Dore will stick his foot in the ground and say he's thought it through if he has and if he hasn't, he'll say that he hasn't. Jenner's inclination in this presentation was if he didn't know was to - or had forgotten was to bluff his way through it a little bit more but he did have a staff man there that was totally familiar with it and I don't think that created any real problems for us.

Humor inherent humor

A new word for me was the word recused - RECUSED - and that's what John Mitchell did - with reference to ITT - somewhere between excused and failure to get involved - but its recused. And Jenner got a big kick out of using that word - he used that three or four times and I was too embarrassed to tell him I didn't know what it meant. But I figured it out after I listened to it for a while.

D. on Proj. subhand - Nixon vs. C.B.J. etc with B. Pick not Nixon on ITT

We got into the question of the President's involvement into the policy of ITT and it's pretty to me that the policy in ~~these~~ <sup>these</sup> situations was not dictated by anything except the President's strong feeling that ~~this was the only~~ you don't attack ~~the~~ bigness for bigness sake and the White House, particularly Erlichman was insisting on memoranda and clearance with the White House on these kind of policy decisions. And Erlichman was getting these memoranda from McClaren and Kleindist on these questions. And what was interesting was - to me - was that Dore pointed out that in the civil rights cases that he had that the President was involved but never went to the extent that - the White House was involved-but never to the extent that it appears in all these memorandums that it was in this instance.

W You mean on the Watergate g cases...

B No, it was ITT - antitrust - there were several memorandums called to our attention dealing with antitrust policy - extended ~~memoranda~~ <sup>memoranda</sup> sent to John Erlichman as the President's counsel. John Dore's observation was that they wouldn't have done this in Johnson's instance - ~~if Johnson~~ that Johnson put his imprint on civil rights policy but never to this degree and never did

B get this extensive<sup>U</sup>involved.

that  
My reaction to this was - well, so what - I didn't think it was necessary for him to make that comment and I was a little bit disappointed in him that he did but certainly what he agreed to was not inappropriate... inappropriate for the President to do that and I certainly think not. He's certainly in charge of the Executive Branch.

Dore also - at several stages in our proceedings, it was mentioned that ~~the~~ the President met with Gineen and the suggestion was made by committee members well - why haven't you got more extensive memoranda on this - \* and so forth - and Dore I think was very fair when he said we can't make too much of a meeting with business leaders because that's they've just done it in volume and number and dinner meetings with any number of them and that doesn't necessarily mean any impropriety anymore than just doing the job - it's meeting with a constituent - like anybody else might do. So I think Dore was fair in his comment and I was pleased with that development because I - there isn't any question about my observation of it - Gineen was a pusher and the President was an accomodater ~~and~~ a gracious host sense but I don't believe there was any impropriety or suggestions in this area at all and that's my view of it at the moment but - I'll get to that in a moment - the next - the other observation is the number of inquiries.

There were a number of inquiries that passed by us - dealing with the whole Watergate - the whole ITT thing - that were "eyes only" - which is an issue of impropriety - exchanging between the White House and Colson and people of that nature dealing with the whole antitrust area but I think this maybe wasn't necessary and that's my view of it - it wasn't necessary and probably just a lot of overclassified information and there's no indication in my mind that commitments were made for money at this moment although there were not infrequent coincidences of time between what action in the Justice Department and reaction by III by asking for interviews with the President the day after the suit against Hartford was filed - the day after notice of appeal was filed there was a telephone call to Erhlichman. I have a note when we got to this point in our interregation that Rodino had to speed up Mr. Jenner and that's alright by me.

One other interesting thing - there was a White House memoranda that indicated that something had to be done and I've ~~got~~ forgotten what it was - now but it's tab 53 if I ever want to look it up - but the marginal notation was ACTION in quotes in hand - that's written in long hand - meaning this is something that got to be followed up and then to the right of that were two parallel lines - now that's White House shorthand and that shows up on the memorandum ~~and when two lines showed up that means it's been done~~ that means something's got to be done and when the two lines show up - that ~~means~~ means it's been done. Just another indication of a pretty well organized operation which I thought was interesting

*White House organization impression*

OK now we did listen to the telephone conversation of the controversial date I believe it's March

Pf. C

6/5/74

W. Post conclusion not in most significant (see page 10)

Nixon Kleindist Firm + Clear J. Committee laughter

Trust already out of office B. up on that

B Now I'm dictating this memorandum on Wednesday morning June 5th - our hearing on Tuesday morning June 4th - reading the view of the Washington Post of the conversation which I am just about to talk about and I'm interested for the view that the Washington Post takes in the news article by Byrons and Chaplin that the tapes we heard tended to support President Nixon's contention that his decision was based on policy not political reasons. That was certainly my view of what I heard but it was not my immediate view of what was most significant that took place yesterday.

But what happened was that there are two tapes involved - one is the tape on the telephone and the other was the tape of the - picking up the conversation in the room. We interrupted our conversations within the room to take the telephone conversation and so we had two tapes sort of spliced together yesterday during our development. So that manipulation was interesting but we did - they weren't long into the conversation between Schultz and Erlichman and the President before the President said well, I'll get Kleindist on the phone and he got him on the phone. And if there was ever any doubt in Kleindist's mind about the President's views it certainly was gone by the time - because it could not have been more adamant. He says in no uncertain terms - drop the goddamned thing - don't get in another antitrust suit - all of these things. It was so firm and so clear that everybody in the committee room burst out laughing while we were listening to it because there just wasn't any doubt at all. It's also perfectly clear to me from what we heard unless this was a complete fabrication - which I don't think it was - that this was a policy decision on the President's part that he felt like the administration was getting the wrong view and he had a subsequent conversation with John Mitchell in which John Mitchell came straight to the point and said it's bad policy to get politics to get messed up in cutting off this fee. John Mitchell says there are other ways to save ITT. But the President didn't pay any attention to that and the President said - and I think its right - he didn't know ITT from Adam - he didn't know what their problems were. He just didn't want the administration to be stronger antitrust than the previous preceding administration. And I was impressed by the President's sincere belief in these conversations that the trust busting is out of style. That was basically his thought.

W Did he at some point say to Kleindist - you don't understand the English language - did that come into play on this tape, I remember reading that.

Good

B I don't remember that. He didn't say that in what we heard but he said drop the goddamned thing about 20 times - is that clear? Get rid of McClaren - send him to Guam - somewhere in there - no, I've forgotten - but in the course of the conversation that was what he said do, we'll send them to Guam if they don't cooperate. Actually I think he was talking about something else when we had that conversation.

Good in front of the 1971 & 1972 in show

We did listen to a whole lot of collateral crap that wasn't necessary and then the committee wanted to know why that was - why Rodino felt that was necessary - well Jenner said he put the whole tape in there because it shows how the President operates. ~~One of the~~ He made the decisions. One of the things that occurred to me was the President, certainly in March 1971 - April 1971, it's hard to realize that was over three years ago, was strong and firm and there wasn't any question on how he stood on that and how he put but that contrasts completely with the President we heard discussing in April 1973 or thereabouts - two years later - the payment to Hunt. He was firm and in charge of the conversation is my recollection of it at this moment in 1973 but if its on a numerical scale

Pg. 7  
B  
maybe  
now change  
to prepare  
view of  
\$75,000 direct

far as an

of this sort - the President was ~~more~~ more a stronger/individual in 1971 than he was in 1973. It lends credence to the view that the President's direction was not as clear as I might thought it before with reverence to \$75,000.

We took a 1/2 hour break in the middle of all this after lunch because the new rules of voting in the House on suspensions just kept us tied up a little bit longer.

may

W You think now the President ~~might~~ might not have been as decisive in that decision of the \$75,000 as you thought the first time ~~around~~ you heard the tapes.

B Well, that's right. I'm going to have to go back and look at it again because certainly this is characteristic of the way the President operates when he's made up his mind then that wasn't the same attitude he had in 1973.

some  
clutter  
in Dr  
presentation

The rest of the day of course was the chronology of the whole Kleindist investigation and how it develops. I guess the thing we get to - we had a series about tab 22 and I don't have that one here with me in which we had a whole lot of other stuff that looked to me like it was pretty collateral and John Dore kept saying that these <sup>are</sup> pertinent materials because it indicates that Haldeman was making the decisions for CREEP back in 1971 and they were being made in the White House and so forth and that Strong and Higbee were not decision makers and all of that seemed to be unnecessary. In fact I thought the logic of Mr. Dore in that was so strained that it ~~sort~~ sort of shook my confidence in him and I felt like that was the impression of the committee - that we were getting a lot of unnecessary collateral information in there.

kind

We went into some sensitive documents that came down from the SEC that I didn't think made a whole lot of difference.

During this chronology of course it's been perfectly apparent that the President of the United States spoke to Kleindist and John Mitchell talked to the President and talked him out of stopping this appeal. The thing that kept occurring to me as - why didn't the President tell the truth. Why he kept saying - why he didn't call Kleindist on the mat for lying to the Senate. And why he didn't recall this thing right there - why he didn't - that's the shocking thing through it all and that's the most significant ~~to~~ thing at the moment to me today. That's my reaction yesterday.

The Signif  
This:  
Why did  
Pres. let me  
to lie?  
Why didn't  
he say full  
the truth?

The President of the United States knew that Kleindist had lied to the Senate Watergate committee, excuse me - the Senate confirmation hearings - he knew that John Mitchell had lied to the Senate Watergate Committee. Both of them lied about something that was absolutely inconsequential. I think it was to Kleindist's credit that he eventually did what eventually reversed the President. He had to intercede through John Mitchell but it got it done and I don't think it served anybody's interest for him not to tell the truth about it. When the President of the United States stands up before the American people and says Kleindist is not a ~~lyer~~ liar and he's demonstrated to me he would be a great attorney general and said it on more than one occasion and the same way about backing up John Mitchell then I just wonder whether how this works into the impeachment picture.

The  
middle  
of these  
"digging  
himself in  
deeper"

If this was an isolated incident, I'd feel differently about it but this is one more index of what the President was willing to do to protect his people and it's just hard to understand why he didn't tell the truth and why he didn't insist on calling them back - he kept digging himself in deeper and when you add that to the other ~~incidents~~ instances and that's a much the same situation in Watergate coverup certainly the President



AGS

B wasn't involved in the Watergate coverup, but when he found out about it ~~the failed to take the indicated righteous, moral view.~~ Now whether this is impeachable or not troubled me but its going to trouble the American people I think <sup>in</sup> the text of this conversation with Kleindist is laid beside the Presidents. If we have these three pieces of information before the American people at one time: the Presidents conversation= with Kleindist, Kleindist delivery to the minority committee, and the Presidents expressed statement Kleindists is a great fella - those three things lines up together, I just think its going to be awfully hard on the President. If it were an isolated incident ~~it wouldn't be~~ ~~maxxing but the accumulated picture~~ of course it wouldn't be impeachable but the accumulated effect of these things

W That to you was the most significatn part - the fact that the President didn't ..... call them back to tell the truth - tell them that they erred.

B Yeah, but they knew what they were doing. They appointed a five man task force in the White House to observe it.

W And do you have a theory on why the President didn't do it - well I think you seemed to indicate it was part of the whole pattern of protecting

the problem.

*Nixon's indifference when B. went*

B Well, no, I don't think he consciously made a decision. That's/ ~~ix~~ I don't think it really occurred to him. That's my view at the moment, I don't think it ever really occurred to him that he had a responsibility in this instance - that here's a man who's demonstrated ~~his~~ weakness - a fatal character defect and I ought not to be making him my attorney general. And it never occurred to him. Now to the extent he participated/ <sup>then</sup> in the coverup or perjury maybe a crime but that's not nearly as significant to me as this indifference to the fact of it. That's my immediate reaction to it course I'd like to let ~~it simmer for a while~~ these things simmer for a while. I just didn't understand and I don't understand yet why he let it all hang out...as somebody says.

W There have been a couple of things that have happened outside of the committee to bear on the process since we talked last - one is ~~the~~ Charles Colson who pleaded guilty and there's some talk that his conversion to religion had something to do with it and I <sup>W</sup>gather there's some chance that the committee may call Colson later. <sup>W</sup>onder if you could talk about your general reaction to Colson's plea and whether he might be necessary to be a witness - whether he could unravel.

*B's faint Colson reaction*

B Well, you know, I guess I'm a little suspect of people who get religion under pressure. There isn't any question about it that he can persuade the court as to his sincere conversion that it would go somewhere toward lightening his sentence. And so I think Hungate's story about the gal who got the gut, remorseful and went around town to visiting all of the wives of the men <sup>wh</sup> she'd been sleeping with and begged for their forgiveness - he said the/ <sup>economy</sup> ~~any~~ ground to a halt because all the merchants in town had to leave town for a while. That, I think is a little bit Colson's situation. I think if he'd been less than candid up to now and it could turn up something. But I've of the view that he's not that big - not high on policy - <sup>probably</sup> enough in policy to make that much difference. The only real area that/ ~~policy~~ <sup>probably</sup> could be really affected is this ~~Kleindist~~ clemency thing - just how much of that he got in the air which is not clear.

q

pg. 9

6/5/74

B But Colson is certainly in a - he was certainly guilty and he certainly is in a better position as a result of having pled guilty to that felony than he was before. So religion has certainly paid off for him. I kinda like to challenge anybody's sincerity. I think if there was ever anybody who had a long ways to come back he's one and so I wish him well and I hope he will just not fence with the committee/ or anybody and give the full established policist to go and interrogate him promptly and I hope they will - I'm sure they will.

?  
(ch the type)

W But ~~not~~ right now you're not too sure how much he could add...

B I don't believe he's been in on the know. (W -except on the clemency how far..) Well, I don't know how much that ~~xxxx~~ was a total fabrication of his or not. Now ~~he~~ was in probably on the Watergate - the creation but I'm talking about his relationship with the President was not - during this period was probably not so close that it ~~make~~ made a difference but I ~~mean~~ maybe wrong. (W- so far there is no indication that it was close enough.) That's my recollection of it, yes.

The milk industry  
B

W The other thing that came of course was the Associated Press story yesterday that 16 members of the committee including yourself had been taking donations from the milk industry. I wondered what your reaction to this was.

B Well, you know, there isn't any question but that that is a legitimate thing to report but we've reported all those things as they came. I was always insistent that my campaign committee comply with the law and that was only the real guideline I laid down to them. I didn't handle any of the money of the campaign after we got into it. It was all handled by the committee. And I did get these contributions. One of them was given to me by a dairy group who asked me to come to the district and meet with them and I chatted with them. They didn't ask me about one tit or another. All they wanted to know basically ~~it~~ was about a conservative philosophy/ as I viewed it. And they gave us a check for ~~\$\$\$~~ \$500. And I didn't know Space from Adam and I ~~never looked at the check~~ don't remember looking at the ~~check~~ check and I didn't know Space was the donor until I heard about it yesterday. And the ~~say~~ same way about Marion Harris/who is a lawyer of long standing is a lawyer up here in Washington and represents one of the ~~dairy~~ dairy interests and he called me toward the end of the campaign and said that he thought he could persuade them to send a little money to my campaign if I would interested and it was from the dairy groups and maybe ~~he~~ was trying to tell me that it could be controversial but shoot, I didn't, my theory has always been that anybody that ~~a~~ contributes to my campaign doesn't get anything for it and anybody that wants to donate - can. And I said, yes, please, I'll be glad, we need the money. We were running out of money. I had some big spenders running the campaign and we hadn't turned out - we ended up with a deficit - somebody asked me yesterday if I was going to send the money back and I told them where the campaign committee stood - they needed the money if they wanted to clean up the deficit. Now I'm one I think from the lists I read in the paper - that I'm one of the few guys who got his money before the election - most of those people got theirs after the election. After the election - and I think that's suspect - but you got to clean up a deficit someplace and I think if they had come to me and said do you want some money to clean up your deficit, I would have accepted it. I don't think I would have taken such an amount that it would have looked inappropriate. But I sure have been going around trying to clean up the deficit. Cause I'm resolved you know, this comes back to ~~what~~ back to what I've always said - that's the one thing I learned - labor in my book is the biggest buyer - biggest offender and dairy interests are sort of another and this thing is giving money - pooling the money and then distributing it - it gives you greater economic leverage as far as the canddате is concerned and its wrong

In milk for passing C. F. ...  
with

6/5/74

B So I earlier on offered amendments and resolutions and everything else to make clear that hereafter you can't give money except as an individual. If you want to donate money to a campaign through ~~xxxx~~ this group then you've got to designate who it goes to and be identified when its delivered. And I think that illustrates the point.

