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M. Caldwell Butler Audio Diary, July 1&3, 1974 - Transcript

M. Caldwell Butler

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W The last couple of days have really set some procedural directions at least that wind up with ~~an~~ an inquirable effect and some future impressions. of those days.

B All right - which day do you want? Maybe we had better work our way backwards hadn't we? That would be better.

W So maybe we can start - yeah - you'll date it.

B Thursday morning, June 27th because we had a bicentennial breakfast and I thought it was a pretty impressive show that John Rockefeller, III put on as well as John Warner and it does make you think how we can not impeach the president in the light of all ~~this~~ the revelation as we enter into a bicentennial year - re-examine our situation which is the theory of the bicentennial to re--examine our situation and look for our prospects for the 3rd Century and horizons of '76 and things of that nature in the presence of an impeachment proceeding - if the impeachment proceeding is successful - strike that - if the impeachment proceeding proceeds to impeachment and trial and the President is removed, we would have to think what effect that would have on our bicentennial and conversely, if we convict 7 - now 7 - and probably 10, people in the inner circle of the White House and don't impeach the president, what are the impacts of that on the enduring values of American government and so I think it calls ~~us~~ us up short for some kind of reexamination of the policy considerations in our impeachment right now. So that's one of the things that was going through my mind this morning.

The History of it all

Turning back to the 26th - which was yesterday, Wednesday, we spent all day on the - an examination of the resolutions of the - an examination of a resolution or a motion to, directed to the calling of witnesses and we closed the meetings. We began by voting to close the meetings. The House rules provide that if we are, if we are going to undertake some examination of some evidence that would tend to defame or degrade an individual then we have to go into Executive Session and our counsel advised us that that would be the situation and for that reason I didn't feel like we had any alternatives. The vote was 25-13 and I voted Aye.

I'm influenced by Don Edwards' view of all of these Executive Sessions and questions because I know him to be an extremely liberal but fairminded and it seemed to me that we still got to protect the rights and interests of the people who are not directly involved in this thing.

My principle reason for voting to close the meeting was ~~this~~ fact but also I think it was perfectly clear that the Erlichman jury is being impaneled today - today on Wednesday - and that the rules, our rules of, our deal with the Judge who released a lot of this Grand Jury information, particularly the testimony of David Young, was to the effect that we wouldn't jeopardize that suit and the principle problem is a sudden surge of information immediately preceding the trial is bound to be prejudicial and so that's what we had to avoid at all costs. That was my reason for voting to close the meeting - my second reason for voting to close the meeting. I don't think we had any real choice - but the closeness of the vote indicated - early in the day - indicated that the question of calling witnesses was shaping up into a partisan question.

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B Then the presentation by - of course the way the Democrats ~~is~~ presenting these resolutions is that they pass them around among all the others, pass them around as we go. So that it came to be Thornton's turn and I couldn't help telling you I thought he'd been mistreated by not being allowed to read his resolution before he presented it but he's a good sport and he laughed it off with kinda of a pained smile but that's kinda the way they're ~~going~~ going over there.

We spent a good deal of time just giving everybody a chance to unload - give their views. It's remarkable how much was said considering we were in Executive Session but we went through it all. During the lunch break - I mean, during the lunch time, when we took our ~~break~~ break, I had an extensive conversation with Bill Hungate from Missouri. Hungate, it struck me that the strangest witness that we were calling, was Butterfield. I think I got the view of it from Hungate as we went along. He says that Butterfield is the one guy that's there in the White House that's got a full view of everything that ~~is~~ comes in and goes on and he might give us a view of the policy. Hungate's analogy to the man that's examined a tree and said that there's not enough here to build a house and he examined each of 400 trees in the forest and said there's no tree here big enough to build a house so they didn't build a house. Well, of course, the forest is full of trees and all you do is take two trees. You relate that ~~is~~ analogy to the cumulative effect of the misdeeds of the White House and you get some pattern as he calls it - a pattern of deniability - and that's what I think they are trying to get out of Butterfield - basically the conspiracy on the part (or behalf) of White House employees to make sure that the President doesn't know all the nasty things they are doing. That's - and I think very well - I think that very well may be true. Now if that proves an impeachable offense I don't know unless the President somehow - they can connect it up somehow that the President lost it in that fashion. So - that's something to think about.

While I was talking to Hungate - we chatted some little time - and then we sat down on the floor - and he went into this - and then Peter Rodino came down and sat down and we talked about much about the same thing. Now Rodino I think was upset because I had asked to be recognized and then he recognized - and then later on he didn't recognize me and got somebody else and he thought that I was a little upset about it - which I was upset at myself for not keeping my - keeping my hand up as it were - but he went out of his way to spend a little time and bring me up to date on this thing and we discussed schedule and target and I had to agree with him that I thought he was proceeding in the right way. My view of - but apparently they had an advisory committee meeting - which is the senior members - and they made some arrangements and then they (senior members on both sides) made some kinda of accomodations as to the witnesses we would call. But apparently when we got to the committee they had classified them into two groups. One group of witnesses they would agree to call - the other group of witnesses they would first examine them and then if they had anything new to add, and Rodino thought that they had anything new to add, then we would examine them as witnesses. Wiggins and the other senior people who participated felt like this was a change in pattern and they weren't bound by it. And so during the course of the morning, it became apparent that this whing wasn't going to sail through and the first time I've seen Rodino - and all day long he was pretty testy about things like that - but eventually it passed.

Now what happened was - Sandman offered a resolution, a substitute resolution which in effect, after it had been dealt with - would mean that all the witnesses, including Erlichman, Handeman and Colson, would be called - Erlichman is not in there - including Colson and so forth would be called, and to testify and not go through this class II proceeding first, which suited me

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B fine and I was supporting Sandman in what he was trying to do. And it began to shape up in a vote - a kinda test vote with two people - O'Brien, who was a lawyer for the committee and another man named Bitman, who was a lawyer who picked up the money on the bribe - \$75,000 which is so critical.

So that amendment was amended to provide - that was the Sandman amendment or substitute for the principal amendment by Thornton.

✓ About the time Hogan's amendment passed which added these two people to Class I witnesses, Don Edwards walked over to Peter Rodino and whispered something to him and then we went into recess. He said for half an hour - that was a 5 o'clock, then during - about 10 minutes later we had a vote and we all went to the floor and we came back at 5:25 or 5:30 and the Democrats were caucusing in the Democrat office there and evidently they whipped then in line cause after we came back, the Sandman motion was voted on - the substitute - and it failed by a vote of 19-19 with two Democrats defecting - now this is significant because two people switched their votes in the meanwhile from the Hogan amendment before we went to lunch which was 21 - 17 to the 19-19 split (not before we went to lunch but before we went to recess) and the 19-19 split afterwards which being less than a majority did not pass and we went back to the main motion. The two people - Don Edwards had switched his vote, and Jim Mann had switched his vote - from S.C. So this meant that the democrats had a solid front. But Wayne Owens and Walter Flowers remained with us but there is no possibility that Owens would vote against impeachment but it does indicate that Walter Flowers is pretty much committed to follow the Republican line and that's - I would say that he's pretty much an indication at this point that he's not going to vote for an impeachment. And every comment he makes is pointed in that direction.

Jim Mann - I would think - judge - from the indications - is going the other way. Now that's my guess at this moment.

✓ So anyway there were several votes thereafter who tried to add Colson, Mitchell, Haldeman to the Class I witnesses - those on a motion by Hamilton Fish - David Dennis tried to add a lot more witnesses, that wasn't quite the same vote; a motion to include Erlichman as a witness that we would call was defeated 19-19 and that for the first time, I think the partisan - it's really shaping up into a partisan thing. I think the Republicans are right. Any witnesses that anybody thinks can shed any light on it ought to be called but Rodino is obviously is getting a lot of pressure to finish by the 12th of July and that's - I'm sure the committee will and it's a shame to see them panic after having such orderly procedures to this point and I'm disappointed in that. I think it's a real mistake.

EW Is it getting close to a panic - do you think?

B Well, yeah, I think it's every bit of that. I mean, Rodino, first time I felt like he was losing control of ~~them~~ himself - I mean not a raving manic - but I mean he's been very calm up to now and laughed off a lot of things, this is the first time I felt like he was - the pressure was beginning to get to him cause I think he's compromising what he set out to do under pressure and Del Latta is the one that's needling him about that several times yesterday and obviously it got under his skin.

During our early examination I asked counsel about why we couldn't call John Erlichman as a witness and have him come in and tell us he's unavailable. Same way about John Mitchell - both of them are under trial and we were advised that we not call them as witnesses and their lawyers stated that they won't testify - won't authorize them to testify but of course they'll

B ✓ answer a subpoena. The point I make is - the point I want to emphasize is - this is pretty unique that our committee can subpoena the President, talk about subpoenaing a Federal Judge and yet we're not going after a defendant in court.

John Doar dropped the ball. There's such a thing that you call use of immunity which means that anything that we ~~xxxx~~ turn up in the course of our proceeding if - can't be used against him in the trial - ~~that wouldn't prejudice the trial~~ I wouldn't think - cause they ought to know everything they need to know about him now - but it is a time procedure - a time consuming procedure and could throw us behind. Should have started on things like this long ago and he didn't. The significant point is now that counsel is covering up his own failure to move early on Erlichman and Mitchell by recommendations that we not call them at this point and ~~I think~~ I'm disappointed in that - I think Erlichman ought to be called as a witness but he's not going to be and so we're stuck with it. We had very little problem getting through the Hungate amendment to ~~the~~ in effect ask the House to authorize us to curtail the right of Committee members to examine witnesses and we are ~~now~~ - and our intention of course is to adopt a rule that we submit our questions in writing to counsel and there wasn't much opposition to that. That's the note on which we closed. Closed the day.

✓ It was interesting - as we were closing - Kastenmier wanted to bring up a bill that wasn't on the agenda which authorized the DAR patent - extended again for another 14 years - and - but our friend John Conyers objected. He asked the question of Kastenmier about who had they discriminated against most recently. Or words to that effect - obviously the DAR is not one of the favorites of the black members of the committee and so rather than move - for which we could have done on two-thirds vote to suspend the rules and go ahead and take it up, Kastenmier chose not to do it that way.

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One other thing of interest - during the course of our deliberations it became apparent to me that the witness list did not include DeMarco or anybody related to the tax question. Now John Doar had made a speech earlier in the week - I mean at the end of our deliberations on taxes in which he felt like we ought to go after it - now the joint committee on taxation submitted a series of questions to the President which the President never answered. I felt like these questions should be answered simply because they go to basically to the question of whether the President's intention - he never ~~really~~ has really been examined closely on what he had in mind and what he knew about ~~this~~ DeMarco and there isn't any question in my mind, DeMarco is a first class either stoop or crook. That was my conclusion. And ought to be disbarred. I notice he hasn't lost his rights - his notary license - which must hand him much. That's a wonderful way to start the day. In any ~~xxxx~~ event I wrote out a resolution which would say that the President shall - that the committee shall impound - I wrote it out in longhand - resolved that the committee propounds to the President those interrogatories heretofore propounded by the Joint Committee on Internal Revenue Taxation and then I sent it down to John Doar for his comment as to whether it was in appropriate form. He got up from his desk and came back to talk to me and explained to me that Congressman Mezvinsky, that Polac dropout down at the other end there, was going to offer the same ~~xxx~~ thing or substantially the same thing, so I didn't draft it or submit it because I didn't relish the idea of being identified with that from the Republican point of view, but I felt like it ought to be done. Earlier in the day I had asked Mr. Thornton if he had any other plans to pursue this question in his motion to call witnesses and he said no - the question might come up later. So I let it go at that. Toward the end of the day I went over to Mezvinsky and asked him if he was prepared to offer his question on interrogatories and he said no - well, he said what he had was a letter - directed that we send a letter to the President. Well, that was a pretty watered down version of what I wanted to do but - not as strong

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B as interrogatory but we haven't gone the interrogatory route ~~as~~ yet. And Doar incidentally, mentioned to me that he thought the questions were not very well written and they wanted to phrase them themselves and all that sort of stuff. For some reason they are shying away from interrogatories because you give the respondent a chance to evade - in the course of the President's interview, conversation with - on March 21st - you remember where he said, "Let's get 'em to submit interrogatories. We can deal with that." So the whole committee is shying away from interrogatories for that reason. So I didn't argue with Mezvinsky.

But then he came along and ~~as~~ offered at the end of the day - he offered that and the chairman ruled him out of order. First he asked for unanimous consent to bring up the question of directing the counsel - that the counsel write a letter to the President and then the objection was made by some Republican on the grounds that it wasn't noted and so then he made a motion and the chairman ruled him out of order because it wasn't on the agenda. I then signaled him from my corner that go on and make a motion and it would take a 2/3rds vote - to put it on the agenda. I thought he had the votes but then the Republicans started talking about it. And Wiggins said well, that's fine because he wanted to attach an amendment for general interrogatories but he had been told by the chairman that he would be out of order so it would be a great vehicle for him. And so he was going to support it - well, of course that killed it with kindness because no body wanted to stay around that time to argue that issue so Mezvinsky withdrew it and we have no assurance that we are going to follow that route and I think its an example of - I don't think its an example of a cover up but I think its an example of poor planning and I'm increasing aware of the fact that John Doar is a good detective but damned poor procedurist - and - weak procedurally and it seems to me - and also the democratic caucus hasn't got a strong man in there putting things together - cause somebody should have put this thing together and gotten something on the agenda to take care of that problem. Now I'm not - I guess I should have carried it but I was faked out by John Doar.