I guess I'm embarrassed simply because of the timing of this thing. But I don't offer any ~~any~~ apologies for accepting the money. I'm just a little bit disapiointed - I think they were kind of nigeredly with me. We've gotten quite a dairy industry in the Shenandoah valley as you know and I didn't - this is way they express themselves in the dairy industry they have a political group just like the doctors - (W - they gave a thousand to your opponent too didn't they) Did they, I don't know. I didn't know that, I wished I had known that yesterday. (W - Yes it's in the - I expect Jack Betts wrote about it/ for the Roanoke papers cause he was aware of it) Did they give a thousand to my opponent -  
 (W - Yes, am I wrong, was that donation in the campaign was before - was after the basic decision on subsidies was made or am I in error)

B The basic decision on the price (W the committee's investigation - yes) You know I know I don't even know. But certainly I wasn't in any position to influence them at that moment. (W it seems to me that that decision was made during ~~xx~~ 72 or in ~~xx~~ /1.) But you know you don't get into that kind of discussion when people make a campaign contribution. It probably gets to be a bribe to me we want you to go to Washington and co-sponsor legislation to raide the parody limits but no body I didn't get into any kind of discussion with anybody about that. I had farm conferences and everything with people and the dairy people took the position/that this is a very sophisticated problem and just don't try to understand it now. And the farmers in my district - ~~farmers and all are~~ dairy and all - are farm bureau oriented most of them which is a very conservative, free enterprise laise fair ~~kinda~~ market sort of situation and keep government out of business and all that sort of thing and so I didn't have any difficulty emphasizing - is that the word - with them and I didn't anticipate that I would ever be called upon to do anything - called upon to consider anything that wasn't entirely consistent with my philosophy. And I accepted the money ~~and~~ quickly spend it.

(C)  
2

B WE got at the beginning of the ITT discussion a glossary of the characters - that contained about 70 names of the people who were involved in that and then on Wednesday we started out the day with a list of names or characters or what-have-you. Actually it was called an alphabetical listing of persons and organizations included in investigative files - recently distributed to us and now it has about 600 names in it of people who would crop up in the course of this investigation. I mention that because during the course of our discussion of the milk problems, there were several memoranda prepared by a man named John Whitaker who was then in the White House in some capacity to the President with reference to what took place on the 23rd of March 1971 at the meeting of the dairy people and the subsequent meeting where the President changed his mind and started agreeing to changing it.

have to  
revisit  
with  
the  
interest

Now back in 1960 when I was the Roanoke City Chairman ~~was~~ really my first active political office. John Whitaker was the advance man for President Nixon when he came down to Roanoke and I kinda identified with him. He had four children and I had four babies at the time and he had quite a good job and we have run into one another over the years and now he's the under secretary of the Interior with Rogers Morton. He did a pretty good ~~job~~ job of running the office when Rogers Morton was <sup>sick</sup> and he's a pretty competent fella and I just couldn't help thinking that here's one more career that's touched by the President's - or the White House - strike President - White House peckidillos and there's an implication in it that the memorandum which he dictated in November was redated March and stuck back in the files. Kinda of a self-serving change to the President's interest and that is another example of the things we talked about.

It crossed my mind on yesterday that I feel like John Whitaker - so far - has been escaping any criticism and I hope nothing comes out of this.

The milk thing - of course, the other phase of it of course it's touching me now that the notority with reference to the milk articles in the Roanoke paper and the others that were involved in it. Well it doesn't disturb me except that the implication in the news articles is that there was some impropriety in accepting money from these people. That's certainly not my view of it but I think that it does give us a good chance to change the situation.

We've just got (or discussed) to change the law and make it more difficult to give - to cover up the money.

W You proposed some

B Yes I offered an amendment. My principle objection to the - has been to the way labor operates by corraling a lot of money and then using it to effect the results or to the implication...the danger is that you get overly dependent on one source in your campaign and then you find yourself obligated and this - obligated in the sense that you're dependent for a successful campaign on their financial resourses and that's the danger in it. But if you dilute the effort then I think it works out better.

We were back to John Dore presenting us a meeting - presenting the volume Book 6 which it was - dealing with the question of the milk and he certainly moved things along faster than Albert & Jenner and I was grateful for that.

with

Jenner  
again -  
"massive  
ego"

multiple  
basis

B Incidentally, right after lunch, yesterday I was confronted ~~by~~ the news by newsmen who asked me to comment on the statement that Albert Jenner had made yesterday to the effect that a reasonable man would have known of the President's comments - would have known that Kleindienst was testifying contrary to his information or words to that effect. It was an absolutely unwarranted statement of opinion by counsel which we had expressly told him not to do a long time ago and it just follows up my thought yesterday that Jenner shouldn't have been talking to the reporters when I was waiting to see him in any event. But this man's massive ego is getting him crosswise with the Republicans and an embarrassment to the Committee and it seems to me that he ought to have judgement enough to do that and I was...if it were politically possible, I think that - to a man, now, the Republicans would fire him, or would request that he be fired. And he's either oblivious to it or doesn't understand what's going on but it's pretty embarrassing to the party absolutely unnecessary but this guy's an <sup>egomaniac</sup> ~~egomaniac~~ to me. Ugh - that's an aside because this <sup>is</sup> interesting with ~~the~~ <sup>my</sup> ~~observations~~ <sup>observations</sup> on the day before, and followed up just exactly what I could have predicted if I had been in that business.

Funny

Colson  
with change  
of view

The ~~questions are changing a little bit now~~ <sup>questions</sup> are changing a little bit now. Dale Latta is becoming more interested in the questioning on the milk presentation. He also is particularly curious about certain things and then he made the statement during our inquiry that he had a ~~lot~~ large dairy industry in his district and supported the dairy and no money had ever been forthcoming for his campaign.

I remembered - of course, the information we got there probably got a pretty good contributors list for anybody who's looking for a national campaign. The whole overview of the ~~interesting~~ interesting experience that we had about having some interest in - well I better, I'm ~~sure~~ not sure what train - I got lost in my train of thought. The whole interview yesterday is of course - and the presentation was a pretty good factual presentation - of the evolution of a change of a point of view and the President was certainly justified - everything we heard certainly justified the President's view of it that there was political pressure in the Congress and he beat 'em to the gun and it's also abundantly clear that Erlichman and his cohorts were ~~trading~~ trading on the - that once the decision was made that we were trading on their - on the thing to put the biggest squeeze on the milk people that they could. It's ironical that they lost their nerve toward the end and quit and didn't get the full 2 million dollars simply because they turned off the heat - told 'em we couldn't take any more money toward the end of the program - there may have been other ways to work it but my impression is that even these iron men yielded under pressure.

W Erlichman...

Colson  
B.C. &  
A.C. -  
Good

B Yeah. There was one tab where Colson prepared a memorandum to help the President - to the President in anticipation of his meeting with the daily leadership - Colson said that if they knew - they, the visitors, knew the President was aware of their pledge to the campaign that it would strengthen Colson's hands in dealing with them - which is a not too subtle way of saying that the President's got to deliver on Colson's promise and I couldn't help thinking - wondering in my own mind - how this memorandum, <sup>as</sup> an insight into the man's thought processes, squares with his new religious concept which is somewhat new religion - which is so much in the news - actually today. Today as far as I was concerned - because I had read a week's Washington Post at one time - suggested to my friend Bob Drinan that now we would have to judge Colson's testimony by whether it was B.C. or A.C. and I think there's a lot to be said for that.

W Meaning Conversion or Christ?

B Well - we'll have to figure that out - we better say conversion - "C" of course stands for conversion.

I was interested in various things as we went along. I raised the question the day before as to what all these "eyes only" memorandum referred to and now Dore went back and looked them over and he decided not only are they "eyes only" and "confidential" and "secret" - three different categories and possibly some more flowing around the White House memorandum.

*B's xtra on W. House security*

W These are classified by the White House?

B Classified by the originator - whoever it might be - and we don't have any index as to what this was and its interesting that its just like the command headquarters before D Day almost. Some interesting things came up - for example - on - in one of the tabs - about in December 1970, there was a complaint by the dairy interest - ~~xxx~~ that's tab 12 point 1 on page 2 to the effect that the option took longer - it took Nixon a whole lot longer to implement changes than it did Johnson when he was resolved to do them. Basically I think this is clear that the staff hasn't gone off on an investigation of a prior administration's relationship with the dairy industry but it's there all the way through that this is not a new relationship to the White House for the dairy industry. And I think this exculpates the President to a degree but that makes me wonder if we wouldn't have a higher standard of conduct in the White House if we had impeached a whole lot of other presidents that aren't there or arguing with the President. The argument that the President - that this has been done before has less and less time credibility with me than will go and I'm just not at all sure that somewhere down the line that every political situation has got to have a purging of sorts and we may very well be going through that and that's frightening but to be a scapegoat in the time in which we have to do it but I can't believe that prior practice justified continuation of what's obviously out of step with - with overly political - I'll put it that way.

*Good need for a purging - Rebuttal to the "Every body does it" argument*

*POLITICAL MOROS. (?)*

On the 23rd of March the President had a conversation with Secretary Connelly. Connelly was very persuasive - apparently very persuasive in his statement to the President - this is a 3 minute telephone conversation - very persuasive to the President that the political indications - that he ought to go along with the raising of the requests of the dairymen. This was the same day he met with the dairymen - 5 minutes later, as a matter of fact he kept them waiting while he talked with Connelly. But the interesting thing to me was during this conversation with Connelly, apparently there was a vote in the Senate under consideration and later memoranda indicated it was a vote on the SST and they were sweating it out on the basis of 2 or 3 senate votes and the President just - ugh - <sup>in a most</sup> jovial conversation went on to comparing it with the Greeks and the Romans and how we are retreating from ~~our~~ - went along and was quite elequent about the Greeks and the Romans and he says its a retreat from leadership and all that sort of thing. Maybe the time will come when I can work this into a direct quote but I think it was interesting that here the President was - had a sense of history at this moment.

*Later on this - no thing was even out made in a vacuum but*

W Because of the SST

B Regarding the SST and in the middle of this other stuff. It's also a reminder that - how many things were on the President's mind. It's a little bit unfair to judge him by one or two transactions that are called to our attention.

*A lot of things on his mind at the time -*

*Mr. Buckley*  
B We listened to the President's conversation with Connelly. We listened to the President's conversation with the 20 dairymen and then we listened to the subsequent political pow-wow where the decision was made to go along with the 85% of parody. As I say, it completely exculpates the President from a bribery theory - ~~and that he~~ accepted the money, ~~which~~ also, as I said before, does not indicate the same purity on the lower levels, but there's no indication of any connection between him and that squeeze.

W None of the supporting documents

B Nothing to this moment indicates - put any link to that. The meeting with the dairymen - incidentally, I think Bill Cohen's comment on it ~~that~~ is pretty good - we might try to dig that out of the ~~Hughes~~ <sup>Hughes</sup> report, but basically he said it doesn't sound impeachable but it sure does cast doubt on the way we finance our political campaigns today and a pretty sad ~~comment on that~~ commentary on that state of things but ~~that's a justifiable situation ...~~  
I think

a justifiable statement.

*Irony*  
Now the meeting with reference to the ~~dairi~~ dairymen was a very interesting thing. The President got a lot of laughs - he began with a very folksy talk on America and history and referred to the Cabinet room and he got a big kick out of telling John Jones that he was sitting in the Vice President's seat and telling somebody else that he was sitting in the secretary's seat and I judge this was where the Cabinet met from time to time. Then he sort of went through some jokes ~~with his~~ which had a tendency to relax them and he got a pretty good overall view from these people that - as of the problems of the ~~sex~~ <sup>sex</sup> people dairy industry and I thought they were a pretty fair presentation and I thought he handled himself very well, certainly wasn't impeachable. Or ~~incriminating~~ in any way. Then he wound up with giving them a little present - cufflinks and a few things which, which ~~his~~ things, I think the ironical part of it was that the President assured them that in the course of their conversation - saying anything you want to - this room is not taped... ~~tapped - taped is the word.~~ And then he got into some discussion about - well he let Tim Harden carry the ball for the administration and he let Tim kinda be the heavy on that which I thought was alright.

W Committee members must have roared at that mention of the room not being taped...

B Yeah - well, no they didn't - I mean it went so fast - it was interesting he did have one discussion - telling that - something - got carried away and sort of eulogizing the man who pulls the tits on the farm and all these people quickly reminded him that we did this my machine nowadays. He...

W Talk about Hardin...

B Oh well yeah, well Hardin was the heavy on it and then the other thing, he was talking in their ~~presentation~~ presentation the dairy industry said well we are using money to promote the sale of milk and the President said That's Great and he said you know and went into a long line about milk promotion and how it was important to drink a glass of milk before you go to bed and that it calms you down - warm, tepid or cold and then just to tie that in when they finished up their meeting at which they made the decision to ~~giving them~~ with the raise - the President said milk is - well, when they wound it all up and Erlichman was cracking jokes about going out and getting a glass of milk before the price goes up too much, and the President says "Well, milk is essential and I told ~~him~~ so," and he just got a big kick out of ~~that~~ bragging about it which I thought was kind of an interesting sideline - you know.

*President's relaxation - funny w/ milk - if calms you down at night, etc*

W And a little relaxation...

B Oh, yeah. The conversation in the office - they had some difficulty identifying all the conversants - conversationalists, because I think it was Shultz and Connolly and Whitaker and any number of people in there. That was on the 23rd - Erlichman, Connolly, Harden, Whitaker, Shultz, Campbell and Rice apparently on the afternoon - they were there about 30 minutes and we listened to that conversation. They mentioned then - that's how I figured out the SST vote was under consideration. So they laughed about labor putting the squeeze on Humphrey's vote - course I don't know how it got out.

*Connolly assessment*

Connolly made a very impressive politically oriented pitch. He's a pragmatic politician and made no secrets about it but he put it to them pretty clearly that the political expediency was the best basis on which to do it and they all agreed that the President had said that they had the votes to put it over in the Congress and that he couldn't veto it and that it was going to become a fact of life and that was the basis for it. The President's expression was - under these circumstances, you relax and enjoy it.

There was a very interesting discussion in a memorandum floating around which we read about how they raised the money for the dairy interest and it was a real insight to me about how they tap the dairy people and how they put themselves in that position.

W Was it a series of overnight meetings, then...

*The Dairy Industry system*

B Oh, no, no...just how they - the same thing as a check off - as far as the union is concerned and how tight an operation it is and it's most effective lobbying in Congress and so forth. I'll go back and read that again when I have a little more time but I've got a note here to do it.

*Good to know*

This is the afternoon session of June 5 we're talking about. Basically in listening to the President's conversation with reference to - in his conversation with Connolly and these people with regard to this ~~issue~~ decision, it's clearly a contest between political expediency and sound economic policy. from the presentation that was made there as to whether the 85% of parity was indicated. The President's judgment of it - as I said before - was relax and enjoy it but it's the same situation we were confronted with on the \$75,000 to Hunt - the appropriate decision and the proper Presidential course of action is obvious to a listener and yet it doesn't receive any serious consideration at all in this particular conference. Now I think the President asked the right questions. I think he had given some thought to it - quite seriously - and of course was resisting pretty strongly and had up to that moment - in fact he had to reverse his policy decision made by his secretary but as far as his conversation and whats on the surface went - he doesn't seem to worry about a thing as far as when it comes down to political expediency and economic policy - it's not a difficult decision at all.

*to political expediency or political expediency - "relax" - "enjoy it"*

*Disappointed*

And I recall the same conversation of several days before that we heard when John Mitchell and the President had a discussion - the one where John Mitchell denied - about policy on the ITT trust policy and the appeal on the ITT and the political consideration absolutely predominated all others. That is the - from guys like Connolly and guys like Mitchell - when they say this - he accepts their judgement of politics and that's political judgement and he comes down on the side of that as opposed to other factors and that's pretty much of a disappointment but you don't get elected President possibly otherwise.

*ITT trust*



B Conelly is a big talker and he didn't know a whole lot about current cattle prices and situations of that nature but he's very persuasive and a great bluffer and that's interesting - his presentation and how persuasive he was. It's also interesting that in March 19, 1971 they were upset about the growing cost of living and that was a major factor.

*Conelly  
very  
persuasive  
Selfish*

We had a meeting with the Republican ~~xxx~~ leadership after lunch and before the during - about 1:45 - and didn't come back until around 3:30. That was interesting. I was a little late getting there because I had to go to a House Administration Meeting where we were marking up legislation on campaign reform but when I got there, in John Rhodes' docket, it's clearly the question of whether we're going to call witnesses or not was the ~~the~~ *UNDER* discussion.

But we kicked around various views and the predominant view seems to be that we need live witnesses to get ~~on~~ <sup>forward</sup> with what we're doing - to go forward - and we want to call as many as we can and things of that nature. My view was clearly the minority view but I felt compelled to express it and that was my view that I would be content to have the questioning done by our counsel - even though I was disillusioned with Jenner - I thought he was a good examiner - and Mr. St. Clair was there and that my growing feeling is that an expeditious handling of the impeachment inquiry is in the public interest and what the public is asking for today. I expressed that and I got a lot of frowns. The prevailing view is not <sup>in the</sup> direction - the prevailing view ~~is~~ <sup>is</sup> we call all of the witnesses and should get every possible fact we can out of them to help the President and that I think is going to be what we are going to... we left it with a view that what we've got to do is put out an official line signed by all Republicans addressed to the Democrats urging them to - again through the chairman - urging that witnesses be called setting down what we wanted to hear.

*Proter's  
Wimpy  
views on  
calling  
witnesses  
(see the GOP  
position)  
I'm leary  
of interest  
how to  
help the  
President*

W And you oppose that...

B I don't mind that. But we've got to spell out what we want to prove and we've got to recognize that we've got to figure out some way to hold it down.

The other interesting tab was the meeting that has been in the news on March 23rd at 4 a.m. in the morning - tab 33 was about the meeting at 4 o'clock in the morning when the ~~xi~~ dairymen ran into this man Paul Alesia, an official of Dairymen, Incorporated. He was going home by way of Chicago and he got to Louisville at 4 o'clock in the morning and knows the other big guns have flown down in the private dairyman plane and met him at the airport. They were trying to get enough money out of him to start in on this 2 million dollars. The interesting inquiry in the committee was well it didn't make any difference that they were up at dawn, they probably had to milk the cows anyway. But it did shock us that it was a 4 a.m. meeting. But the other interesting observation I didn't realize that Colson had worked up an elaborate scheme to have these AMPA funds paid to a public relations firm and they were from there being - financing the (tape ran out ...implication is - financing the campaign.)