W Is it foreclosed now.

B No. We'll have to have a business meeting now to bring it up but I don't know when it will be because we are now going to go into 10 days of hearings - I mean 7 days of hearings - St. Clair is going to put on his show today. And we don't know what's going to take up next after that - but that is where we are. I'm afraid that that's about as good a place as we got to break - do you want to ask me some questions - about yesterday.

W I guess we'd better call it a day now and then we can - at some later point...

(C)

B We are dictating on the first of July but we are talking about Thursday the 27th of June.

Now St. Clair opened his presentation - this is the first time he had really been permitted to speak to the committee and he had sat there pretty docile but he began by saying that regardless of what you hear elsewhere, in his judgement, the President's counsel had been treated with the utmost courtesy by the committee. There was some jockeying around but basically he sort of led us to believe that he perceived his role much as the same as Doar and Jenner.

W As a fact finder or did he spell it...

B At this point it's just simply a statement of facts that he thought ought to be called to our attention that haven't been called by Doar. And so then he went into it and started reading his tabs and St. Clair gives the inflection - he reads differently from Doar - for example, I was - his emphasis on one particular thing was interesting - he was reading from the testimony of John Dean and he said the first time I ever talked to the Pres. ~~was~~ was on Sept. 15th. He emphasized the "ever" and so he was persuasive as compared with - and an advocate in a subtle way as compared with the monotone that John Doar developed.

We had some exchanges with him about ~~some~~ the transcripts - course the substance of what he contributed wasn't substantial in my judgement. But he emphasized some things that probably ought to be emphasized. He's tearing down Dean but he's not - I think the significant thing was that he was - he's pretty much singled out an area to concentrate on and that's it. And I guess it's fair to state that what he was concentrating on with reference to the early - the Watergate testimony - was tearing down John Dean and emphasizing the President's limited knowledge or lack of knowledge prior to March 21st and then he galvanized into action on that time - after that point.

We had a gaurum call early in the game and we started to leave. We suggested we stay but the democrats got up and walked out so we went on and walkd out ourselves but I would say overall the democrat attendance during St. Clair's presentation was less than - as great as it had been in Doar's presentation. I don't think we can attach too much significance to that.

W Three or four absent...

B On, no - eight or ~~nine~~ nine of them were. (W Just never showed up or...) No, they came and left - they just weren't entertained. Had a long chat with Waldie riding back on the train and comparing St. Clair presentation vs. Doar's and we agreed it was different but Walter felt that St. Clair had more latitude in his presentation cause he ~~was~~ was an advocate and indeed - at one time, St. Clair pointed out that he was employed by the President and he wasn't going to misstate any facts but he was going to certainly going to present the ones that he thought were favorable to his client. Nobody could fault him for that.

I felt like Doar - that St. Clair just had a ^{good} ~~great~~ deal more personality than Doar and he was demonstrating it. Well, Waldie ^{die} was defensive about that. He said that Doar had a great deal of personality, he just ~~hadn't~~ ^{has} developed this. This monotone. We're reading more in the press ~~that~~ that this has killed - not killed the impeachment - but killed the enthusiasm for it.

W What - the monotone.

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B The monotone and his lack of emphasis but I...

W I think there was ^a ~~pressure~~ ^{REPORT} ~~put~~ that Mann fell asleep during one...

B Well, yeah, that's right. Well, he drones anyway - he puts anybody to sleep.

W You don't think it's true - you don't think that monotone has had...

B I think that's his natural charm~~er~~ (last word not clear) but I could be wrong.

W Do you think that style has had minimal effect~~iveness~~ ...

B I think that's lock and key - I don't think that - I think that's the appropriate way to present ~~it~~ it but I don't think it has any effect on it - I just think droning out facts, you just can't make - he wasn't hired to present it in any other ~~ga~~ fashion.

Interesting the way St. Clair handled his antagonists . Ms. Holtzman undertook to corner him on the transcripts really - and then criticised him for the differences but he was pretty - between the presidential transcript and our staff transcripts of the same tape - and he wasn't really defensive about it. He did admit that - he emphasized that they were put together under his supervision and he was responsible for them but he didn't think there were any substantive differences and I made a note the first time that he got into this exchange that he does handle these sort of questions beautifully and with a smile. She never cornered him - she tried several times.

There is one - his emphasis is on the state of knowledge of the president from time to time and I think that's probably really what we're looking for. For the first time I found out - maybe I hadn't been that alert - that in political matters memorandum which Strong would give to Haldeman if the President's attention was indicated - Haldeman would put a big "P" by it and then after he had discussed it with the President, he'd draw a line through it. Which indicates once more how well organized Mr. Haldeman was.

At one time we did get into the question of the best evidence - that is the tapes...

W Excuse me one minute - was St. Clair drawing the inference that if the line wasn't drawn - that would indicate that the President wouldn't know - was there some -

B No, this was just a - there wasn't any particular instance in which - if that had any significance - but it was information that I hadn't previously noted. ~~He~~ It may have been one of those monotones I slept through, I don't know.

Waldie objected one time on the grounds that he ought not to be allowed to refer to transcripts that we didn't have the tapes on. I've forgotten which particular conversation it was - April 14th I think. And that - for a moment I thought we were ~~going~~ going to bog down on that point and he was going to have to back and clean up his transcript and so forth - transcript of April 4th, 1972, we don't have the - 4/13 - now we don't have the tape on that. We've got a transcript submitted later but not the tape. ~~The~~ Transcript was submitted but not the tape and Waldie says he ought not be citing transcripts when we didn't have the tape cause it violates the so-called best ~~practice~~ rule and so we couldn't have bogged down. Fact we have several times - we had an opportunity to ~~g~~ bog down and Rodino finally ruled that these points of order for questions would be ~~deferred~~ deferred until later - which meant that we would never get around to it.

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B So, we skipped it.

W Well, what happened - did St. Clair just continue along the same line...

B Every now and then they would raise a question about it and the chair would rule that we would take that up later. So St. Clair was entitled - did ~~he~~ present his thing without interruption really.

W And Rodino was really saving the day for him on that?

B I don't think he was saving the day - I think it was the proper ruling but it could have...

W I should say he was saving the day for bogging down...

B Yeah. He was saving the day for progress. St. Clair had observed that - he prepared the tapes = that he thought there were transcripts - they were reasonably accurate. Now the manner and procedure I have approved, he emphasized. He spot checked them from time to time, that they were prepared by lawyers and then he said, of course, lawyers have secretaries because lawyers are very poor typists and so that was the main message we got out of that. But he insisted every time that the substantive message was much the same.

(?)

Rodino got after him once because he concluded but I don't think that was too substantive.

I can't help noticing that the presentation of the White House - presentation was less professional than ours in that the paper was cheaper and the typing was not so accurate and these things. But I think the White House staff must be working awfully hard - awfully hard and under a lot of pressure and it's apparent every now and then. I read the brief that he filed in the Jaworski case and then I read Jaworski's brief and certainly Jaworski's was on a little bit higher level mechanically. I think he's got a better point too.

W This is the brief to the Supreme Court?

B Yes, and the Supreme Court case involving the subpoena of the tapes and the Watergate case or whatever you're calling that case - it's the conspiracy case - the obstruction of justice case - the one in which the President maintains their support of the Supreme Court to get it together - the Supreme Court case to get the subpoenas and that's the one the President's involved in and everything. I read the briefs over the weekend and I think Jaworski's is a much better brief - one reason is he's got a much better point- points.

I predict at the moment that the Supreme Court will come out pretty promptly with an opinion on that and it ~~was~~ will say that the President has to surrender these tapes. It concerns me that we might have a vote in committee - and then have these tapes come back and take another look at them before we go to the floor. So that would be interesting.

W What points - basic points do you see in the Jaworski brief

B Basically the point is - he makes two or three points - but I think the one that's really significant as far as we're concerned is that the President has been named as a co-conspirator and he is defending information affecting - vitally affecting him on the ground of executive privilege and that would be an extension of the doctrine of executive privilege very far when it affects litigation. When the court is making a request for information in the hands of the president in a transaction in which the president has

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B a vital interest because he's under scrutiny for impeachment as well as a unnamed co-conspirator - those circumstances he clearly has a duty - it seems to me to surrender them. And then of course there's the further question of - as he weighs his constitutional rights - to executive privilege and his right to maintain an executive privilege when he has published some 1200 pages of transcripts already so you can't really have a partial waiver, that's the argument and I believe he's got the better of that argument.

I read in Newsweek today that Charles Allen Wright has left the country - on a cruise at the moment which can only indicate a lack of interest or sympathy for the White House position. Before the Supreme Court, he's leaving St. Clair to hold the bag as it were.

Okay, well there were four volumes - as opposed to some 35-40 volumes on - more than that - I don't know - four volumes with St. Clair contrasting with the 35 that John Doar presented us. We covered ITT on the first day, Thursday, Watergate and ITT. I was impressed with his presentation of the ITT information and ~~re~~ the real sound basis for concluding that there was genuine agreement almost in the Department of Justice that they ought not to appeal except for ~~technical reasons~~ tactical reasons and not - so the President's decision was a sound one not to appeal it based on the law and so I think pretty well he exhonorates the President as far as ITT is concerned. Now that ~~is~~ doesn't have to do with the Kleindist.

It was significant that he was silent on Kleindist (W- St. Clair was) St. Clair didn't give us anything about Kleindist. I was a little shocked really. I asked him if that was all of his evidence when he got through cause I thought he would have to tell us something to defend the president on this point but I think he relying on the theory that the President's misrepresentation by Kleindist prevarications were not - were daminus or fair game or something like that. Anyway we will probably hear that in argument. He didn't make any factual determinations or presentation with reference to that.

W Nothing at all - he tried to hit that - Did anyone else try to bring that out

B Well, it wasn't the time to ~~to~~ bring it out - I mean it was (W-To bring in the facts on it) that's right, he didn't present the facts so we passed on. But I felt like it was sort of an omission because that troubled me not as much apparently - troubled me apparently more than anybody else.

On Friday - now Jenner wasn't with us on Thursday - but we toughed it out anyway - ~~he~~ he was back on Friday morning.

W Why does that trouble you?

B Well, it still bothers me that the President of the United States was misrepresenting Kleindist's status when he was nominated. He just plain misrepresented it now I think we've discussed that before - evidently somewhere I got off the line because Judge Hart didn't even send Kleindist to jail so maybe I consider that a larger offense than others. As a matter of fact I don't find people upset about that that I've chatted with so I'm maybe a little bit off on that - chock me - but it may be what we call a puffing and merchandising operation - but it's disturbing me.

W It shocked you that Kleindist would do it - would lie...

B It shocked me more that the President of the United States would tell the people of the United States that I have great confidence in this man who just lied to you.

ch. tape

W Why don't we just go ~~down~~ down and do it in front of the U.S. Senate...

B Well, that's wrong. And of course now on Friday, June 28th, that was the morning I had the nice article by Helen Dewar in the Washington Post which gave me a little celebrity status as I walked in there but it didn't last long. Nothing like Mezvinsky and the Time Magazine.

W What did they say to you?

B Oh, just - well, Wiggins thought it was funny that I referred to myself as an abororiginie - he thought that implied a cave man. Several of them - several people wanted my autograph but I wouldn't mess with that. That's the way we killed it in committee and so then I went back to work.

Again I was impressed with the way St. Clair handled himself when he's challenged on an accuracy or a conclusion or something in his summary, he simply points out that the committeeman is probably right and he should just go ahead and just ignore that statement. And the jury will not be persuaded he says, you're the ultimate determiners of fact and if you don't believe what I say then you're not persuaded and ~~ignore it~~ just ignore it. And it's kinda of a disarming approach.

W Does he just give a little smile and say that.

B Right.

Now I had to take off for the House Administration Committee ~~meeting~~ and in the middle of that cause we were winding up the deal on campaign disclosure and I wanted a couple of amendments which incidentally I finally got ruled on and knocked out. It was a wasted effort but I was following that legislation. So I got out of ~~them~~ it. But when I came back I didn't get - didn't feel like I was missing much. We did discover during our lunch - I left shortly before lunch - and came back after lunch. We discovered during this lunch break that the Star-News had all of the information that he'd given us and Josh Wilkes took a great deal of pleasure in pointing out that it was a Republican source that did it. And I was embarrassed and I think we should be but maybe that's the way we play the game.

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Rodino
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Mayer*

I did notice that St. Clair tired at the end of the day. I never had the feeling that John Doar or Albert Jenner were quite as tired as he was at the end of two days. It wasn't apparent in his reading or anything, he just - he was tired and you could see it from his reaction. This is the same day in which Rodino - the news release came out - that Rodino was saying that 21 democrats would vote for impeachment. I talked with Walter Flowers - walked back with him - and it was clear to me that he wasn't - he hadn't committed himself at this point. Seiberling was indignant at the ~~the~~ republicans - I heard him talking to Rodino - he was indignant that the republicans had leaked - they were jumping on the thing ~~xx~~ when he thought it was an inadvertante. Bill Young - and all the republicans on the floor were all stirred up about this thing - they had a quick conference in Joe Bartlett's office, the minority clerk, and had Hutchinson and Rose (or Rhodes) John Anderson and - lot of people in there - and I think they jumped on Rodino a little bit and I think probably prematurely. At the insistance of the speaker, Rodino took the floor and had about an eight minute speech.