*The  
of Am.  
Dairymen  
meeting*

6/11/74

the day after the President begins his trip to the mid east and the day after his letter to the committee advising he will not honor the fourth committee supena. Presidential perogatives to the Congress for evermore.

(C2)

B Tuesday morning about 9:30 having just gotten off the plane from Roanoke, it was a pretty ~~has~~ active weekend in which I had two commencement speeches of my own, attending Jimmy Butler's commencement at the high school and suddenly realized that I had made 10 speeches in a period of 9 days - the first nine days in June so I stayed at home on Monday and caught up with some things there.

(NAME NAMED BY GS AS UNIDENTIFIED CO-COMMITTEE)

how soon after the election of his the south part his separate

The indications are that the several revelations over the weekend are more significant to me ~~that~~ than they are to the general populace but as far as my own household is concerned the impact of my activity and the news comments about my own modest contribution from the dairy interest in my campaign in 1972 and the adverse manner in which the goddamned newspaper reported these disclosures have certainly had an adverse affect on the family situation and makes you wonder whether any kind of - whether we are ever going to be able to persuade people to get involved in elective office again if the news media who claim such responsibility are so irresponsible in reporting matters of this nature. My own comment had a headline in the Roanoke paper indicating that - being cornered - I finally acknowledged - what had been a matter of public record in accordance with the law for well over two years which was a source of some irritation to me. ~~They~~

The principle revelations over the course of the last weekend dealt...

At his anniversary mention with "sabbath" looking pro- by expressing helped support - by committee with out a small w-Nixon for

The news article itself was a factual report but the headline - the connotation in the headline - "Butler Admits Receiving Dairy Funds" - was absolutely unwarranted and I know from my own information the information was provided the newspaper to the effect that my opponent in the same campaign received a like sum of money and that item was not reported. We had our nominating convention on Saturday and I attended that convention. It's the first time I had really gone to a cut and dried convention and I stayed up in the room until they got to me in the nominating procedure and so I was rather isolated and didn't have an opportunity to chat with many of the constituents there. I made a speech that was generally placating to the people who felt like I hadn't been loyal enough to Nixon in my public statements. I was firm but at the same time, I didn't disclaim the fact that Nixon had been my campaign late in 1972 and that I still support his legislative program but - in that respect and having talked now with some of the delegates, and the reaction I get, I probably was ~~over~~ over did this in the sense that I don't think it was necessary. I don't think my republican constituency is having any difficulty distinguishing between what I have to do as a member of the Judiciary Committee and the President's legislative program and the loyalty - there was only a minor effort to have a resolution supporting the President in the committee - the resolutions committee - and this fire was put out - not at my request but I think in good judgement that it might be an inappropriate way to undertake to influence my judgement and so in any event, there was no resolution supporting the President and that is almost traditional in conventions of this nature. I think if I had to interpret what I heard it was basically a sensitivity to the position I was in.

6th book

I'm not aware of having had any previous discussions on that but some people may have tried to sound me out and I might have mentioned it but I don't remember it. My feeling about the convention was that the party has the same embarrassment I do about becoming the President's peccidillos but that we're still loyal republicans and we wish - we think the Presidents done a good job in many areas and that we wish he'd shape up in regard to the problems of cooperation and with prosecution and relinquishing of tapes and I still think this is the overall view.

B One item occurred over the weekend, a man called me at 4:30 in the morning and wanted to - my wife answered the phone and wanted to know how to get in touch with Congressman Butler. He'd been trying to call him in Washington all day and hadn't been successful in that and my wife put me on the line and I didn't reveal who I was but the gentlemen asked - wanted to know how to get in touch with Congressman Butler in Washington and I asked him - at 4:30 in the ~~morning?~~ morning? And he said yes, it's very important, I want to tell him I don't like what's going on in Washington. So I told him that I couldn't help him that I suggested that he call the next day and that's where we left that one go. But calls in the middle of the night have been infrequent and really very few people have stopped me during the course of the weekend and gave me their feeling about it.

*one early AM call*

I came up on the plane this morning with ~~two~~ a number of ~~one~~ people from Roanoke but two of whom I know quite well who are prominent in the business and industrial community - had a cup of coffee with them while the plane was delayed - and the subject of Watergate and impeachment simply did not come up. The conversation was inflation controls and shortages and things of that nature. I still feel this is not as much on the peoples minds.

*was over phone - but on with watergate*

The revelation that the President was an unindicted coconspirator came to us on Thursday but - and that was news to me - the impact of that was not substantial because I feel like the Grand Jury just - was not - is a conclusion of law based on probable cause and I still think our standard is a little bit larger. They were also required I think under the law if they thought he was a co-conspirator or could be a co-conspirator that they had to include him but the public relations aspect of it and the general public effect of this was less than I had anticipated in the few people that I talked to even my own family didn't appreciate the full significance of it legally. Likewise the Presidents - I was horrified when the president apparently washed out on his commitment to Judge Gerhard - refusal to cooperate in a commitment that he had made to St. Clair to the Judge in the plumbers trial and on later reading the newspaper may have misinterpreted his position somewhat but my family didn't. Well, the reaction in the public was not the same as mine although I just think that the President is trying hard. It's just strange for a ~~smart~~ man so smart to be .... well, I thought that the president was just trying desperately to put another nail in his own coffin. Apparently this may be worked out between the courts and the president but if he thinks public relations is theopium, he's mistaken. The public reaction was sort of indifferent but I think it's only because they've just had so much of this and nobody that I talked to and I talked a limited number of people though, feel like he's done much. My wife is getting more and more to the view as she talks to more and more people and brings it back to me is - that there's just got to be some way out of this. I mentioned that she was kinda of upset about the dairy disclosures and my working so hard and that it kinda had an adverse affect on her health so she had a regular appointment with the doctor but even the doctor spent all his time telling her that he thought we'd pretty well get rid of the president. He said I guess he'll send me a bill for that interview. But he has a pretty highly developed sense of what's right and wrong and his view is that the president is amoral as opposed to immoral and that's the frightening view that's developing though and as you listen to the tapes you wonder ~~if that's~~ whether that's not a fair statement from time to time.

*in GS coming to see and appear by with the report 6/7, 8, my ... .. Honorable ... .. carrying on ... .. (the clips) ... .. the public ... .. and as usual ... .. but ... .. out as ... .. always ... .. service =*

Linwood Holton is assistant secretary of state now and works with Kissinger on Capitol Hill and his relationship with the congress and of course is our former law partner and a resident of Roanoke, and former governor. We asked him to be the keynoter for our convention and I did have a few minutes with him in the room after his speech and before my speech. We chatted a little bit and I had the impression that Kissinger feels that Kissinger has achieved the delicate balance in the middle east and that the general view that the

B Presidents trip is ~~more~~ unnecessary and in many instances is shared somewhat by Mr. Kissinger but this would - that Kissinger sees no real need for it.

W Do you think he might upset anything...

B Well, of course, Linwood was too politic to suggest one thing or the other. That along those lines but it certainly was my view that - and I don't think there's a general view that would upset it - but we wonder whether this trip is really necessary and it sort of underlines what I figured - he's getting out of town while the goings hot and I think it may sound shaggy but ~~it's~~ I'm doubtful in the public interest.

The interesting thing was Linwood did not ask me for my opinion but he volunteered his as a professional congress watcher now that he didn't think Nixon was going to be impeached and I filed that away for what it was worth. And, of course, I didn't offer a rebuttal or anything but it was an interesting observation for one who is on Hill right frequently.

He had made his speech before I got there and the course of his remarks was that congress was working hard and that there was more than meets the eye and we were working on ~~some~~ campaign reform and working out the problems on the trade bill and things of that nature. His trust was laudatory of congress and I had already written my speech which ~~was~~ suggested that maybe we weren't accomplishing a whole lot - that conflict I guess we ironed out in part upstairs and mainly the newspaper didn't pay any attention to what I had to say on that subject because the basic thrust of my speech was I'm a Nixon man on the legislative program. Course the headlines came out - Butler ~~Loyal~~ Loyal to Nixon - but that's par for the course. But my criticism of congress didn't receive much ~~attention~~ attention but I thought that was a substantive ~~sensitive~~ part of my speech also.

The \_\_\_\_\_ of Kleindist is one of the shocking things to me that Judge Heart who incidentally is a nature of Roanoke ~~was~~ - an obviously a kindly man - but of course his family and my family were about the only republicans around there a hundred years ago - so I have some connections and I've been meaning to go by and see him and chat with him and he hasn't come to see me and I haven't had a chance to come and see him but he's obviously a kindly man. I thnk he was too easy on Kleindist and its going to shock us. I felt like the president's obvious prevarications with reference to Kleindist testimony while he was under consideration - ought to be - we ought to review whether that's impeachable or not but if Judge Heart doesn't think Kleindist deserves to go to jail then certainly I can't see how the president can be impeached for condoning it. It just isn't that big a deal. I was shocked at what he did but it means I have to reexamine my thinking on that whole question.

W Within pragmatics or would there be some legal reason you might have to reassess...

*What of his change*

B Of course, the question of impeachment now is ultimately ~~now~~ one of what's in the best interest of the country and if the president murdered his wife it might be a crime - I think it probably would be a crime - but that wouldn't necessarily mean it would be an impeachable offense. The quality of the offense or the intensity of the offense is one consideration that you've got to take in in impeachment cause it's a civil thing not criminal and so yeah the quality of the - or lack of quality - of the offense is a factor and I thought it was pretty serious but if=the judge doesn't think its serious enough for Kleindist to go to Jail ~~and~~ the presidents condemnation of it ~~is~~ not - then I probably ought to reexamine my thinking on ~~it~~ and that goes back to something I've always said - you reserve judgement until the whole show is in. Because this gives me a new view of it

B I spent the weekend rereading - trying to reread the wire tapping portions of the testimony that had come to us from the staff and a memorandum on what wire tapping is and what's legal about it and the ~~the~~ course the national security motivation of the White House is not apparent in the testimony but it's not also clearly absent... I had heretofore had the view that the law changed radically by this court decision in I believe it was 1972, but I'm not at all sure - but I'm quite sure that that's true and that when the president says that the law was unsettled and there was substantial justification for his national security approach to wire tapping, my reaction to that is that there's more to that has heretofore been reported in the press and in my view of it so - in my thinking of it. So here's another thing I have to review my ~~thinking~~ thinking on but I'm less - well, I've never <sup>really</sup> been strongly of the view that the wire tapping responses by the White House, even if the president was involved, was of such a nature that he ought to be impeached but here again, I'm not even sure that he's subject to substantial criticism but on the basis of my view of the law as I read it but we're going to get a more extensive memorandum - hopefully today - from the committee and I'll know more about it.

W something earlier about the revelation of the Grand Jury's action on the unindicted coconspirator is more serious to you than the public view of it - do you want to comment any further on that?

B Well, yes I do. I was just - this is not - I don't share the view that that forecloses us from looking at it. That if the Grand Jury does this - that that means that he's got to be impeached - I don't think that at all even though we're sitting in the sense of a Grand Jury, we've got a little bit different inquiry and a little bit heavier standard of proof but it sure does - it's shocking to me - that they would do this and I'm a little surprised that the public reaction has not been more outraged than it is. I don't know whether this goes on the dripping faucet theory or just being nibbled to death by a duck kind of process or - well, I just don't know how to read it.

W maybe there are so many shocks that people \_\_\_\_\_

B That's right - either that maybe I'm attaching more significance to it than I should so here again whose at fault.

PC

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B On thing I neglected to mention over the weekend - we're dictating the morning of June 12th, I stopped for lunch and ~~stopped~~ had a sandwich and ran into Alan Stapleton who's shared an office with me since 1962 at ~~that~~ which time I changed my associations and added Egleston, Holton and Glen to my law firm and so parted friends at that time but he's/very conservative democrat although he's been helpful to me in this last time and supported Nixon and his judgement is pretty sound and he didn't propert to condone Nixon or anything of that nature - we really didn't get into a discussion of that for reasons of propriety among others, but he did express the view that you know - the country just cannot stand an impeachment. And you don't want to get rid of a man who's doing a good job and that line of reasoning which is something we got to think about. After all the constitution says we impeach but I judge that we've got discretion not only to determine exactly what circumstances will justify an impeachment inspite of criminality - in other words - I'm certainly satisfied that theres no obligation in the event of criminal action to impeach unless we think it's in the national interest and so I've ~~got some rethinking on that since then~~ ~~because~~ done some rethinking on that since then because that is what sort of brings ~~into~~ ~~focus~~ it into pretty sharp focus is Henry Kissinger's action yesterday of saying - I'll resign if you don't clear my name - well I was thought when we went through that - I wasn't accutely conscios of a disagreement between Kissinger's testimony and the presentation of the committee. There's certainly come ~~a~~ inconsistencies but I thought then and I think now that ~~here's~~ ~~one~~ here's one more career that's going to be jeopardized by this thing and the accumulated effect is getting ~~pretty~~ pretty frightening.

Mr. Kissinger's action of - is based on leaks - now when what we have in the event of impeachment becomes public record and public knowledge and gets kicked around ~~everywhere~~ everywhere then it's going to be pretty frightening to contemplate just exactly who's going to get hurt and who isn't and so I think this ought to be a consideration.

Kissinger's action yesterday I think was a little bit of a overreaction but certainly he's been ~~me~~ under a great deal of pressure and I suspect without knowing that he's scared to death that the President will louse up the operation and so he's in a pretty tense situation and also I think he's kinda of resentful that the President upstaging his show over there. Cause he's been something equilivalent to an Arabic messiah I reckon at the moment and he's brought everybody together and so I think maybe that's contributed to him but ~~is~~ its kinda of a disappointment.

Now yesterday the most eventful ~~king~~ thing...

W Before we get into this - you said you're rethinking whether the country can stand impeachment...

To Butler  
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B Well, I'm just sort of putting in into my computer but as the moment of truth draws near you don't know what factor emerge as the ~~controlling~~ controlling one - controlling situtation but this ~~is~~ is one - that from a persons ~~personal~~ judgement I respect and so I just think I ought to think about it again.

W Did he mean the whole process including where we are now. . .

B The ~~gem~~ that I got from him was essentially that if an impeachment is not in the national interest, and this is gleaned - I didn't write down what he said, but ~~ix~~ this was the thought that it provoked in me - that if impeach ment is not in the national interest, we have no business proceeding with it simply to punish the president. Now that essentially was what I got from him not - we didn't discuss punishment or anything else but we didn't discuss guilt or innocence. He just said basically, he's doing a good job for the country

B and we ought not to get rid of him... regardless... That is a little bit different slant from what I've taken ...

W Even if there's evidence that a crime was - may have been committed by the President...

B Right! He didn't bring that out - that's just my thinking now at the moment that maybe we've overemphasized what constitutes an impeachable offense and lost sight of the discretion invested in the House.

W And so you're thinking now in terms of the discretionary...

B well, I'm just reviewing that in my own mind, 'cause certainly the precedents don't help us much.

W there haven't been that many on it, have there ?

B No - and I've never seen anybody really give serious thought to that question.

W of whether even if the President did commit an impeachable offense

B and I think for which he could be removed, would - certainly the House could say well, no, we'll not impeach or anything and the President could not be impeached. He could murder his wife, he could murder the Secretary of State which would probably be a better illustration or even going further, he could murder a visiting dignitary in cold blood which would certainly be every justification for removing him from office but if the House of Representatives said no - x he couldn't be removed - if the House declined to impeach, he couldn't be removed. It's one so there is no discretion in it.

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W Course in murder there would be - there probably wouldn't be much question of discretion, would it?

B Well, no, but what I'm saying is that the discretion is there. Course you probably wouldn't get reelected if you declined to impeach under those circumstances But in any extreme circumstances and likewise the President's got two cracks at it. You know he's entitled to argue whether he should be impeached or not - and then he's entitled to argue to the Senate whether he should be removed from office. And I just hadn't thought until recently that this really puts a lot of discretion in the House of Representatives and one of the controlling factors ~~wilz just have to~~ that's got to be what's the national interest. And so I'll just have to rethink it.

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W At this point in this process of reexamining - what do you conceive of - is the National interest in the case of Richard Nixon?

B Well - to maintain the continuity of the office and maintain stability in government, maintaining a successful foreign policy, shoring up his relationship with the rest of the world, cutting out of all of this - well, just removal of the uncertainties of the administration. All those things - there isn't any question in my mind that Nixon has been a good president. I still feel like the shortcomings are in many of the crises are the failure of the Congress to respond and not the President so simply to maintaining is an interest...but you have to weigh that against keeping the next guy from doing the same thing so

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W Yes, I think the other day you were talking about that we may need at some point in politics a purging of sorts to clear away the sort of seamy politics that may creep in from time to time.

B That's right - yeah - I said and I think - in a moment of weakness that probably we ought to be able <sup>impeach them</sup> him more often instead of less often and maybe we wouldn't contemplate these things.

W Are there some other things that have got you kinda to reexamining whether it might be in the national interest to impeach or not...

The seed  
B No that's sort of a seed that's been planted and I've been kicking it around. ~~That~~ And that's basically it - I think the major thing that's happened yesterday is I spilled coffee on my notes in the middle of the situation and so some of this is going to be a stain on this.

"About issuing of letter in France"  
I mentioned <sup>TIP</sup> ~~Cliff~~ O'Neil's comment. I neglected to say he's pointed up in his television interview on Saturday night - rather, Monday night, that he mentioned the time table - pretty tight time table that we would clean up in the middle of July. I'm not sure that that's realistic but it does indicate how we are thinking. The republicans had a caucus on Monday afternoon and I ~~was~~ had too many things to do in the district office so I played hooky that ~~in~~ day and I wasn't present. But they did have a letter which we wrote - which we had discussed on an earlier meeting about writing the President - writing by Rodino with reference to calling the - \_\_\_\_\_ witnesses and I sort of reluctantly went along with it and I called up and told them that I would sign the letter. It had been signed and delivered to Mr. Rodino.

Just fountain with ?  
But this looks like we're getting into another pretty partisan wrangle over this thing but Rodino is keeping his troupes pretty much in line. I think there's going to be a very restrictive examination of witnesses and I'm not at all sure that that's not the best way to get there cause we've got to get this thing wound up and of course the whole thing means I've got to ~~reexamine~~ re think my view of what - assuming - that what degree - what quantum of truth is necessary to impeach and editorials keep saying probable cause but I think with the resources we've got, it's got to be a little bit more. But as I've always said, the inferences may push us over the top in \_\_\_\_\_ areas. - ch. to force?

anyone  
Tempers are getting pretty short on the republican side and that concerns me. I called McClory's office Friday and left word that I wouldn't be there Monday for his caucus -

W McClory called - well Hutchinson is still out...

of 5 (7 top)  
B Hutchinson is still \_\_\_\_\_ and so McClory called it now Hutchinson has been around this week. I don't know anything about any differences ~~now~~ between them but McClory was trying. And I called ~~the~~ Dennis' office and left word that I approved of his letter. I did that Monday morning. But about 10:30 Monday morning, McClory called my office to discuss something else but he was awfully sharp apparently with the little girl we've got working in there this summer and it's not in his nature and it surprised me. I say him on the floor later and told him I thought he was working too hard and gave him a chance to indicate that he had'nt intended to be rude but he didn't rise to the occasion. So I think the ~~case~~ tension is working on him a little bit and that's too bad.

W What did he say - what did he say on the floor?

B Nothing - he was very gracious, very gracious but he didn't indicate that he thought he was talking too sharply to her so I didn't push that. It's a little bit unfair to take it out a secretary. You don't do that unless you're a little tired. It's also worried him, he's just come home from a hard weekend of campaigning, I judge. But it's a hard weekend in the district anyway.



B And then in the committee session on Tuesday morning we got into a discussion of - St. Clair had presented some briefs in response and it wasn't time to do it.

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I had just mentioned that I thought McClory had gotten a little short in his - and then we had a discussion in the committee between Rodino and David Dennis. Mr. St. Clair had presented a brief to Rodino for delivery to the committee in response to our Watergate presentation to the staff which Rodino considered inappropriate because our rules provide that we are going to give him a chance to present his position when the committee feels like it - when our presentation is completed and then its going to be in the form the committee directs. David Dennis was a little bit put out when he found out about this and they got into quite an exchange and the chairman insisted firmly that he was going to go by the rules of the committee and thats what the rules of the committee provided. It wasn't that big a deal but the significant thing to me was that Delbert Latter was very loud in stating to the chairman "that's right - cut off discussion, we don't want any discussion."..that line of sarcasm which is appropriate perhaps to make your point but he continued to talk about it and got louder and obviously was upset about it and mad. Rodino ignored him but its just that this kind of conduct was not ..was overreacting and I just think that tempers are beginning to get... the edges are beginning to fray a little bit and its not good. David Dennis - after the meeting - evidently went up to Peter Rodino and said that - gave it ~~g~~ to him again - which was a little bit stronger and Peter mentioned it to me as we were leaving and I had to agree that I felt like he had ruled correctly - that I was anxious to lay out for Mr. St. Clair exactly what I want to hear from him and to file an advocate's brief at this time - at this stage of the game was , wouldn't have been in accordance with our procedures. Course he's free to write any letter he wants to to any member of the committee as long as he doesn't violate the rules of confidentiality which - under which he participated so he's a little bit caught in an ethical squeeze and he chose this way out of it. The significance is out of proportion to the discomfort its causing the republican members and that indicates to me that maybe we're a little bit tense here already and I think premature cause it could get worse.

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W If the President continues to stonewall it - in the White House phrase - and simply continues to refuse to surrender any documents to the committee after the committee has supenad them, what precedence do you fear this might set in the future if Congress then does not impeach?

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B It's going to establish some precedent alright because it sure it a situation that's unique and I'm not sure that it would repeat itself but there are several things that we ought to recognize. First, that the President ought not to be impeached for his failure to cooperate in his own impeachment. If there isn't evidence outside of what is peculiarly within his possession, well then I think we would feel pretty silly impeaching him and I don't think the Senate would no do anything but laugh at the House and not remove him. And so this failure to cooperate ~~or~~ - you can phrase it just as strongly as you want to, failure to honor a legal supena is a fact but certainly standing alone is not going to be enough - ought not to be enough to impeach the President.

As I view the situation, we knew what we were doing and he knew what he was doing. Just the fact that we didn't have the right - didn't have the power to enforce/ ~~doesn't mean we have the right~~ a subpoena and it don't have the right to do it and it doesn't mean we have the obligation to do it if that's what we need the information

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B course it goes back to Andrew Jackson - said the Supreme Court has made its decision now let them enforce it. That sort of battle has been going on for generations and I think it's pretty good in terms of we built our constitutional system on the precedents we create during these situations. And that's going to be significant but this particular thing of the boundaries of executive privilege are certainly subject to - not absolutely certainly - but within limits are subject to legislative definition. The war powers act of course is a legislative definition on drawing constitutional boundaries and I had reservations about whether we could do it then and this is much the same situation when we get to executive privilege - just how far the Congress can go in drawing boundaries of - which are established by the constitution creates some questions but - in this particular area - if the Congress did it and the President signed the legislation, - then I think it would sort of be binding on him and those that came after him. Likewise I feel that campaigns would influence. I think this is the sort of inquiry that might come up during the course of a Presidential campaign and so commitments, and precedents would probably build in this area with the passage of time because as the executive gets stronger and stronger, this question in one form or another is going to be coming up for a long time. So I think the precedents are going to build in campaign conversation and exchange in addition to - so I don't - this is certainly going to be a factor but I don't think its going to be controlling. I think the uniqueness of this situation - the presidential refusal under this situation is going to be so unique that its not going to control too many things in the future but I may be wrong.

W A little bit of conjecture - but if the President simply refuses to turn over any more information and because - perhaps because he hasn't - the Judiciary Committee determines that there is not enough evidence ~~at the~~ present to directly link him up to any impeachable offense and then votes not to impeach, in the face of his not turning over any further information, which might be damaging to him, you don't think this would be a fairly grave surrender of congressional prerogative?

IT'S NOT (oh tape?)

B Well, ~~he's got to~~ surrender in the sense that we've given up a principle that we adhere to but we've got to exhaust our remedies and the remedies are the adverse inference from withholding information peculiarly in his possession but if there ~~is~~ no facts from which to - no other facts from which to infer that he has any information one way or the other on a particular area of inquiry, then if he gets away with it, why, more power to him.

W That's right - it would be more power to him.

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B Yeah, it would be more power - yeah, well maybe that's not a....if he gets away with it, of course, we'll never know. If he's gotten away with it on that basis, we'll never know. Well of course, if he's gotten away with it, course we don't know he's gotten away with it, he's just established a precedent that he hadn't do it, but all we've got is the question that he hasn't answered then I think he's, well I think he's got 5th amendment rights, although this is a civil proceeding and there are areas of question about incrimination there and waiver of immunity and that's gets us into all sorts of problems. But basically I don't think we ought to put the President - if the information the President has in his hands and he's the only one who's got it, I don't think he has to answer under the 5th amendment. This is my view of a rather strained interpretation of the 5th amendment because we are in a civil proceeding but its so punative that for all practical purposes, it is a criminal one and for that reason and of course if you go back to the theory that you have to have criminal conduct to impeach then he's certainly within his 5th amendment rights in declining to pass it on to us and I don't think the President of the United States

B ought to be placed in the humiliating experience of having to fall back on the 5th amendment. He's told us now that he's not going to turn over this information and I think we have to learn to live with that fact of life.

It's not all bad that the President has got some limits on what he can do. But this ~~goes~~ goes back to what I said earlier, I think it points up that we ought to define pretty clearly what are the limits on presidential - the rights to presidential information and executive privilege. For example: I'm not sure that the President wasn't on the right track in taping these interviews he's had. Well, I mean in terms of building a historical record and I think maybe if we define by statute - make clear by statute that he has that right and he wouldn't have to worry about having to be compelled to produce it, elsewhere, why it might have some salutary effects. Historians could then know that what they are getting is straight dope. → Taping for history

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W Exdopt that he might still have to produce it if there were criminal allegations

B Well, I think we could spell out in legislation that any conversations that the President has with anybody with reference to the conduct of his office is privileged and cannot be used in any circumstance of anything within - ugh - I think we could come pretty close to spelling that out and protect it entirely and not worry about all this stuff... I think if that was the ground rule then the people that talk to the President wouldn't have any basis for complaining that information - exculpatory information was being withheld from them.

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You know that I'm beginning to realize that this - nobody really understands what the Congressmen go through. Here I've had to - I went home all weekend and that all that stuff going and had to stay over Monday cause of a lot of factors - that the work accumulated - my wife wasn't well - and I just wanted to get everything squared away before I came back and so I kinda played hooky but then I came back here and came in on the plane Tuesday morning and rushed to the committee meeting and was all day long in the committee meeting and I came back and I had a stack of mail - it took me three hours to sign my mail last night. Then I woke up at 6 this morning and cut the hedge and cut the grass and got everything cleaned up before you got there and did a load of wash and washed the dishes, cooked breakfast and got away by 9:30 - that's pretty good isn't it?

W That's not bad. There a few other things to do other than impeachment.

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B That's right a few things to do other than impeachment. Well, I'm getting mail you know saying - what else are you doing - well, that's a good question. There's a lot that the democrat controlled congress is not doing that they could be doing. And I think it's pretty ironical that at this moment in history when the executive branch is in its closest to prostrate form that the leaders of the democratic party haven't been able to summon the leadership to really assert ~~itself~~ itself. Hell, we can't even get the land use bill out - can't even get a land use bill passed - can't even get it debated. Defeated it on a rule yesterday and I'm sympathetic somewhat to the objectives of the legislation but my lord, they just can't get together well enough to put something together that will be quickly accepted by the House.

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They've messed up more times in the Congress I betcha than in any other. The Energy bill - couldn't get an energy bill together - that's all there is to that - what kind of leadership is the congress providing at this time - it's embarrassing. Course I'm not on the leadership level or of the leadership party so I'm pretty free to criticize but it's a pretty sad commentary on the system that one chance we've had to bail ourselves out

✓ B and get straightened out and create the congress as an equal branch, we're blowing it - Tip O'Neal can take all the television time he wants - that's one of the facts of life.

Do you want me to take a look at some of the things we might have done yesterday that were interesting.

W Yeah - do you have some notes on that?

B Yeah. Somebody got ahold of everything we did Thursday and turned it over to the New York Times - as far as I can tell.

W They did have a pretty thorough - this was on the wire tapping - Kissinger's role?

B I was greatly interested - I took great delight in coming up to some of my friends and suggesting that the New York Times man was outside and he said they could have the book back anytime they wanted it. Strangely enough, nobody I suggested that to thought it was funny. But I thought it was pretty good - but they're getting a little sensitive about things like that.

Like I mentioned about the most eventful thing that took place was we spilled our coffee on my sheet and so I've got a stained reputation here.

W It was interesting that a good deal of what we saw yesterday was top confidential because it was the Grand Jury proceedings of this trial they are getting ready to have in this plumbers things and Judge Gizelle turned loose - gave it to us under the strict understanding that we wouldn't turn loose of it so we read it in the committee and then we had to turn it back in when we got through.

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- "Eat  
Crow"  
We talked - so we have to be careful what we say here - because I don't want to breach any security (I'm saying that right now - at the moment ) but I'm impressed - in fact I asked ~~George right out was there any~~ Doar straight out was there any - you see we're talking ~~George~~ about Crowe and it tickled me, I couldn't help observing that when Crowe was - and John Dean and so and so were passing back memoranda about how to handle Crowe and the situation, I couldn't resist the observation that they were getting ready to eat crow. I think he kinda got caught in the ax but its pretty clear to me that there's no implication anywhere - and I asked Doar this directly - but that the President knew that Crowe was going out there to California to commit an illegal act and that's the situation.

W What did Doar say to that.

B Doar said - flat out - No! And then he got into a kinda strained view of what was indirect and so I made a note here that I want to go back and read them - read what Doar said - cause it didn't make sense. David Young figures pretty big in this thing but he never testified publicly before the Senate select committee but his evidence on a pledge of immunity was pretty good and enlightening and pretty big. Pretty significant part of the case - just his ~~first hand~~ testimony about first hand information about Elsbeg and contemplation of that. But here again no contact between him and the President so my view of what took place yesterday and all of this Elsberg stuff was a lot of foolishness carried on by a bunch of kids for no good reason And the President never knew about it. So I just don't know - course it was pretty damaging to Erlichman and that crowd - that will show up by September. I'm quite sure the President ~~didn't know~~ wasn't conscious of - didn't know that they were going to do an illegal act that's my conclusion from.

B's  
- "The  
reaction  
- on it  
hardly

B They got on old - after Hunt and his crowd broke in out there - they got on them for an excess of authority and we got into a discussion - an excess of authority was whether he was authorized to enter or not - whether he exceeded that by entering - but I think the real excess of authority they're talking about is that they tore up the furniture to make it look like a breaking and entering for robbery purposes. It's ironical that they didn't - so far as I can tell - they didn't find the file. If they did, we didn't see them. But the doctor said the files were still there and had been handled. So these damn mexicans, cubans didn't know what they were doing when they got inside.

W No record to show that they got anything...

B Well, they deny that they found anything. But the doctor said it was right there and it was on top of the pile and had been messed up. Lot of detail of the operation "Sandwedge" and a lot of people wanted to know why did we go into that - that was abandoned and never accomplished anything and Doar explained that was the granddaddy of the Liddy plan and that's the reason that we were benefited with that but here again, nothing very significant.

The question came up <sup>why</sup> where ~~where~~ Elsberg was never wire tapped officially but he was picked up on one of these other wire taps from time to time. The question I wanted answered was whether wire tapping is a - whether listening in on conversatons between Elsberg and others which were picked up because they were auditing the other fella, whether that violates Elsberg's rights and evidently ~~they~~ that it does.

Talked yesterday about Judge ~~Burn~~ <sup>BYRNE</sup> and I think its another indicat~~ion~~ that the President was not acting improperly. I think he made a sociable contact with Burn while there but there isn't any ..... Erlichman didn't have any compunction at all about it - he just did it...I don't think the President was doing anything...well, Burn walked by with Erlichman and he just saw him out on the lawn and went out to chat with him a second but that was it.

W But do you think - or in the process of yesterday's discussion, is anybody trying to link up the President with the invitation for Burn to come there or do you think Erlichman did that on his own?

B I think the approach was made by Erlichman on his own without really understanding what the situation was all about. I mean without really the President understanding exactly what the situation was all about. Now that's my reaction and I want to emphasize that - you know - I usually, I sometimes get a different view when I go back and read these things over again but that's my reaction. It points out that Burn's resume was discussed. He's had FBI experience; he's been a prosecutor under Johnson. Nixon put him on the bench even though he's a prosecutor under Johnson and he's a democrat and I suspect he's the kind of democrat that John Doar is a republican but - because he sure did accept an appointment from Nixon. Doar - even Doar says there's clearly no consideration of Burn for an immediate appointment and I don't even think this line of inquiry is another one that doesn't produce a whole lot. And that's when we broke it up.

W Apparently a lot of yesterday was press attention on the committee on the Kissinger threat to quit and exactly who was leaking what from the committee and what the files that the committee has shows on Kissinger - can you kinda sum up your reaction on the whole flap as to Kissinger's threat to quit, whether he's getting a bum rap, whether you think he's did or did not directly initiate these wire taps and whether, if he did, makes any difference to you.

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B Alright - you realize that we talked about that when you first got there today.

W You mentioned that the Kissinger thing helped bring into focus the whole question of whether to impeach or not based on the national interest.

B This whole line is - well, what I wanted to say was that the significance of Kissinger's participation in the wire tapping - the way he testified - are so different that it indicates a lack of character or anything of that sort. At most it could be a faulty recollection but whatever it is - that one more impeachment inquiry/<sup>item</sup> is going to mess up one more career and that's bad for the country. I think Kissinger's done a great job. Also I think we ought to recognize that Mr. Kissinger's getting to be a little bit of a prima donna cause - damn - that's no way to carry on. And if I were in the international diplomatic community I would make a note that if you want to get Kissinger's goat then you start needling him about his sacred honor. So, I'm disappointed in the man and the way he reacted that badly and that's it.