I didn't hear it. I was back in the committee waiting for them to come back. But I don't think it was particularly moving. But it was a categorical denial of the statement and then it was followed pretty quickly by a statement by the newscaster that he was present when Rodino had made it. It didn't embarrass Rodino as much as I would have thought.

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W Sam Donnelson make it?

B Yeah, Sam Donnelson. But it's interesting that he wasn't unnerved by it. He said that he was misquoted and that was that. I believed him. I chatted with him a little bit about that. I just was surprised that he wasn't more upset about it. But he said, well, he wasn't and that was that.

W You felt he should have been more...

B Yeah, I think he should have been pretty indignant if somebody violated his confidence which I think they had. A vigorous denial - I mean after all that's pretty much what they are trying to impeach the president for. And it ought to give you a little humility when you think you can be misquoted - misrepresented by the press but it didn't do anything of that to him.

W He seemed right hot on the floor - ~~so that might have been~~ some of that may have been stagecraft.

B Yeah, well, he's very emotional in situations. I could see why he would get upset but by the time I saw him he had pretty much unwound.

W He'd calmed down.

B Didn't bother him a bit - went on through the rest of the afternoon.

W You know you were mentioned in that article...

B Los Angeles Times - where was I mentioned?

W He was quoted as having said that he assessed that the 21 democrats were going to vote for impeachment and then there were - they would need - he thought they would need 5 republican votes from the committee in order for it to go to the House with some impact and then he listed about 6 or 7 republicans as he considered possible impeachment voters - and you were one of them. It was pretty much the same...

B Yeah, well, that's interesting to know. I do feel that the democrats look upon me as a hope - why even Jack Brooks was nice to me as he clipped an article out of the Washington Post and presented it to me. I told him that I felt like ~~that~~ when he picked up the gavel it was just like giving Jack the Ripper a new knife and he was not insulted. But he ~~had~~ insisted that he treat me fairly which he had.

St. Clair closed his presentation by going over the tax question. I didn't take many notes because I didn't think he added much to the sum total of knowledge. He did have an affidavit - well, one thing we got into quite an exchange over - was whether he represented the President or the Presidency and I don't know why we got into that - but we did. And he was emphasizing that he wasn't the tax lawyer for the President and he didn't have any relationship to that problem so he had turned that over to - ~~he had affidavits from his tax x counsel which he filed with us and pretty filled it out.~~ It looked to me like that the Joint Committee on Taxation had moved pretty fast on the President and that he wasn't - counsel really wasn't given an opportunity to file a briefs or anything of that nature. I'm a little bit - it's easy to understand why the President didn't answer those questions that were sent to him by the Joint Committee that had been worrying me - I just think they made their decision before he got around to him - although there's no assurance...

W You think he might have answered it if he'd had a chance...

B I think the Joint Committee could have blackmailed them out of him - could have forced them out of him by declining to rule and focusing on the points.]

W Where are the - what's the thrust of those questions?

B Well, the thrust of the questions is the President's state of mind with reference to various transactions.

W They are listed in the Joint Committee report -

B They are listed in the Joint report and they are given to us and Jim Johnson from Colorado was very much - feels very much at this time that the President's tax situation was clearly fraudulent and that, as a lawyer, he knew better and that has a lot of merit but at the moment there's not a lot of thrust being given to that but this goes back to what I've been saying all along - nobody knows what's significant and what is not significant until we get some kinda view from counsel as to how we would proceed if we choose to impeach.

That's been promised to us and promised to us and promised to us but as of the present moment, the promises are getting closer together and I think we should get it tomorrow - July 2nd. But that was the end of our business on Friday. As a matter of fact I left about 10 minutes before they concluded because my wife was here and I was hungry and wanted to head for Roanoke - all of which made me leave 10 minutes early and I don't think I ~~xx~~ missed a thing.

Now that takes care of the 27th and the 28th - now on the weekend, we stayed in Washington...

W Before you leave St. Clair, I get the impression that it was just not that effective a performance or it wasn't that effective a case - that he had to work with.

B Well I think basically it's this - John Doar has put together all the facts completely and there are not really many facts that he can add and that was what his job was. Now he's going to get a day in court to advocate - to as he says to present a brief and that will come after the 12th of July and that's right around the corner.

W So you really - in this presentation - the committee didn't really get too much of a sense of St. Clair as defender -

st. cl. with before
B No, it was a subtle defense - because it certainly was defensive and certainly wasn't aggressive and I think overall very effective in the sense that he didn't overpush - didn't over do it. Now I think given this situation I pretty much would have handled it pretty much the same way. So I think he left us pretty well feeling that ITT was a policy decision that the President interfered in but not - interfered in perhaps but pushed them in the direction that they should have gone in anyway - that the president's tax situation is that he was relying on counsel - now that I have trouble buying but that's basically that view of it and as far as Watergate is concerned, the President had no knowledge after March - before March 21st and he bore down after that. Did everything consistent with his - and that's - that's - I mean he wasn't as convincing on all scores but that's about what he left us with and that's a pretty good presentation.

W Did this killing with kindness approach - did this seem to frustrate any of the, what you might call, impeachment red-hots among the democrats, you know

W those who really want...

B I think those that were there were very attentive to him and he does have a certain amount of charm and he didn't burden us with enough to put us all to sleep. It was a busy day on the floor so we had more interruptions -

W You were in and out...

B right - but he was a good sport about that. Now that takes us through the 28th - Friday

W To the weekend - okay.

B On the weekend, Junie was here so we stayed in that night - we even had a fire in the fireplace - it was such a cool night up here and we got up reasonably early the next morning and drove back to Roanoke and today we were ~~xxx~~ pretty tired. I don't think we really had much contact - I was supposed to dedicate a Post Office - open a Post Office but I never made that but they went off - the mail must go through.

There wasn't anything really eventful over the weekend. I went to church Sunday morning and we're lookin for a new preacher and so I didn't stay around to comment on that. I figured that's one problem I'd let the folks handle for themselves and so I went on home after church and hung around the house and just plain took life easy because... and I don't know, my children now are beginning to suggest - Jimmy was the only one home at the time - but maybe I'm not listening because he keeps coming up with things in Newsweek and asking me about them. I'm not responding to them very clearly so I spent the weekend reading old Newsweek magazines and things like that and I still have the transcripts there - the President's submissions I went through that again and I read Jaworski's brief which was very convincing to the point that the President has got no business fighting this thing and it ~~mk~~ makes me believe and I've thought all along that it's a delitory tactic, why, I'm not sure but it's sure that. Maybe it is apparent why it's a delitory tactic in that the President is now going to - may very well - it may come to a vote - we may come to a vote before he's ready to turn loose of those tapes. Now, let's stop the tape cause ~~the tape cause~~ I don't see what I can...