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W Your personal reaction to wire tapping especially when they ~~were~~ got off of national security items and got into peoples personal lives and those taps apparently weren't terminated - apparently they were just continued on - how do you react to that?

B Those taps that weren't terminated...we're getting a brief which we've haven't gotten but we've got some view - I've got some view of the legality of wire tapping and the President wasn't entirely without basis for going forward on national security wire tap now where this is going to finally end up I don't know. If they continue those things after - without any real basis - is a little bit frightening. It's one area I ~~think~~ think you've really got to take it carefully because its so easy to abuse and we're getting more and more sophisticated about - you know - in our handling of these things. They've built it to surreptitiously - surreptitious surveillance is entirely possible and so we just got to be more and more careful these things so I was worried about the ~~implicit~~ implication about it and particularly that they continued without what appeared to be real good cause but as far as relating that to the impeachment, I don't believe the President's involved in that and I don't see any indication that he is from what we've got so far.

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6/14/74

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Jude

B One of the things that was bugging me today was Eilberg and how he justified what he had done in terms of making his public statements about Kissinger. And so I went over and asked him. I inquired to make sure that I hadn't missed somebody calling him on the carpet at a formal meeting and nobody had so I went ahead and asked him about it during a break - and asked him if he didn't consider that a breach of confidentiality and he said no that he made no specific reference to any document but simply stated his conclusion that - that his conclusion from his information was different from that of Kissinger - basically, that was his view. Which to me is a complete breach but its just rationalization that's hard to justify. And I reported that interview with several other republicans over there and they just kinda laughed at it. He's been such a low profile guy to suddenly just out in this fashion is out of character.

I was chatting with Barbara Jordan about it and she said she thought that he was just kinda spaced out about the whole thing. She couldn't understand why he'd done it. I guess the best way to understand it is when you sit between Waldie and Conyers, it must tear up anybody and that's probably the only reason I can explain his conduct.

(little l)  
We did get behind a ~~bit~~ in the course of ~~presentation~~, course of presentation during the morning asking some irrelevant questions and John Saiberling tried to - made several comments indicating that he was getting impatient which to me was much like the alcoholic at a temperance rally. In any event that did push us along but it was surprising.

Jordan

I had an interesting discussion with Barbara Jordan coming back from one of our breaks. We talked about several things and she's quite obviously got - I mean a lot of people look to her advice, judgement, which is pretty sound and she implied that Albert and the democrat leadership were making big plans to televise hearings or deliberations in the House of Representatives and she expressed opposition to it and wanted to be sure I felt the same way and I noticed her during the course of the afternoon - the subject came up several times in other presences and she's lobbying against it and I think that's sound cause we sure don't need public televised hearings. She also mentioned that Doar and Jenner are chaffing at the bit to get all the information that we've turned in released. Then they are concerned about the security and the leaks and so forth. I told her that I didn't think that would be appropriate but she didn't get upset about what - what she said was that she agreed with me more or less but wasn't sure she could take a public position in that situation.

your  
writing  
coming up

The security does concern me but I felt like - and I told her in our discussion - that I thought our security in the committee had been better than we really judged that a whole lot of information is still being withheld and we certainly were making better progress by keeping the press out of there and it would be disastrous if we had them present for our further discussion. She kinda agreed with me but I told her I thought I'd lead the fight to keep the hearings closed if she'd back me up. She said she'd do that quittly and that's the most I could get out of her on that. So, I'm awfully afraid we're going to open our hearings in the committee and they are going to make a circus out of it and delay it too long. But I'm of the view that we shouldn't at the moment.

I also chatted with Barbara Jordan about her feeling on impeachment and I was - I really think she and I are pretty much on the same wave length there. She just says what theory have we got to go on. She's anxiously waiting the theory that our staff might come up with for impeachment. You know I mentioned

B earlier that Wiggins has asked for them to do that and we've asked them to do that any number of times and so we're making progress in that regard. I think that even she's - they are retaining an open mind and I think she carries a lot of people with her.

Prior to the conversation with Jordan or during the luncheon break - I had lunch with the Virginia delegation - Bill Scott gets us all together every two weeks or so and most of the Virginia delegation was there. Dan Daniel was the only democrat. As a matter of fact I don't think Tommy Downing and Dave Satterfield consider themselves invited because it is a republican meeting in which ~~they~~ Dan Daniel joins us.

But invariably when we get together they all turn around and ask me about impeachment so I gave it to them pretty straight according to my view of it - it was still touch and go.

We got on the subject of Kissinger and Dan Daniel said that the White House is exploring - wanted to know what to do about - whether a strong resolution in support of Kissinger would fly. Bill Scott said he'd been called upon to make statements in support of Kissinger and sign resolutions and so forth

W Called upon by the White House...

B No, not by the White House but by other senators - I think Allen is circulating one. And I told him my view of it was that there were substantial inconsistencies between Kissinger's testimony and that he could be made to look bad if somebody set out to do it. But my own judgement was to expect him to remember that much over that period of time was too much and that they were not consequential in terms of the overall qualifications for the office and so I was disappointed that he had taken the tack that he could and we all agreed that he was obviously emotionally overwrought.

Bill Scott - and my advice to both of them was that there's a possibility that it could prove embarrassing and in view of our previous history with Agnew and incidentally, that's complicating this whole Kissinger support theory, so many people got caught then that my advice was to stay loose on the question because it could prove embarrassing. But I didn't think it should and then we all joined in a general cussing match about Eilberg - and nobody seems to know him very well - he's been pretty low profile all these years but I think that's about as disgraceful a performance as we've had yet from the committee or anybody else in the Congress. And I hope we can get straightened out better.

W When you told them it was still your view of impeachment that it was still touch and go - what do you mean - among the committee or your view ...

B No, I gave them, my view of it was that the thing wasn't foreclosed either way at the moment and that a lot of significant information (W-As far as your vote goes) my vote and the committee vote. Bill Whitehurst said that he heard that Chuck Wiggins had a great following and that he could control a lot of votes on the committee by his action and I - my response to that was that I was quite sure that Wiggins had a strong reputation and that I also felt like the president had a greater claim of loyalty on him possibly than any other member of the committee and as Wiggins voted for impeachment that school was out. And I do feel like that his view is going to shore up whichever side he goes to but if he votes for impeachment then I think it will be a clear indication that the President is getting ready to leave office.

David Dennis got mad - said that he'd read in the paper about some staff memos that had been leaked out and he hadn't even seen them and didn't know what the



B history of that was and Rodino explained that if you wanted the staff to do something for you and look up something that they'd be glad to do it but memos were confidential. So Dennis - the question followed from that - well, what is he doing to plug the leaks and the chairman said we're not going to issue any more memorandums. So we had to concede that that was the one solution to that problem but the overall view of our approach to solving this problem of the leaks is not too good.

But that may be the only solution left to us.

W What does Scott say about - does he say much about impeachment in the context of these meetings or just...

B I don't think he's met with us before. This was the first time that I've been with him where the subject has come up in any detail and I just think the Senate has a - I just didn't really think about what - that he was there and I don't ~~that~~ think that he actively entered into the discussion except to ask us this question about Kissinger.

Now Bobby Daniel raised the question about impeaching for failure to cooperate and I explained to him and I'll stick to that - what I've always said that the most we can get out of that is inference tied to the rest of the facts - that I don't believe that anybody would seriously impeach the president for his failure to cooperate.

Incidentally, we had the impoundment presentation this afternoon which was a lengthy memorandum presented us by some red-headed Harvard lawyer on the staff who gave us a pretty good presentation. I had practiced law with a red-headed Harvard lawyer who became a Governor and I was prepared for the worst but he had the leveling influence of having been born in Big Stone Gap but this this guy didn't have any levity in him so he made a pretty good presentation and as a matter of fact I left because I saw that Drinan was tearing into this as his specialty and so he was making a big thing out of it but I - as Barbara Jordan and I agreed - we agreed that if we're going to impeach the president, it won't be for impoundment. She volunteered it and I agreed with her. I don't think impoundment was ever a serious consideration but it took a lot of taxpayers money and a lot of time but we got a awfully good memorandum out of it on the subject of impoundment which I can use for speech material if nothing else.

W... hotseat like you and Barbara Jordan and a few others who might be in that sort of independent of party...

B Oh yeah, yes sir - yes sir! Yeah, I think there are a lot of pre-judgements already made but until - they haven't come up with any real theory yet that's very helpful to us.

This morning we went over the - sort of the enemies list stuff. That sonofabitch Dean Birch had <sup>to stick</sup> his big mouth in this thing again I noticed - referring to Eilbergism. I think the White House just makes a mistake to make this a personal exchange between - to use every opening to humiliate the committee cause we certainly are trying and I think Gerry Ford is getting a little bit out of line. Here again we had the same old questions of what is the relevance of what we are doing and we were talking about the enemies list this morning which is interesting - question of why the enemies and all these people and all of this prosecution - the IRS things and things of that nature and its very thin linkage between that and the White House. There is one conversation with Haldeman just before that eventful experience with Dean on Sept. 15th in which Haldeman explained that Dean was harrassing the enemies and the president said gave his approbation and that's about the only link we've

B got between the president and that sort of thing. And I feel like that's sort of thin.

Oh, incidentally, there was a Sequoia trip last night that I heard about - several people were invited - Cohen said he was invited and then they called back and retracted the invitation. But - not basically that - I think they thought over it and decided it wouldn't be appropriate but he had evidently declined in the meanwhile. I just thought that was interesting. Evidently some people are being courted by the White House and that's interesting.

The whole legality of presidential access to tax information on individuals was kicked around and probably some people that are violating the law but I'm not certain.

W (question not clear) Have you heard anything further from

B No, that one call was the only one I've gotten. I've seen them - they're very cordial to me and they haven't made any efforts to follow them up. There was some information about...

I guess the thing that I most want to get into the record ~~is~~ - well, he was helping John Wayne and Billy Graham and making inquiries on their behalf which I don't think were altogether improper but there's a fifteen minute tape on Sept. 15th still missing that may be very helpful that we ought to hear and we are still trying to get it from Jaworski because they deals perhaps with some of these things.

Trent Lott was - coined a phrase which I thought - he says they were harrassing John Wayne but he looked into the record and it looked to him like it was back in 1966 when Johnson was President and he says - the principle is pretty well established around here that to the victor goes the right of harrassment. And he seemed to think that was fair game.

This is what's new and we've just got to respect the security of this one...

(insert security pages beginning with number 4-a: 6/13/74

B Jenner mentioned that he interview Kalumbach personally and apparently he spent hours with him. That's a reflection on his ability to delegate stuff and which may be one of the reasons why we're moving so slow. I just pass that along for what its worth.

Also we interrupted in the middle of the day by a big - very impressive Flag Day ceremony in which Hank Aaron made a very moving presentation. You saw it didn't you. I thought he did quite a good job.

W What was your impression - while we're on that Flag Day - did it give you any feelings or emotions in connection with what you are doing or what it sort of totally unrelated

B Well, it was an emotional experience for everybody but, no, congressmen don't show up - that's the disgraceful part of the Flag Day ceremony.

W Why not... there weren't too many there.

B No, there weren't.

W Barbara Jordan singing that national anthem.

now

B Yeah, well/she did tell me - she really does get - in fact I was joking with her about it - she says she just gets all choked up at those things and enjoys them tremendously. So did Jim Mann. And I just felt the same way. She says she just blubbers at those things and I told her well, next year we'll sell tickets and have a big crowd.

Yeah, I was impressed with it. It was quite well done. Yeah, I was glad I was there - well the whole picture - walking around the Capital and everything else makes you realize the responsibility we've got here in this particular thing.

Well, we talked about impoundment - policy impoundments as opposed to traditional impoundment and my view of it was that the president was pretty high handed but not impeachable and I think that's shared by everybody.

One little incident - we began the day by - cause on tab number 7 reference to Erlichman wanting to screw everybody was the comment and McClory objected to that and thought maybe it would be to used against would be appropriate but then we got to a later interview in which Erlichman said he was glad to get an opportunity to tell the IRS that he thought they were doing a crappy job on O'Brien and but when the tab came up to us the word was not crappy but bad indicating a policy - different policy depending on whose writing the information for us but I thought it was amusing. I asked McClory if he didn't want to protest that and you know - he doesn't laugh - he didn't laugh, he smiled. I said something to him the other day that I thought was devilishly clever but all I got was a benign patronizing smile indicating to me that his sense of humor is deserting him here in the stretch under the pressure which is too bad. Certainly couldn't be that my joke wasn't funny.

W One question before we break for the weekend - have you thought any more about your thinking on the discretionary power of congress - the discretionary power to not impeach a president even if he has committed a crime if its in the national interest to keep him in - have you had a chance to think any more.

B No, no, except that I mentioned it at the luncheon today just ~~to~~ tried it out on those folks - didn't indicate that I was trying it out - and Bill Whitehurst said a lot to that - you know - he's a political scientist you know. But I think its an original observation so I'm going back and look around a little

- B bit and see if some of the other guys have been saying. You might look it up if you've got access to Berger's book...
- W Oh, did it come out of that...
- B No, no it comes out of my own head but I'm trying to figure out whether I'm hitting on something that's way out or something that's been said before and so forth and we don't know yet.

-----second side-----

This I want to dictate with reference to a Wednesday session which wasn't significant in terms of what it produced. The session began - beginning later and later - this one started around 10 but it was well into 10:30 before we got started. I guess the opening business was - everybody was upset about Kissinger - even in the informal discussion ahead of time.

to vote

Maraziti wanted/a vote of confidence right then on Kissinger. Rodino said we had enough problems. Railsback suggested that the committee was becoming a joke and the Newsweek - the commentator - and the commentator told me that Kissinger's making the committee look bad. He wanted me to talk about it.

- W Commentator wanted Railsback to talk about it...
- B Wanted me to - he's just some commentator in the hall as we came in but I declined to do that but you know the thing about it that's concerned me all along is that we don't want to get into a public relations battle. That's what's wrong with the way the President ~~ixx~~ has handled himself in that he has - well, all of his tapes indicate his preoccupation with that sort of thing (W-public relations) Right! That I think is where we are.
- W You think the committee shouldn't get involved in trying to make itself look good...
- B That's right - yeah - we have a job to do. It's inappropriate - entirely inappropriate for a judge, for example, to make public statements about what's taken place. He can make them from the bench and that's what Judge Burn did in the Ellsberg case - that's where it really was revealed publicly that - confirmed publicly that he had discussed this thing with Erlichman and Nixon. So that's really what concerned me about the Kissinger thing - I think we've got to tough it out and live through it. I haven't quite been conscious yet to the ~~xxx~~ extent that Eilberg has been on the tube simply revealing confidences and he's the most ineffective sort of guy - sort of fella you know disappears in the woodwork - he's been there 10 years or so and there are very few people even know his name and yet he's very low profile and all of a sudden he's getting carried away and I understand he's got an 80% Jewish constituency in his district which interests me from the political point of view. I should think one Jew standing up in public - maybe he's not Jewish, I'd better not say that, although he sounds a little that way.

6/13/74

- W Where is he from? (actual question not understood this is essence)
- B From the mid-west. Is the Missouri - that wouldn't be right. Uh - Eilberg -  
ugh- Pennsylvania.
- W But he has a heavy Jewish constituency.
- B That's what I understand.
- W Which is probably why he likes Kissinger.
- B I would think and every way you look at it - it's inappropriate for that comment but it upsets me because I think the committee has handled itself pretty well.
- W This has been - maybe you think - the gravest...
- B This is the first instance in which I've know the guy to stand up and brag about it...
- W Brag about the leaking...
- B Brag about leaking - yeah. From the ~~next~~ point of view of the committee and I think we've handled ourselves pretty well, I'm disappointed in terms of the substance of what we did yesterday. We talked about Judge Burn and the overtures that were made to him. You know everything we have has a perfectly reasonable explanation to it, from the president's point of view - his preoccupation with other things. It's pretty much in the news that he told Judge Burn that he didn't know what the status of the trial was - the Ellsberg trial, which I think he could because as many things as he's got going on and the shielded summary, he could have thought that it was pretty much over. And you know these news summaries that he gets but \_\_\_\_\_ trial so \_\_\_\_\_
- W I think the transcript shows that he'd followed the whole Ellsberg affair very closely. He considered that very important.
- B Yes - I think that's a fair statement. It's just unbelievable that they would do that - proposition the judge - buy the judge in this fashion and Nixon's direct involvement in it was marked in Erlichman I suspect although was launching Erlichman and a social chat for a few seconds. Although there a conflict between Erlichman's statement that Judge Burn and the president only chatted about the weather or - and possibly the duration of the ~~trial~~ trial. Judge Burn in an interview with Doar and Rodino/<sup>however</sup>said they talked about the appointment. (W-said Nixon talked about the appointment) Yeah. Yeah, that doesn't disturb me too much in that sense, I can't see any difference between a president talking directly to him and launching ~~to do it~~ Erlichman to do it.
- W You mean it's clear that he did launch Erlichman...
- B I would say - well, they met at San Clemente and Nixon obviously knew what he was doing there and Nixon on other occasions told people that he was expecting Judge Burn - that he would consider Judge Burn. And he would have been a good appointment but Judge Burn is not without fault cause he accepted the invitation and he should have known better. I think I would at this moment - if the president called me up now and said he was considering an appointment - appointing me to the Supreme Court - I'd probably jump at it a little bit you know, I mean - if that's what I really wanted to do, I would probably want to explore it but - I mean that would be my initial reaction but certainly I can see from a position that we're in on the committee, we ought not to do that and Judge Burn should have seen that and so he's not without fault in it.

B And then of course he called him back a second time and said whatever he said - basically that it would be improper to consider it. He could have done that by telephone it seems to me.

One interesting thing that - the Washington Star news story really revealed this - conversation between Judge Burn and the Washington Star turned it up through an interview with the gardener we understand.

W Gardener at San Clemente...

B Gardener at San Clemente. Evidently he had a log book and ~~may~~ they came by to see if - and maybe its public record, I don't know. But evidently they said to the gardener - anybody unusual been here - and he said Judge Burn. Now that's basically how they found out about it now I don't know whether the gardener had any business talking to him but the interesting thing to me was that we know from Burn, Erlichman and the president that Burn's conversation with ~~the president~~ <sup>Erlichman</sup> didn't exceed 15 minutes. The Washington Star news story had the president sitting down for a two hour intimate chat with Judge Burn which is a reflection on somebody's profession.

The ironical thing about the Ellsberg case from our revelations is the significance that the Judge attached to certain things in dismissing the ~~complaint~~ complaint - in dismissing the suit. One of the things for example, was the wire tap information. The White House was unable to produce the conversations ~~that~~ with Ellsberg that they had tapped. Now they didn't tap Ellsberg directly and nobody knows or has told us why Ellsberg wasn't tapped directly which is interesting. Seems to me that if they are going to tap somebody they probably decided that because he was a defendant, that would be a little bit inappropriate. But they did pick up some Ellsberg conversations with ~~Manfman~~ Halperin and in fact Ellsberg was at Halperin's house - made a phone call from there. All of these conversations were kept out of the FBI records and eventually sequestered by Margin and delivered to Erlichman and then in the White House but they weren't available and nobody knew where they were at the time the suit was dismissed. I don't think it had any significance with reference to the trial at all and if they had come forward - if they had been produced and made available at that time - I doubt - well, there's a serious question about ~~it~~ whether they would have been dismissed or not.

Now I want you to understand that you just can't talk about this with anybody because this could really prejudice that trial and so we have to be careful about it.

W You mean

B The current trial - yeah. And you know I'm sure that it might not be appropriate just to table this particular tape and not transcribe it for the present.

W For the time being - okay.

B Cause that would - can't you keep an envelope embargoed or something like that. And have you caught up with me on the transcripts incidentally.

W Pretty near, we're about three or four.

we

B Well, maybe ~~you~~ ought to wait a few days before we type up anymore until we get this wave over with.

I had to go by - well that's the thing that upset me about the Ellsberg trial Erlichman's intransigence - if that's the case, although he wasn't in the White House anymore. Just coming forward and ~~saying~~ saying well this is where the tapes

B are cause that's the factor. I mean if this is where our records are if that had been a factor and there are some other pieces of information that was readily available in the closed circle that should have come forward cause it didn't affect the trial at all. It would have made a damned martyr out of them ~~and~~. It also makes me think that Judge Burn dismissed the suit to save his own hide - to save further embarrassment for himself. He had no business going down there and the president had no business talking to him - he had no business going down to see him. I just think the whole darned thing was messed up and Ellsberg is - as far as I'm concerned - is a crook - just a cheap opportunist crook and he can put it on as high a plane as he wants to but there isn't any getting around it - he stole classified information and in time of war, it would be treason. And to let him go on this technicality is pretty distressing. I think in the course of our recent history might have been a little bit different if we had convicted him of this particular transaction.

W In what way?

B Well, he's a national hero - a <sup>MARTYR</sup> ~~martyr~~. He's somewhat a martyr because he <sup>not a hero but somewhat</sup> a martyr stood up for what was right - you can put that in quotes but in my judgement, he is not but the record does not make that perfectly clear and a confiction would.

W So that's one of the ironies - that the people who were out to get him - blew it ... and they lose.

B Blew it - yeah, that's right.

W As far as the president's role in all that went, it does appear to be clear that he launched Erlichman...

B Well, he launched Erlichman. I think he also directed - this is implicit, not expressed. He just said, Erlichman, let's look into this guy and see if he's interested and so forth. Now there's no evidence that he sat down and conspired to bribe him and here again it's one of those marginal situations - it's not even marginal, it was bad taste, poor judgement and maybe even unethical but not high crime or misdemeanors.

W But, within the committee, is it beginning to shape up that this particular instance could be a serious thing in terms of the bribery phrase in the impeachment section...

B No, No. That view doesn't - you know, you pick it up informally, but nobody indicates that. I have a sense that this and later on we went into the IRS which is where we are at the moment, no link at all with the president in that sort of stuff and so the question was asked by one of the congressmen, why are we taking our time up with this and I think basically that what they are going to try to establish is improprieties in two areas - selective auditing and improper use of information. They are going to try to link it to the White House but not to link - they aren't going to be able to link it to the president. That's the way it's shaping up.

John Doar is not appogetic for not producing anything. His attitude ~~is~~ on these things is - these questions have been raised and we've given you all the facts and - pretty objective still - although I think he dearly would like to impeach the president because his place in history would not be much without it and the whole staff - you have that feeling you know that they're struggling - fighting to be objective about ~~ix~~ this thing but they shore would like to have a winner, you know. It's like playing in the World Series and not hitting a home run - not that you could - but I have pretty high regard for the way they've handled themselves through that.

*must have stated in history with State*

W You do have - even if they have been sort of feeling it.

B Oh yeah. I mean they've made a great effort to cover it up...I mean to... I don't think they've acknowledged it even to themselves but if temptation reared its ugly head I think they're struggling with it and probably coming out about as strongly as anybody could expect.

W The Watergate staff seemed to have produced a lot of bombshells - Senate Watergate staff - when that thing was going along last summer and apparently ~~they~~ turned up with Butterfield the tape situation from the interrogation of Butterfield. Has anything like that happening in the Judiciary Committee investigation or is it pretty well dogged investigation of documents and tapes. Has there been any original detective work?

B I think the best way to answer that is to say that John Doar has a unique talent for making the exciting seem dull and if we'd had ~~a bombshell~~ our bombshell, it would have exploded and we would have gone on and not even known it had been there. I don't think we were quite so conscious of the Kissinger question - for example - when we went through it - at least I wasn't - which ~~leads~~ leads me to believe that the press sensationalized what is not sensational in many instances. For example, this Kissinger disparity between testimony - two or three years after the fact - and ~~was~~ what actually occurred is certainly being distorted out of all proportions by Kissinger included and so it flew. I think much of the sensation in the Watergate (Senate Watergate) was manufactured by the press and facts keep coming out that I ~~read~~ recall having read in headlines. I just more and more believe that this sort of an investigation belongs in an executive session for that reason if none other. And That's Pretty Much Where We Are.

and things

W When you listen to the tapes/- what's the atmosphere like - do you have head sets - earphones...

B Well you know we haven't had any tapes this week. Well - the atmosphere - you mean while its going on - pretty intense - pretty intense. Its interesting to watch people laugh for different reasons. You know its like a little child sitting someplace and all of a sudden just giggles or laughs/<sup>at something</sup> and you don't know what it is. Like somebody talking to themselves - telling jokes to themselves cause there's nothing going on. You're looking at them and they start laughing. You haven't got the earphones on but people - they lose themselves. No, you're not conscious of other people around you, you're just - and the conversations are engaging - Nixon is quite a - you know - what he says, you have to listen. I mean he moves a conversation along. Its fascinating to listen to them.

W I guess when you do notice the other people does it look - how - do they look like a bunch of engineers with a earphones on...

B Oh, I don't know, I haven't sized them up physiologically - its like something from Mars I guess.

W But its pretty intense in the room there...

B Oh yes, (W-most of the people are listening) Oh, absolutely! Lord, you could hear a pin drop. And the earphones come off and comments start up pretty fast again - but they come off pretty fast. Your ears get pretty tired ~~pretty~~ *mighty* quickly.

W I bet they do - do they pinch kinda



B Mine did and I finally figured it was on too tight - yeah, I had to take my glasses off and you prop them up like this so they wouldn't hurt. But after I played with it for a while I figured it was just too tight. My wife said it must be too tight if it was hurting. I don't know how she got to be such an expert on earphones but that's what happened.

W But this week there haven't been any earphones...

B No tapes this week. We had one Thursday afternoon and I missed that. I snuck off a few minutes early Thursday to make a commencement speech.

W Have you gotten together with any other republican members of the committee since you came back from Roanoke over the weekend...

B No, we've just been busy. I don't know what happened but I had so much mail piled up here when I got back Tuesday night I had no chance to talk to anybody and Wednesday night I laid the carpet down you see and waxed the floor so I haven't had that. I'll probably get - well, just informal and walking around but the central things that concern the committee right now is the leaks. But we aren't turning up anything on this crap.

W I was just wondering if anybody has had a chance to chat informally inbetween sessions

B Well, yeah, there's a lot of that but I have - we've moved it pretty fast this week - the votes at this time coincided and I had to go to that House Administration meeting - I wanted to follow election law reform at the same time and that's killin' me too. That's going on at exactly at the same time. I thought when I got on two committees I'd have something to do for sure and I did that.

W A little earlier in the process you talked about Wiggins as being one of the sort of intellectual leaders among the republicans on the Judiciary Committee and I'm wondering what his role is now that Hutchinson has been out quite a bit - McClory is apparently sort of the acting leader but is Wiggins still sort of the philosophical, intellectual main thrust of the republicans or is anybody exercising ....

ship

B Well, I attended republican caucus meetings, member/meeting, leadership meetings and whenever I could but I've given that kinda a low priority because I thought they were pretty unproductive and we've almost got stereotypes on the committee in terms of getting somewhere. You can almost predict what everybody is going to say by just any given problem. Wiggins is certainly ~~an expert~~ well, the president is his constituent, to begin with and so he's - not of course - that may have some tax implications. Theoretically Richard Nixon is represented by Charles Wiggins in the congress. That simply means that I suspect that he has probably got a good deal closer contact with people who have known the president longer than any other member of the committee so he's probably got some insight into it that we don't have. He is capable of pretty good analysis of legal matters. Modesty forbids whether ~~that~~ I concede that he's got the best legal mind on the committee or not but certainly he's well thought of and followed and he's taken the time I think to go into this thing. Now right in the middle of it all, he had to take off to California during the primary and we lost him for a couple of days there and I can't remember exactly what was under discussion but I did feel like his absence was apparent from our deliberation. He's made a very great point of - in a subtle way - of bringing Doar back to the position, making him intellectually honest as to just why we're are following a particular line of inquiry. Even yesterday, for example, I mentioned the question of just why are we going into all these efforts to = actually the efforts were to get

B Caulfield, a de-frocked New York policeman, ~~into~~ running the IRS alcohol tax unit or inforcement, I believe it was. Wiggins says so what in I thought a very nice way and then Doar's response was well, basically we're just trying to put together the pattern and we'll connect it together later which we haven't connected to it this morning. We quit in the middle of the last presentation but Wiggins serves a real good purpose in giving it a more objective view than you would expect from a man whose as closely involved in the California and with the president as he's been. It would be interesting to see - you mentioned the fact that he'd kinda stepped aside - Hutchinson kinda stepped aside - well, I think that Ed Hutchinson is pretty well established - that you can't isolate a portion of your anatomy and still be a whole man and right now I think he's still uncomfortable and not strong and sort of abdicated a leadership role and I'm interested as I was thinking about that just the other day - what the responsibilities of the ranking member are. I think he views it as a responsibility to cooperate with any effort but he doesn't want to carve out a position that's clearly identified with him as a republican. I think he's handled himself ~~rig~~ just right in the sense that as far as striving for an objective view and he has strong feelings about things - about the impeachment but he hasn't made an effort to impress his ~~xi~~ views on anybody and some people criticize that as an abdication or responsibility but I think that's just his view of it that he's not trying to impose his judgement on the ~~rest~~ of us just cause he's been here longer and I think it's pretty much to his credit. As a matter of fact, I have that feeling myself, I'm - it would be nice to have a ramrod when we had a strong republican position but really they are not developing too often in this thing. David Dennis is quite interested in calling witnesses and we've taken a fairly strong position on that but its not the sort of total republican position that - of an outraged minority - it's purely a matter - as I view it - clearly a matter of judgement and has no implications for whether you are out to get the president or not.

I think Rodino you know has put us in a position where nobody can say that he's directing a lynch mob - now there are a lot of republicans that feel that way but its hard to establish from the record and that's not my view of it either. He's bringing along just the way we've got to and we're gonna have a show down here in a few days I think on just exactly whose going to be called and what areas they are going to explore, but if the staff does what they say they are going to do, they'll have it pretty well documented for us as to what witnesses and how we're going to contain them. And they do rely too heavily on the element of surprise in that they bring this stuff to us too late to consider (W-on the day of) - on the day of or on the day before but ~~keep~~ hopefully we are - I don't like to think that that's motivated by anything but overwork. I suspect that Doar and Rodino are going to present us with a fait accompli as to the witness situation and we're going to be stuck with it because it's not going to be all bad.

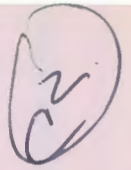
I've been in the General Assembly of Virginia where the democrats would make decisions - particularly with reference to the election laws - and you could sit there and talk all day but those guys weren't burdened with reasonableness in many instances, and you know, and they just go right on and do what they made up their minds to do. That's the way Blackie Moore trained them and his protegees were still in command when I left there.

I think Rodino is taking a little bit different view of it. I think he bringing his staff along with the suggestions that are palatable ~~but~~ because they are reasonable and the republicans wind up with a little bit more extreme view at the other end and can't put it over. The unfortunate thing is I'm turning out to be the weak link in the republican defense here and I begin to sense a little bit of chagrin on the part of my colleagues but - you know - I embarrass them when they need me - and I mean, Butler's there ~~when we need him~~ and I'm sorry and I think I'm separating myself

Butler  
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said of view

B from the view that this is a partisan witchhunt. I don't think that it is. I just think its unfortunately developed into a situation where our horse has been indiscrete and I may change my mind. You know we've him to give us counsel to provide us with some theories of impeachment based on the evidence and that's another one of those Wiggins - Wiggins pressed him on that and when we come up with - if they are too esoteric then of course I'll rethink it. But I'm hoping like on impoundment today that we'll turn out that they've - that they'll tell us that they haven't got anything which I suspect that they have got anything in particular instances and that's my judgement of it right now - that in many cases there aren't and we've gotten this big fat memorandum yesterday on impoundment for example, which I didn't get a chance to do more than scan last night and that's going to be the subject of discussion today after we finish the presentation of the evidence.



B Now the last time we chatted I think was last Thursday morning - no you took me to the airport, that's right.

W So we got quite a bit of the Thursday session.

B I don't think there's anything on Thursday that we've haven't discussed. That's good.

Home problem

Well, the weekend in Roanoke was sort of interesting. I think you ought to recognize what sort of weekend we had. <sup>Marshall</sup> Randy is in the Navy and he had an operation and we heard from him and that didn't go too well. Saturday night, Jimmy went out and had a wreck in the automobile. Marshall stayed out later than we - he's been having some trouble so we've been holding back a little bit - and he stayed out later than we anticipated so by the time I left Monday morning my wife was pretty well worn out. So it just occurred to me that this is not altogether a routine weekend but there's a whole lot of ~~problems~~ domestic problems that everyone of the people on that committee just be having plus the pressures of running for reelection. And everybody in the House of Representatives is running for reelection and its a pretty poor time to be making the kinds of decisions that we've been called on to make now and the president, of course, is not making it any easier in the sense that he's fighting a public relations battle and he's on the tube every night with this mid-east situation. I don't think our committee ought to look upon itself as in a battle for the public attention or respect but its certainly hurting us badly - all these leaks and that's the sort of comment you get more and more. I think the status of the committee is slipping in the last two weeks just as a result of what's going on by the so-called leaking. I don't think its leaking at all I think it's total relief. It's just disgraceful. Now I don't know what the answer to it is but that's one of the problems we're going to be facing.

Nixon PR vs the Committee leaks

I ran into a - we went to a cocktail party a friend of ours had and I ran into this lady's mother whom I've known for some little time, and I was impressed with her comment. She had supported Nixon all these years because she knew he had a Quaker mother, therefore knew he was alright. But she's no longer satisfied that he is and she'll never vote for him again. Surprised me a little bit but that - that she took that strong - but nothing was said about impeachment. But implicit in that I think is the view of it the public ~~consciousness~~ confidence in him is pretty well shaken, not in his ability to govern but in his integrity. This runs pretty deep.

Nixon's mother in the 60's

I played tennis with some people and I got a gratuitous but heavy comment about - suggesting that it was time to impeach from - and of course this country club set is in an economic strata which you would expect to support the president so I was a little bit surprised at that.

W What was their reasoning...

B That he's crooked, basically, that was it. My mail is - I sent out a copy of ~~the~~ Washington News report about a radio report in which I described the process by which we had - this was about two weeks ago - by which we had reasoned that the president was entitled to this letter of warning and I'm surprised at the volume - the response has not been heavy - but the response has been heavily <sup>of</sup> that that I've received indicates that the reaction to this is an harrassment of the president. Course, my mailing list I would expect to be mostly republicans - this mailing list - but that's interesting to me too.