Today - July 1, we only had a meeting at 3 p.m. called for the purpose of determining whether we are going to close these meetings or not and after a lot of wrangling, we voted to do it. The democrats want to close it - republicans basically don't want to - I was strickly on the fence. I was ready to go with the democrats - truthfully - until I just decided I was tired of being the only republican out there and this wasnt that significant a vote.. This was to close it - I voted to then to open and they voted to close. You see the rules provide that they are open unless we vote to close them so we have to vote to close them and that was the purpose of it. It's funny that Waldie who many suspect as being the big leader was the one who made the motion - can't help thinking that if we were in public why they'd put him out of business. Not in an economic sense but in an entertainment sense. But the democrats voted solidly to close the meeting and then there were too good a republican position to be in so I went along with the republicans and all but two of them to voted to open - I voted not to close - and I don't have any trouble defending that, we've gone too far - we voted to open early in the week ~~xx~~ last week - turned loose of all the stuff we have so it's just a question of time so I thought maybe we'd just let the press come in and listen to this stuff. But, but they didn't show. It was voted on party lines to do it. So that's about all that took place in the committee. That was in

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B itself a public session - business session and so forth. Early in the day, well, let's see, I did neglect to mention that on Friday, the 28th, as we were leaving we brought up this resolution to - when did we bring that thing up, I've forgotten, a resolution to suspend the rules and request that the rules be suspended after the 5 minute rule. The 5 minute rule is the rule which provides that every committee must give every member of the committee 5 minutes to examine every witness and you've got 38 Clarence Darrows like ours and it didn't make a lot of sense to have that rule when we were going to have a limited number of witnesses and we were in a hurry to get away. So, we had a resolution from the committee - passed by a pretty substantial margin of the committee to - and I believe I discussed that with you earlier (W - I don't think we did.) It took place one day last week and I didn't think it was Friday, I thought it ~~was~~ took place on Wednesday afternoon - the 26th of June - and I don't believe we talked about that before - yep - we have, that's the last thing that took place on the 26th of June. By a vote of 31 - 6 we voted to do it this way to get rid of the - of this 5 minute rule for the particular hearing, let the committee suspend is what it amounts to. Well when it got to the floor, several of the 6 indignant republicans made a big thing out of it and there was under suspension which meant it would take a 2/3rd vote so it was defeated.

I mentioned that to Rodino that I thought maybe the next thing to do was to go back and try to get a rule which meant it would only have to come up on a majority vote. So he'd had a belly full of it so that's the way we're going to go from now on. I also suggested to him that there's a middle ground they should explore and that's assigning so much time to each side in the committee and let them, rather than try to have this rule on questions, he didn't - he thought it was too late. But I feel like this advisory committee that he's got is not measuring up to their responsibility so they surely should have ~~ironed~~ ironed this thing out before we had a big fiasco on the floor. It indicates a lack of confidence in the committee and I feel like maybe they've got no more confidence than that in the committee, we might as well throw this thing out on the floor and let them vote on it - get it over with and that's where we are.

Early in the day when we first got there and this is Monday morning, July 1st, we had a republican caucus but we didn't get too much accomplished there. Jenner was present and Jenner was really logging kinda - I mean he answered our questions and we discussed things but it was an inconclusive discussion and so far as I could tell we had gone one way with very little accomplished.

It was incidentally in Bob McClory's office and not in Ed Hutchinson's office so McClory I think is trying to give us some direction in an area which Ed didn't seem willing to do and so I think we survived that. But we had a caucus this morning which for all practical purposes didn't accomplish anything. But we had a general exchange of views and but nothing substantial really occurred. I think we might inquire - was this trip really necessary? We had planned a meeting with the House leadership later on in the day after the Judiciary Committee meeting but that dragged on so long that it was called off. So we begin hearing our first witness on tomorrow, July 2nd, without the benefit of any definitive party lines on how we are going to proceed which I think is alright. We only know we are going to proceed with the 5 minute rule and if we finish the first witness, Mr. Butterfield, in my lifetime, it will surprise me.

Now that takes us down to the present. Now where do you want to go back and try to pick up or if anything.

W Probably ought to break - it's getting a little late.

Meeting of June 25th

(Tape of July 3rd)

Recalling meeting of June 25th last Tuesday.

We opened up the ^{to the members of the Congress} Salley of Siley Maine who wanted disclosure of all the milk contributions prior to the legislation which was in question or with reference to the Presidency involved. ^{ment} Danielson offered a point of order and he was getting ready to argue when Jack Wood suggested that he motioned ^{to} the table so we could go on and get disposed of it and voted down that would be the end of it. The motion ~~at the~~ ^{to} table was defeated by a motion of 15-21 which meant that Jack Brook's strategy had backfired and we had to talk about it a little. The significance of this was that there was ^{real} lack of organization on the Democratic majority side and Jack Brooks's isin't as popular as ^{his} big-mouth would indicate. This is the second day in ~~the role~~ ^{a new} where as Bill Hogan voted Republicans.
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There was some erosion in the Democratic Party. Jack _____ will not be able to vote over on that trial by just being rude. Ed Hutson suprised me on the point of order by saying that it came to late. The thing that struck me was the lack of organization on the Democratic Party side. Rodino had the expression that the motion that was to disclose the _____ Contributions was not germain to our resolutions. He had that opinion but did not rule it out of order. Ray Thronton probably made the best argument with the Democrats that it was a question of whether the promise of money was a factor on the President's decision or not. I think this was an over-simplification--the plain factor is that the president was being subjected to a lot of pressure from Congress for the same reason that they are not saying that the President made his decision on the same basis that Congress had placed his pressure. So I thought this was relevant but this was a straight party-line vote on this motion and I thought that it was relevant for the Committee to know that the president was being subjected to pressure from the Congress. The pressure from the Congess came from the same source that they claim the pressure from the President came from only the accumulated effect of it makes it _____ that it was a political decision and bribe.

Executive Session We had to go into the Executive Session because the rules provide that we cannot release the information without going into the Executive Session. My view of it is that it wastes an awful lot ~~of~~ of time. The point is that when we got in there I don't believe that we discussed anything that could not be revealed in public.

Session of July 2nd The arguments that took place and the votes were pretty clear along the party line vote that the President was entitled to have every witness that he wanted. (I voted with this wing every time).

This is the day that Wiggins suggested that we discuss sensitive matters. The things that he was concerned with that the President speculated on guilt of John Mitchell several times at the close of his conversation. They speculated on the theory of which obstruction of justice would be involved and a few things of that nature and he did not want this to get out because the trial is set for September 7th.

We eventually voted to release the information in support of the motion that was made by Casteride. (not sure) The idea is that there will be no release of a volume at a time as it is printed.