Mail Abuse mechanism letter

B The other thing that - we did have a column in the newspaper - Washington Post - and we buy the Washington Post generally at home on Sunday - By Evans and Novak in which I was listed as among the four republicans who leaned toward impeachment. Now this is interesting to me from the point of view that I don't consider that I have made any statements one way or the other that would indicate my disposition except that I have insisted that I am going to reserve judgement until the last minute - I mean until all the evidence is in and so this kinda of surprises me but I do think its probably the basis on which we know ~~now~~ (not clear think it is) they line up and on which sides are being taken. And its shaping up pretty much ~~that~~ way - this article implies that republicans are pretty much strong and gotten behind Nixon in many instances. I'm not sure that's true.

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We had a republican caucus on Monday afternoon when I got back to Washington (this would be yesterday, Monday the 17th) and there is a tendency to refer to "us" ~~and~~ as "them" in a kinda of a polarization along party lines. This disturbs me because I think that would be disastrous for the country if nothing else. I think probably it is for the presidents short range benefit because if it develops into a party line situation, I just don't think that the democrats - however right they might be or would have the intestinal fortitude - to put it through the Senate on that basis. I don't think they could. But the long range affect on the republican party and to the ~~the~~ presidency, I'll put it, would not be good in my judgement.

That goes back to why I think I'm the only guy - why I'm in this swing group - is because I'm really the only guy that really thinks it's important to be objective about it. I'm one of the few guys that really thinks its important to separate this from the party but I think that's most important. I don't see how we can serve in a judicial capacity and not be judicious about it. And that is not the general view so I could be wrong.

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I mentioned last week that my thinking about what - that we've pretty much got to crank the national interest into our decision as to what we would do. I've had some more reflections about that, from my own point of view. I mean from the point of view of the national interest - exactly where does this lie. But I am more and more convinced that that's - as I think about it - that that is an important factor and that cuts across the definition of criminality - definition of impeachable offense and everything else. What's an impeachable offense ~~in~~ one circumstance - the identical act might not be an impeachable offense in another. If we were on - if the British were marching on Washington I should think the president would have a license to do a whole lot of things that he wouldn't have a license to do under other circumstances and likewise Congress ought not to spend its time impeaching while Washington burns. Its just the circumstances may determine it and the national interest is the way I would phrase that so - the national interest is the thing that concerns me.

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~~at the present~~ If the President goes scott-free and by scott-free I don't - that would mean to me nothing on the record indicating our displeasure with his course of conduct - I don't know whether that would be construed as condoning what's going on or not but I suspect that it would. There wouldn't be any other way to explain it to the public. Now I don't know ~~if~~ of any lesser way - nobody's talked seriously about resolutions of censure. I don't think ~~that's~~ would effectively amount to anything and it would certainly ~~be~~ be a poor response to them - I mean politically it just wouldn't be feasible for the republicans to censure their own president while the democrats would want to impeach him. So - as a practical matter, that would be out...a ~~kind~~ good middle ground but as a political matter I just think that would be hopeless. but how we avoid condoning it is, perhaps - in the impeachment area - but that's kind of extreme therapy though. I'm not sure, though that the national interest doesn't lie in impeachment rather than - ~~in~~ <sup>under</sup> the present circumstances, rather than the earlier view that the national interest demanded that we keep

B the ~~pres~~ president in office. This is assuming a guilt of an offense and we're trying to weigh that now.

*Mid East  
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I'm upset about his going to the mid-east. He's gotten a lot of publicity out of it but I'm not sure that he's not making some commitments that are unwise. I'm not deeply enough involved in our foreign policy to know whether these are wise or unwise but it concerns me that the president has ~~not~~ quite obviously undertaken this mission as a ploy in the continuing battle between the Judiciary Committee and the Executive Branch. It's entirely consistent with what we have learned of the president's personality when he talked about dairy interests, and when he talked about blackmail and so I don't have a lot of trouble in my mind resolving that this determination was made - the balance was pushed in the favor of the presidents going by the political considerations - which I think is legitimate but its a little bit frightening when the stakes are so high. So there again, he's on the threshold now of a trip to Moscow and SALT negotiations - actually I guess its preliminary negotiations is all that he does - its a SALT negotiating atmosphere at best (W - Mood at any rate) Mood, yeah, that's right, that's good. (W-policy is what the other people are following) Yeah, that's it but - and I don't know at that level what sort of commitments are made but quite obviously he's expecting to come back with some sort of diplomatic triumph and the circumstances are such that a failure to come back with this diplomatic triumph and his personality is such that the failure to come back with a diplomatic triumph, would be unthinkable and therefore would be unthinkable because of his continuing battle with the judiciary committee, therefore I'm concerned about the judgement that he is exercising in going and what the national - what the affect of it is and so when we talk about national interest it just seems to me that we can't live under a cloud of this sort and the national interest is - relies on cleaning it up one way or the other and that means in - if the evidence is there, we've got to impeach, rather than keep it dangling. So I guess I've retreated pretty much from my earlier view that we just can't afford to get rid of the president - we can't afford to keep him if he's guilty of an impeachable offense because he's going to be playing this game. He's human and we know his personality now that he's going to be playing this game from now on. So if we've got the goods on him - no strike that - if the evidence is there, then I don't think we've got any business turning our back on it. I guess that I've been kinda of circuitous but that's the way I've come.

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*Good  
stuff  
with  
personality*

That's about all that occurred to me over the weekend that I wanted to think about.

*Kissinger  
cracked*

I think that Kissinger cracked - we've got to recognize that Kissinger in a sense under pressure - it certainly conducted - thinking we had the experience of some intemperate remarks by an overworked Secretary but also an overworked prima donna and it restores my theory of recognition of the fact that the President of the United States is tough cause he's been subjected to that sort of stuff for 18 months and he really hasn't had an outburst that was that bad for a long time - not since California - and even then he contained himself until the election was over so he must be a pretty highly disciplined man but capable of relaxing in conversation pretty often.

The republican caucus yesterday - we just kinda kicked it around - but this issue of witnesses is going to be critical because there are areas. Now - I want you to know that I'm reserving the right to cut anything out - I mean for example, Tom Railsback and I were chatting in the cloak room yesterday (W - you mean on private, something that you've said very private) Yeah, sure.

As he says, visiting with one another in the cloak room because he's also been mentioned as one of these marginal people (In Evans and Novak column) and he said an interesting thing - first I said well, have you talked to Walter Flowers? And he said well, Walter - he had evidently gone on a fishing trip or something. But Walter had come to the conclusion that I had come to a long time

Then  
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it

B ago that there are about six people that are going to swing votes and he considers himself one of them and Railsback and I think myself and that's interesting that I think my forecast was accurate. That this is the way the thing is going to come out. And he feels pretty much the same way and he - like me - doesn't want to impeach but he's not going to turn aside. We both agree that \$75,000 payoff is very critical in the area of what's going on and whether its impeachable or not and he's studied that pretty carefully - he's gone back several times and listened to the tapes. I'm not that kind of an investigator - I like to play it all by ear until I get enough of a view of what I'm looking for and so I won't go back and look again at those things until I have several other people tell me that what they've found then it's a whole lot easier to listen to and it makes you more alert. But John Deans - basically his feeling as a lawyer - is that ~~the~~ the examination of John Dean - of course by the President and the Senate - was not intent and not direct to this point and its still not clear, from him and me, and I agreed with this - as to who said to John Dean - "Tell Prez LaRue to pay the money." And ~~Exagreed with this~~ so that's where we are and he feels that its important that John be called as a witness~~s~~. And I do too to clear up that point. I also said its not clear to me just exactly when the \$75,000 was paid over in relationship to the conversation that John Dean had - in time - in time relationship because its very cloudy as to how they - LaRue had a party - and his chimney smoked and he knew who was at the party and he knew it took place on that night and there's only one guy there that can tell us what night that party was - and that's the way they tied it together to that night and that conversation. ~~Well;~~ Well, I think that's a pretty thin reed to boot the president on. Railsback doesn't have any problem on that. Wiggins does, I do - but there are points we ought to explore. That's the sort of approach I think we ought to be taking... to wit - pin down exactly just what you want to know and then ask the witnesses - bring him in there. But the republicans are talking more in terms of giving St. Clair a chance to break down the credibility of John Dean and so forth. ~~And that's an~~ <sup>don't</sup> intermidable project - not too effective, I mean, you ~~knew~~ know really when - only on Perry Mason do they break down and cry. And so you really won't get very far in the long run on that but I think that's what scaring Peter Rodino off. And that's what I tried to say to the caucus, we've got a more reasonable in what we are asking.

important

W You said that yesterday..

Who  
disagree?

B Yes, I said that yesterday and of course everybody agrees with that - well, no, not everybody, but many of them do. Now, we've had some discussion of several things - I have some notes here about Bob McClory insisting that we ought to start in terms of just exactly what's going into the record that goes to the floor and that is important because there's a lot of that stuff that doesn't need to be made public. A lot of people's lives are going to be hurt and that sort of thing. So, we haven't gotten much news on what's - how that records is going to be put together but that's something we ought to be thinking about.

We've got - I can't understand something I've got written here, that's what concerns me - the bombing of Cambodia is another thing that's concerned us. There's a lot of stuff in a memorandum on that - that ought not to be made public and Rodino doesn't want to make it public because the crazies will just blow it up - Bob Drinan is - you know - he's kinda got some kinda of a messanic fixture - fixation about that thing and he'll want to beat it to death. Clearly to me that's not in the impeachable area and we ought to just quietly let it die but there's some question as to whether that's going to happen. So there's this problem about how to handle that and there's the problem about - well, basically, we've got a problem on what we're going to cut out now. We've talked about that earlier but now we're down to the nitty-gritty of it. We've

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B got a memorandum on impoundment which is pretty objective but indicates clearly that we are getting into a policy area when we talk about that and we ought to remove that but we haven't made any procedural determinations about how that's going to work.

The other thing that came up yesterday is the question of how we're going to proceed now. We are at a tremendous disadvantage in that the staff - the committee staff is of course going to be a good deal more expert on whatever area we have so there are some 17 areas of inquiry - of possible impeachment consideration and we're gonna - 17 specific items - now I think we're going to wind up pretty much deciding that we are going to divide up our Republicans into ~~xxxxxxx task force~~ specialities - not task force - but speciality areas to - so that we will be in a position to respond to what the staff has to say about that. And that raised the question about the extent to which the minority staff is going to be available to the minority in this area of - during our preparation and study of these problems. And we left that sort of in the ~~xxxx~~ air. Sam Garrison said we ought to take that up with Jenner and resolve that pretty soon. So that here we haven't had a majority ~~in the~~ and a minority staff, we've just had a committee staff and everybody's still upset about this guy Dixon putting out all these damn memos.

W Well, do they think he put them out or that....

B No, he wrote 14 of them and turned them over to the democrats and I didn't know that they were being done and I guess we should ask our own counsel about it too. Course we keep reading out about whose leaking them out and I share the view that this is embarrassing the committee to the extent that its emasculating it but I suspect that the crazies are the ones that are leaking them. And I don't know what we are going to do about it.

W Didn't Rodino mention at some point...

B Oh, yeah, they stopped them. They stopped them. But at least 14 <sup>now</sup> -/they are not all out yet but maybe they are. But I think that's an inexcusable sort of - they are probably not confidential but the information on which they are based is certainly confidential. And it's certainly poor taste if - at the best.

W There was an article near the end of the week in the Post I think that indicated that some of the members of the committee who'd been leaking before were now saying we'd better not do it - we're helping the president. Apparently, ~~the~~ to swing - they were able to ~~xxxx~~ sense that the /....was going the other way. swing of the sentiment

B If those guys were smart enough to figure it out then it must be obvious.

W What about the Evans and Novak column that you mentioned? the one that indicated that it was breaking down from their view into about 4 republicans who could be a swing vote...pretty much the same ones that you'd mentioned before with the exception of Dennis - how do you size up Dennis now. ~~Is~~ he still in the independent category, would you say?

B Well, I can't, if I classify Dennis as a persuadable I was - that was the word Newsweek used - if I classified him as a persuadable, I was a little bit... he's coming firm and firmer in the view that there isn't any impeachable offense but he's anxious. He's got a trial lawyer's view of the situation and he's real anxious to get into this trial aspect of it and to shake up the witnesses. But I think he would vote impeachment if the hard evidence were there but he puts a pretty high standard on it even now and of course I can't say that's wrong. But if I classified him as persuadable - it was early in the game



B because he's getting firmer and firmer in his view in the course of my reading of it.

I was a little bit surprised to see Lawrence HOgan listed by Evans and Novak as a possible impeachment cause I considered him a pretty strong defender of the president - kinda along with the others - along with Wiggins, and that line of reasoning which I don't argue with. ~~but~~ That's their judgement but I had always thought that he was less of the view that it was a possibility than this article indicates. Evans and Novak are from his area - you know - and he may very well have chatted with them when they put this thing together. So I'm not - that was a little bit surprising - that was the big surprise to me. I think Hamilton Fish I think would view his place in the strectrum a little bit differently from the way Evans and Novak do. That was interesting to me too - cause I really haven't - I don't think I've talked to two members of the committee in terms of how do you feel right now and so this is educational for me but my reading of - would be pretty much the way Evans and Novak size it up except that they inplied that they were somewhat surprised at my view but I don't think my view has changed from the first moment. Maybe its just surprise that I'm there, that's all.

But you know - I get - that's what Helen Dewar, the Washington Post, wanted to interview me yesterday because I was a swing - now they call me a swing vote. That's hard to understand - that I'm suddenly a swing vote in that sense but something called National JOurnal asked me - some other publicatinn wanted to talk to me yesterday. I'm limiting my time now not as a prima donna but because I've got to budget if that I don't waste any time on anybody that doesn't have a circulation in my district cause it's just getting too pressing. To be classified as a swing vote when I really don't feel like I've had a change of heart of view from the first kinda puzzles me cause I don't think - I think everybody has pretty much got the view that they want to wait until all the evidence is in and nobody will say publicly that they have a view - and yet conclusions are being drawn long these lines and its interesting but not althgether inaccurate I guess because the reading of the others is pretty clear.

W You mentioned a little earlier that Railsback and Mann or Flowers had some changes...

B Yeah, Railsback and Flowers well, now, Flowers and - well, anybody from south of the Mason-Dixon line is suspect as far as the liberal democrats are concerned and in this category, we've got in our committee, two from Texas but they are Jordan and ~~Brooks and~~ Jack Brooks - I think he's what I would call a primitive democrat. Barbara Jordan, whose judgement I respect but who I think ~~is~~ is a strong enough party person that she would - her presumptions I think would favor impeachment. She's fair minded, she's just burdened with democrat background just like I'm burdened with republican background in a sense so I would say that she's not tainted by her geographical origins. Ray Thornton who's a very able fella, quiet and able, ~~is~~ it has been my observation of him, has gone along with the democrats almost as if he were not from what I would consider south as Arkansas but so that takes us back to Walter Flowers and Jim Mann.

Now I ~~have~~ had lunch with some of his South Carolina congressman yesterday and if their constituents - all S.C. constituents are not too different, and pretty much their view was that the people of S.C. that went heavily for Nixon are - have confidence in their representatives enough down there that they are going to go whatever the judgement of the congressman is - that Jim Mann is well enough thought of in his community that he's not gonna be bothered too much - by - he wouldn't be bothered by voting impeachment - he wouldn't lose his job by voting an impeachment. And I would think that Walter Flowers is much the same way - a democrat from the south has a - always has a heavy Nixon vote

*The Southern contingent*

B but I don't think that anybody thinks that their job is in jeopardy by how they might vote on this. I may prove myself wrong myself - but all of us I think basically from the south have that feeling contrary to what the press would lead you to believe in many instances so - never the less, they also are the sort of democrats that can get away with following a republican line without being considered disloyal to the party. That's why I consider them pretty much swing votes - those two - Mann and Flowers. They are free to vote this thing - free to approach this thing much the same way I do and I think they do. And so I really am interested in how they are approaching it and I ~~happened~~ ~~to~~ haven't them personally but I - lately - because I sort of wanted to let it jell in their own minds and I've been kinda following it from a distance and I would judge that they are pretty much where I am in their thinking - that they are still open but that brings us to the swing vote - the 4 that Evans and Novak mentioned and the two Mann and Flowers - and only remotely possible - Thornton.

W And Jordan you think...

*Jordan influence on the Democ*

B <sup>*ch. hope*</sup> Jordan I think is going to - well, I think one thing about Jordan, I think she's ~~is~~ determined in some measure the democratic party line so she's going along with whatever the democratic party line develops to be because she is gong to be an archet~~act~~ of it.

W Oh, you think so - she's that potent - pretty intellectual.

B I think she's gotten - yes, I think she has that much influence with the chairman. You know I way I read that thing, Peter Rodino was in trouble when he first got here on the redistricting and everything but this national publicity has saved his hide - that and the fact that I think that he had the benefit of wise counsel from Barbara Jordan about how to deal with his black constituency. Now, that is purely surmise but I know from just chatting with both of them that there's a certain amount of mutual respect there and so I think that she has the respect - she has the ear of the chairman and then I think she's earned it. So she's going to be one of the architects of the democratic party line so that's why I wouldn't expect her to break with it.

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B Well the first thing I want to talk about is yesterday we got into another round of discussion about the so-called Dixon memoranda. There was a lot of criticism of the guy and of course while we were there, the article came out on the Washington Star that mentioned his McGovern background. He evidently worked ~~with McGovern's staff~~ as a McGovern man and was obviously a certified liberal - certified democrat liberal and had that in common with about 5 members of the committee and so certainly so can't criticize him for that but in response to republican complaints - he's a member of the permanent staff not the inquiry staff (of the Judiciary Committee) and he prepared these memoranda for members of the committee - the democrats on the committee and 3 of them apparently - this comes from a kinda lunatic fringe of the democrat party - these requests. And then the republicans said well, we thought we were members of the committee too and we ought to have access to them and so the chairman ruled that - first he ruled that we turn them over to the press and then the prejudicial aspects of the pending trial - the trial that's due on the 26th of the plummers - so they didn't want to prejudice that situation and Judge Gizele had ~~to~~ let it be known that a surge of publicity just prior to the trial could be prejudicial in light of some interpretations of the Supreme Court and so for that reason, we were advised by counsel not - that the press shouldn't have them so the Chairman agreed that anybody that wanted them could have them. And then they came around and asked us - do you want Dixon's memorandum - so I did, I asked for mine. This is on yesterday and then I got mine and thumbed through some of them last night. They are not very ~~scholarly~~ scholarly publications - they are nothing but a partisan presentation - sort of - I would think that his assignment was read and review the evidence that has been made to date and tell us how you can make the best case for impeaching the president. Which if you're hell bent to impeach the president, that's a pretty legitimate inquiry cause I'm quite sure that on our side, there are republicans that would say to a staff member, make me the best case for not impeaching the president. But it's a sort of confidential memorandum that had no business going into the press and it had no business at all - and it's a reflection on the press. It isn't anywhere right - they should not - even had access to it - they should have identified exactly what it was and explained what it was. So it has hurt the committee. It should not have been leaked. I talked Bob Kastenmeier coming back from one of our sessions yesterday and he indicated to me that they have traced it a member of the personal staff of a member of the committee - who evidently deliberately leaked it. Now I don't if they pay for these things or not - Does the press buy these things. (W-not that I've ever heard of) That's not considered unethical, though is it?

W No, well, it's considered shady. I think its considered shady - not illegal but apparently - somewhat unethical.

B The reason its unethical because if it got too bad it would cost you too much money.

W Yeah, that's right. The publishers are...

B yeah, that's right, they're reluctant. I think that's understandable but that's the state of that but that guy so far as I see - no, he's not been publicly castigated or fired or ~~xxx~~ nobody's admitted to his guilty and yet - I'm talking about the staff man - and yet the ironical thing is - quite obviously the committee member who must know of this - if somebody hasn't already told him - ~~if~~ of this indiscretion on his own staff, and yet I think if you'll examine this committee member's name - whom I don't even know - you will find that he is one of those people who is agitating for get rid of the president of the United States because he's responsible for the conduct of his subordinates and it irritates the heck out of me because of the gross hypocrisy of the

Dixon  
memo  
replied  
again

B people who are really pushing on that extreme of the impeachment spectrum is apparent to me every day if you look at anything they do.

We didn't accomplish much yesterday which was Tuesday.

W Has there been any strong effort to trace the source of the leaks -

B No police effort but there isn't any doubt about it that it's embarrassing to the responsible elements of the committee - on both sides. Rodino particularly. Well, yeah, well he ought to be cause he can't handle his own people and that screwball Dean Birch and his crowd are making hay out of it and properly so, I guess. But that's about it on that score.

We listened to a tape yesterday and I ~~xxx~~ missed part of it but it's a conversation of the president listening to a conversation - an earlier tape ~~with Dean~~ between Dean and himself and Haldeman is present and they are discussing it. At this time Haldeman is still on the - in a staff position and at the time, it is not generally known that he has the tapes. The conversation is therefore very garbled now I ~~know~~ don't know whether they are - exactly whether they are listening to it on earphones or what - that's not altogether clear to me but there are enough excerpts from the earlier conversation that keep bobbing up - either they just finished listening to it or not - but it's kinda a shorthanded exchange so its awfully difficult to listen to and awfully difficult to come to a conclusion.

W So what it amounts to is a tape of the president listening to tapes -

B Either listening or discussing a tape that he's just listened to. He may turn it on for a little while and turn it off or what - you know - it's hard to tell exactly what's going on but you can't the tape.

W You can't hear the earlier tape...

B No, you can't hear the earlier tape. Mostly I think - the way I viewed it is that they just finished listening to it. Now they may go back every now and then and review their notes and something of that nature.

W The committee equipment is not quite that good.

B I think the committee equipment is that good - I just ~~that~~ think that their conversation is disjointed because one element of it is missing. They may be looking at notes. So its real difficult to follow exactly what they said and his thought processes keep jumping around. It doesn't satisfy me at all that the president had any prior knowledge of the - prior to the March 21st tape - that's what they're listening to - prior to that time they didn't have any knowledge of the coverup. Now others have different views but there are implications in it that indicate he might have but I've got to go back and listen to it again and carefully - in fact this is the sort of thing that requires a lot of listening to do it. There are some affidavits...

W How important is that point whether he knew 4 days earlier about the Watergate situation

B Well, it makes him out a ~~liar~~ <sup>liar</sup> because - well, you know, the whole question - that concerns me - the existent the President of the United States can take a public position contrary to the facts as he knows them. No I think there's a certain amount of license - I mean, for example, if you start editorializing on a particular point - like that - if he's said well, now, actually on March 21st

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B except for a 5 minute conversation - or except for an inkling of this - you've got ~~the feelings and generalities to convey the message~~ to deal in generalities to ~~get the message~~ convey the message. Four or Five days, I don't think is significant. But the whole point of consciously having enough evidence to indicate that he consciously set out to deceive is the thing that disturbs me. That's why I was upset about Kleindist. I felt like in that particular instance, that was exactly what it was. Judge Hart however, didn't think that Kleindist had committed such an offense - an offense of such great magnitude. I see in the morning paper that his dis-harment proceedings are under consideration - Kleindist and I just wonder whether Jaworski and all of those people in their efforts to get the king-pin or efforts to get somebody are overdoing this immunity and this light sentence situation. I've always been of the view the higher you go - the punishment ought to be more severe. Course there is the accompanying thing that the public disgrace is the real punishment but that is also to present an example for the enlisted men - the example for the people that justice is even-handed. And it just disturbs me that it has not shown up that way in this particular thing and Judge Hart - goodness gracious - I see where he's dealt lightly with somebody else - what was that - but the whole view of it is beginning to concern me.

I had a chat with John McAllister on the floor yesterday and he's quite conservative and I would think, like most republicans - good republicans - extremely reluctant to impeach the president.

W Where is he from?

B Nebraska - and his view of it was - it looks like things are looking up for the president in the last two weeks and I just had to say then - and I'll say now - that that's quite true in the sense that the evidence that they are directly their attention to is less embarrassing than the other - but the \$75,000 still hangs over our heads...Kleindist still hangs over our heads and we haven't gotten to tax fraud but the ~~the~~ rest of the things looked pretty good until yesterday - course - pretty much - was the Saturday night massacre and the April 30, 1973 down to the present. That was the thing.

Now during this period, what's his name - is it Caufield - no Caufield is the policeman, Butterfield. Butterfield spilled the beans about the tapes, and that kinda changed the view of things. John Dore spent the whole damned day tracing the title or the pedigree or the custody of two tapes: one that had the 18 min. - 18  $\frac{1}{2}$  min. gap in it - and the other one that had the April 15, 1972 tape that ended in the middle of the afternoon. And of course there's the implication in all of this - that' there's more of the April 15th tape around than we saw - than has been revealed to the committee. But it's all supposition.

W Did he give any reason for supposing that?

B Every now and then somebody would take them out - withdraw them and log them out but I thought his detective work was pretty thin because for example one log indicates the tapes from April 14 to April 16 - well, that doesn't mean that April 15th was complete at all. That just simply means that whatever tapes there were on that day were taken out and then they sent back - at one time - and asked for an April 15th tape - there's also situations where Stephen Bull had access to - had more tapes checked out than he delivered to Rosemary and - a few things like that that indicates some detective work is confused but basically it was an experience in tracing the custody of these particular tapes - and painfully, slow, unnecessarily so experience for the committee - I feel quite sure that - without knowing a thing about John Dore that he must have spent some little time as a - keeping pedigreed records for the American Kennel Club or something of that nature because

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us

B he just beat it to death and got/nowhere as far as I can tell. That's my view of it. Its exculpatory for the present point of view.

There was a 5 minute interval when he had a - was listening over Rosemary's shoulder but - I mean ~~going~~ I going on assuming the veracity of everybody involved and I just don't think that its the sort of thing that you could really lie about and convincingly - ~~I mean~~, you know, all of this tape is just in such detail and foolishness, and things that I think from what I read and listen to - not listen to, ~~because we didn't really have a tape on this ?~~ but what the evidence is at present is that - and it's been pretty much public all along that there's no reasonable explanation to this point from what we've heard but the gap or the tape that ran out - if there's any ~~indication~~ implication for the president, it's only implicit - no, implied. There's no involvement of the president in it in any way.

W Did they come up with the - so-called experts report (B-no, we haven't gotten to that) you haven't gotten to that.

B No, but we should get to that today. There's a distinction that the president made in a conversation with Richardson - now this is another thing that gives you the view that the staff is - its objectivity is slipping every now and then - they make - at the time Richardson wrote the charter for Archibald Cox he had a waiver of immunity expression from the president and that was the representation that was made to the Senate committee and in the charter and then the president and Richardson had a private conversation before ~~the~~ any swearing in or anything ~~in~~ in which the president says to Richardson that he makes - that he's waiving his testimony - but he's not waiving his executive privilege as to any documents. Now Jenner went to a lot of trouble to tell us his legal opinion to the effect that a waiver of testimony is a waiver as to documents - that there's no such distinction as to those type of waivers - a waiver as to documents discussed in the testimony. But he did concede that it was possible to waiver - to have a limited waiver - you know, limited in time, limited as to items as so forth. But I felt like that Jenner and - Jenner was spending his time telling us that the president was wrong legally when the presentation should have been directed as this was the factual situation ~~and~~ <sup>as</sup> the president interpreted it because there's a suggestion - there's going to be - we haven't fired Cox yet but we will this morning I suspect - there's a suggestion that there's going to be some effort to suggest that the president in firing Box washed out on his deal and ~~there~~ now ought to be impeached - well, that's a lot of bologna - that's the way I view it now. Well, we'll have to see what legal opinion has this morning.

*impression of Haig*

In listening to the tape I was - first time we had heard Haig on the tape, now he was there with Haldeman - have I been saying Haldeman - I thought it was - doggonned - I better look at that - Stop that tape! I've been saying Haldeman - it was Haig - but Haldeman was still at the White House . Haig was the one I listened to in his conversation with the president and not Haldeman - we can get that straight. But I was surprised to learn that Haig is a forceful and you ~~i~~ know - he talks strong and with conviction and not as much as a sycophant as I thought from his public appearances, I think he's on the same wave length as the president entirely in these conversations and he's a pretty forceful guy which was not the impression I've had from him before.

W Didn't seem to be a yes man.

B No - he also seemed to be a good hater and all of the things that are required

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B to be on the White House staff.

W How do you mean, a good hater...

B Well, I mean, you know, when the president said - you know - they ~~were~~ were cussing Dean kinda - he got in ~~there~~~~not~~~~specifically~~ the act - not specifically but he talked that way a little bit and ~~it~~ also lawyer Ziegler was there and throwing in his legal opinion - ~~lawyer~~ and he is something to behold - I wish we'd had a better tape - of the conversations that I listened to him on - just were terribly difficult - and I'm going back and listen to them ~~later~~ and may have some more comments ~~on them~~ - I hope I can get a chance to sneak over there today and listen to them.

W Ziegler was not very impressive...

B Ziegler was not very impressive. Now - I got - what time of day is it? 9:05 - we ought to leave here pretty soon.

Just one interesting thing - during the course of the tapes - they started talking about that fella from Virginia that we were gonna put on the Supreme Court - and they couldn't think of his name right off the bat - finally got it straight - Poff - and that's about it ~~it~~.

W What did they say about Poff...

B That's all they said - didn't mention his qualifications - just decided it ~~s~~ was amusing that they had trouble.

W How in the world did he come into that context...

B Oh, it's hard to tell, I mean, the conversation goes all over the wall, it was also talking about - they mentioned Lewis Powell - at the same time. ~~is~~ No, there was any real reason for it to pop up but they just kinda - they did.

W This was all on that June 4th

B Right - June 4th. Now we were - we quit with the discussion about Cox and Richardson but the slowdown between Cox could have been avoided - it seems to me - based on my view of it - Cox still thought there was room for compromise but they called him at home - Charles Allen Right called him at ~~his~~ home - and then he kinda put it off until the next day and then wrote a little letter and they sent it over there but we quit a little hurriedly yesterday but it seems to ~~that~~ me that either the White House wanted to get to him or this guy Wright is all thumbs. But ~~there~~ there was a legitimate area for working out their differences, I thought - that's my impression of it at the moment - now to - and it's all like a soap opera - cause we quit in the middle - we're going to pick it up again this morning ~~and it's not gonna~~ but it ~~was~~ was handled poorly and I'm not gonna - and I don't believe right - from what I read of his handling of it was the right guy - the correct guy to be in this situation for handling a delicate negotiation - I mean just cause you know a lot about the ~~constit~~ constitution - maybe Cox might be a little abrasive too - in his relationship - but they had the wrong two guys. Breshnev and Nixon could have worked it out alright but

W Where there tapes

B No, No an exchange of letters and memorandum and testimony and interviews. But that's my impression at this moment. Course with all this stuff about executive privilege - and the relationship of testimony and documents and all

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B that sort of stuff - and it brings the current controversy before the Supreme Court as to Jaworski into a pretty sharp focus and so at this moment, there's - we really haven't resolved the question between the president and Richardson and the White House as to the extent of waiver and all that stuff and its all before the Supreme Court and so that's going to give new interest to it.

I haven't done a very good job of really - if we decide that this exchange is useful - I ought to go back and try to polish it up in terms of phrasing up the legal part of it. (W - okay) 'cause ~~that~~ is significant.

W The Supreme Court decision could be a real turning point, couldn't it.

B ~~Well~~, the Supreme Court decision - well, it could cut - well, I guess what - the impression that is ~~going to be abroad~~ is that the Supreme Court decision is going to define the law in the area of waiver of executive privilege and - in some areas. And for that reason, it's going to be relevant. But for an impeachment inquiry, the law is not the significant thing, it's the state of the president's mind - as to - because after all - intention is very significant so therefore I'm going back and review this thing in my own mind to see - but for this conversation and incidentally, Richardson affidavit was made only this last week - or one that's the basis for our inquiry - and it was only in the last week that we got this information from Mr. Richardson and - I mean - this affidavit. So, it's contemporary and I thought exculpatory. In that regard - cause I don't see anything thus far in the Sat. night massacre that indicates that the president ought to be removed from office.

W So far you see nothing that indicates that would have been part of a pattern of trying to cover up...

B I don't think ----- any coverup at all, it's purely - I think the president was ~~insensed~~ that his understanding of the guidelines weren't exactly being followed but - you know - we haven't fired him yet so we'll - today - we'll know a little bit more about it.

One more thing - Frolich - our right wing friends there on the end of the republican bench have been taking ~~up~~ a poll as to odds - rated all the republicans as to which ones would vote for impeachment and I don't know whether its a floating poll or a dated poll but - as of yesterday - I was number 7.

W Evans and Novak did better or worse for you...

B Well, I think the same 7 they had were the same 7 we've got but

W Had you rated Hogan...

B Yeah, they said Hogan was more likely because of his gubernatorial ambitions - I think - but I don't think the poll is too reliable except as a ~~view of sentiment~~ view of sentiment. <sup>by</sup>

W What ~~is~~ was it that Del Latta was supposed to have said to you ~~about~~ the way that Evans and Novak interpreted it as upbraiding you - (BOI don't know) Has ~~he~~ talked to you since?

B Yeah, yesterday, he said somebody had called his attention to the article and he had no recollection of it. (WDo you have any recollection of it?) Well, he did ask me - in his own sweet abrasive manner, which didn't offend me a bit because I thought that was the nature of the beast, he did ask me why I wanted to strengthen the thing - Did I talk about - it's pretty philosophical and I



*red  
only in  
pink  
what* B may be wrong - some of the republicans feel like that there is a conspiracy to get rid of the president and if there are any loop holes in the presentation that we ought to - that they ought to be allowed to - president ought to be made available - all the technical opportunities that he has. I just simply had a different view of it - my view of it is that we're lawyers and we're supposed to do it in the best professional manner that we can and that this is an investigation and if I think the subpoena is sloppy I ought to say so.

It's interesting to compare the subpoenas that the news about Jaworski with the one that we used and the thing - the tightening up operation that I suggested was pretty much the same thing - the change that I would have made appeared to me had already been made in substance in the Jaworski subpoenas so I may be wrong.

W So Latta may have said like - well, why the hell did you do that...

B Yeah, that's exactly what he said. Why did you want to do that, why did you want to strengthen the subpoena and my answer was quite to the point that I think our obligation is to do it right that and that's what I was trying to do because I don't want technical objections, I want substantive objections and that it basically a philosophical difference and I didn't consider that it was personal at all and I don't know who was present when the conversation took place but it wasn't that big a deal.