June 25th -- Presentation of evidence

June 26th -- The day that we discussed the witnesses. Thronton made the motion to call the lighter witnesses. They were passing the motions down the line and this happened to be his term. I couldn't help from observing that it was prepared for him, but he made a good presentation. However, it did limit a number of

witnesses (4 or 5) pretty severly and we had to class two witnesses to be reinterviewed and then called ~~by~~ ^{the} majority of the member thought it was necessary

after consultation of the staff. It was probably necessary to limit the number of witnesses but I thought it was pretty severe. Then there was an Executive Session and the argument was whether to discuss these witnesses in public or private sessions. X Thronton moved that we ~~do~~ go into an Executive Session and the vote was 25-13 to ~~do~~ ~~to~~ do this. My principal reason for ~~not~~ voting ~~in~~ this way was this was the very day that ~~my~~ the jury was being paneled and I felt we should maintain our confidentiality at least until the jury had been subquestioned. It surprised me how quickly they did ~~this~~--got the jury organized, etc. The other reason way the possibility that we might defame etc. but this had less validity to me.

I agree with Don Edwards in that we made a mistake on the day before, and will therefore have to live with it--we will have to release publicly what our ~~in~~witnesses say. The Republicans seem ~~to~~ to think they are rendering a services to the President by leaking this out--I don't believe this is the way it ~~should~~ should be done.

List of Witnesses

Butterfield was the first witness. He explained his reason for each one of the witnesses none of which were material but narrow. So we really didn't get very far. During the lunch hour, I had an extensive conversation ~~in~~ with Hungate and Rodino.

I feel that we got the strongest feelings on the floor debate of the 5-Minute Ruling. Also, during the debate of the 5-minute ruling--Rodino made a statement that we would call all of the witnesses we needed.

Testimony of Tuesday -- July 3rd Ellis Butterfield was the witness and on the stand all day long. Rodino lectured on self-discipline which I think helped ultimately. No one asked a lot of questions. We went through all the sharade of oath and extending the right of council., which I felt is one of the things he did ~~wrong~~ wrong. Everybody testifying in a situation like this ought to have a ~~in~~ lawyer. He chose not to have a lawyer--he was a good witness. He gave us his background--he was a navy child and aspired to the naval academy and did not ~~a~~ make it and did not make it ~~in~~ in the air force. This was his career. His contact with Harlaman goes back to ~~their~~ their days at UCLA together. and I strongly suspect that ~~the~~ his association with Harlaman was closer because of the association of thier wives. In any event, ~~they~~ they had not seen each other for about 25 year. In-1968,-Butterfield-get-a-call-from In January of 1969, Butterfield got a call from Harlaman that he wanted him to do a job at the White House. He told us something about his background that would have made him desireable. He had been a liaison in ~~the~~ the capital at the Air Force and worked in the White House in one capacity or another. My impression of him was a throughly competent administrator with an imagination (not a lot of humor) but a dedicated, decent sort of guy.that was career oriented but sort of reluctant of _____ with the White House because of the challenge. I could not help but cover ~~the~~ the cause of his testimony feeling that this guy was completely removed from the cover-up conspiracy. He acted candidly and honestly and in so doing--he did blow the whistle. I dont know why everyone else in the White House did not have the same attitude. If they had, we would never have escalated to the situation we are in. He spent a great deal of time going over the physical layout and diagramed the whole White House set-up. Strangely enough, this was the most interesting day we had, in terms of the overall view of how the White House operated. He had not been there very long himself--he came in as an alternate for Harlaman really, but he worked into a better job as a traffic cop and had a close office to the President. My impression was that Butterfield thought he had a more ~~in~~ important job than he did--he was not in on policy--didn't form it nor there when they discussed it and I don't feel he comprehended a lot of it. I don't think he presumed that he was strong on politics--he just moved the papers around. Basically, his responsibility was to see that the office ran smoothly. It was interesting that he gave us a chart worked out on his own time of how the set-up was there. Apparently, there was no chart at all--just an administrative situation just developed and he took on the responsibility. Someone was guided but never bothered to put it down on paper.

He made a comment that he would be very ~~frak~~ frank with us and he had not ~~x~~ taken into consideration the feeling of those who might have thought they were closer to the President than they actually were. The ~~irony~~ irony was that in so doing he was not as close to the President as he thought he was, but did not have enough humor to see this. One ironical thing was that Holloman eventually ~~xx~~ moved out of the office that that Sherman Adams had previously found. He made several reference to Sherman Adams and I think this was because he was in Washington himself when Eisenhower was there. (Butterfield was)

Holloman was ~~xx~~ the closest man to the President and when they refer to Sherman Adams as the Assistant President -- he feels like Holloman was every bit ~~x~~ of that. Then he interjected for no good reason that he wasn't detrothed--did not smile--just said it. The insight he gave us on the people involved was pretty good. We had thought ~~earlier that from~~ from what was earlier said by John Doer that Gordon Strong was closer to Holloman but I had the impression from this man that Higbie was really his alternate. The real difficult in entering the White House was getting into the President's circle because he was carefully protected himself. The thing I picked up on this was that Coasan apparently, in the spring of 1972 really started moving into the President's intercircle. Coasan finched ~~x~~ his ~~x~~ job as Director of Communications. He took over Herbert Cline's job by adverse possession. His insight into Coasan's gradual rise at the White House was interesting. He had personal shots at pretty much everyone there-- not malicious but just personal statements --he was pretty candid with this. The most interesting things is that we talked about Don Dean and that he was just another young boy in the White House and that he really didn't have the President's ear, until his moments in the sun--which is now pretty much history. But John Dean was the President's Counsel in title but Herlaman remained his counsel in fact and he keeps referring to John Dean as counsel to the staff and not the counsel to the President. During the three-years that John Dean was at the White House--Butterfield says that he clogged ~~the~~ the President's motives four times. This has a lot of relevance I think because the priviledge communication between lawyer and cline would not stand up between the President and Dean. This goes back to our conversation whereas the President was chatting about the possibility of attorney and cline relationship. The thought crosses my mind then as it does not that the frequency of his ~~int~~ interviews with Dean had certainly picked up,,and was related closely to the Watergate but may have also been related to build that lawyer-cline relationship that would give them a priviledge but that was abandoned--so it is pure fantasy on my part.

My impression of this guy is that his ~~militat~~ military _____ is quite impressive and I'm impressed with it -- his poise and his command of his job and he is quite a competent ~~administrati~~ administrator but I felt that he was short on his imagination (but I may be wrong) . However, if the President was making monumental decisions in his presence, I think it was poor judgment on the President's part. (Butterfield) I don't feel like he could have contributed anything to them and this would be the basis for him wanting him there. We went through the whole thing in detail-- we described the President's papers and all of these things are settleties that were brought out in ~~x~~ the examination by ~~Doer~~ Doer. He spent an awful lot of time doing an estimate of percentages that Holloman spent in ~~the~~ his office, and they were way out of proportion to the others. In 1972, Holloman spent 72% of the staff time with the President and rest was divided between the others. The significant thing was that Coasan was improving his time set-up but Holloman spent 7 or 8 more time with the President than anyone else.

Why would a witness go to all of this trouble to work this out? Ans: John Doer told him that this was the sort of evidence that we wanted from him -- he worked it out over the week-end after his interview with John Doer. This indicates to me that the staff now has a theory and they moving out of the ram of investigators to the ram of prosecutors. John Doer completed his colorless investigation of this guy and went into detail . (will get transcript and ~~x~~ go back to ~~x~~ this-I took extensive notes) Now that none of it ~~xxx~~ really tied into it except that it established the staff system and how it worked, the physical lay-out and the _____ and this is what I feel it was all about.

I watched ~~Sixt~~ Sinclair as he operated, he took his notes spasmodically. He zeroes in on what he thinks is relevant and relaxes what he didn't. However, his _____ with him was a full-time note taker so I ~~guess~~ guess they would come back and discuss this between time. Doer and Jenean took no notes during Sinclair's examination. (cross) Doer's examination ~~x~~ was the direct--he developed the whole case.

Jenean stepped in --he was sharp with the witness and told him not to guess which made him sound like one of the President's friends. He went ~~in~~ into a lot of things that helped us a lot--I think we got an image of the President who uses his leisure time to work. Jenean and Doer boiled down heavily on the President's pre-occupation with his place in history, and his attention to detail. I don't think that his friend Butterfield-who ~~x~~ is ~~x~~ not a psychologist felt that his pre-occupation with detail was his concern about what history would say. I think he is the sort of guy which like ~~thinks~~ things done right and if he has a dinner party, he would like to see it carried through correctly. Basically, his social insecurity comes from a guy who has ~~x~~ had limited social background and is not at home in that atmosphere and never will be. This is my analysis of it -- and it doesn't have a damn ~~x~~ thing to do with history.

Butterfield pointed out that no man so preoccupied with his place in history would do anything that would damage his reputation which I thought was pertinent.

Jenean really did the President in by the questions ~~that~~ that he asked at the end of his examination by Butterfield. Basically, his questions were directed to the line of whether Holaman made any decisions that the President was not consulted on, and he asked him several questions along this line obviously designed to illicit the response which he ultimately got which would be entirely out of character for Holoman to have done anything that the President had not been consulted on., and would be completely out-of-character. He said "I did not know Mr. Holaman to be a decision maker". This was the second lawyer that got this out of him--I don't know whether it was rehearsed or not. It was certainly inconsistent with the representation that the general made to us at the Republican Conference on ~~x~~ Monday that he felt Butterfield was not going to do anything harmful to the President and what he was going to say ~~was~~ was along these lines--but he certainly indicated that he ~~x~~ would press Mr. Butterfield ~~x~~ on this point. I have reservations in my own mind as to whether this type of testimony will be evidence. For Jenean, I felt that it was not out-of-character but out of an inconsistent within responsibility and it indicates to me that he is a prosecutor--not an investigator.

Sinclair picked up this particular point and went back to him and shook him. By the time Sinclair finished with him he was reluctant to say anything morer than a guess. Sinclair shook the witness Butterfield in this regard. But he stuck to his opinion that "this was his view but he was not expert". My impression of Sinclair was an excellent examiner--he is so gracious to admit that he made a ~~mistk~~ mistake that it is disarming. _____ is still trying to pend him down or kick him around. She (?) stepped in there one time and raised some question (Sinclair was asking a question of the witness as to his previous testimony and Ms. Holston said "this is not the way you were _____ the testimony) and her objection was that _____. So Sinclair said very graciously ~~x~~ that he ~~x~~ did not want to ~~x~~ do that--so he said to the witness "Do you recall your testimony on this point"? Of course, this led him right back to the point of where he was before--but he did it in such a manner that Ms. Holston was pretty much in the dark. There was some exchange about guesses but I think Sinclair pretty well shook the main point ~~psyc~~ that Butterfield made that Holloman would not do anything without the President. This was pretty effective.

After he finished, Rodino had to leave the chair and Hal Donahue took over. It amused me that Sinclair was through. When Sinclair had gotten all of the questions and answers out of the witnesses ~~xx~~ that he wanted--he started asking other question. Then, he stopped--Rodino was not in the chair--Donahue was there so it was an appropriate time to raise his question.

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Rodino said 'Mr. Chairman, I would like to know whether I will have a chance to examine the witnesses or not--It was like a bombshell! Someone went and got Rodino and he came back and sat beside our friend Donahue and there was never a firm ruling on it but I think we pretty well got the thing settled that he had received a wild-attitude in his examination and basically I think that we had a consensus that as long as he doesn't abuse it --there will not be a lot of objections raised and that's where we left it. I think Sinclair for practical purposes has the right to examine the witnesses pretty much any way he wants--he will be hard to stop.

Five Minute Ruling Before we could get a firm ruling from the chair, I think everybody had had their say. Basically, I think Wiggin summed it up well saying that "I think we should exercise a judgment here." When we got to the 5-minute ruling, there wasn't a lot of questions asked.

My overall view of yesterday in terms of it fitting another nail in the President's _____ is not apparent to me. Its subject to interpretation--if you are hostile to the President it clearly indicates what Butterfield said -- the President confided totally in Holaman and told him to do all of the nasty things that were done. Conversely, if you are friendly to the President, then your view of it will be that Holaman and the President were totally unaware of what his staff was doing. Therefore, he can't be held accountable. So this is the substance of what is ~~a~~ taking place, it does make more significant the tapes of conversations between Holaman and the President which might be relevant to these questions but inasmuch as Holaman spent so much time with the * President, we have also weakened our right to subpoena* because of the sheer value of the job such as going back to look at the justification to see if we really justify or know enough about these conversations to justify turning them over to us. But that could be ~~miss~~ critical, conversations between Holaman and the President in reference to these points. But if there wasn't any conversation on these points, the only way you can prove it is by listening to all of the President's tapes and I don't think this is ~~miss~~ consistent with the presumption of innocence.

Did you have a feeling somewhere in between the view that the President was totally insulated from this and the view that he and Harlanman was almost living together?

No, I don't accept Butterfield's supposition--I don't think Butterfield is qualified or an expert in that field. I don't think he knew as much about the President as he thought he did. My complete reaction to it is that if Butterfield is an expert witness whose purpose is to divide the length between Earlanman? and the President through Harlanman then he has failed in that but it is an insight to the White House operation.

You don't feel that the tables of statistics and charts and the number of meetings tended to do much to prove that Harlanman and the President were involved?

Not on the basis of the present information. Butterfield was a traffic cop, a lawkeeper and he kept things running smoothly--that was his job and not to make decisions and he wasn't there to be consulted on decisions. He isn't even as close to ~~h~~ the operation as a Secretary would have been. He handled \$350,00--he carried the bag and a friend of his lined up to disperse \$350,000 whenever it was needed. This is the only dirty trick he was involved in and he was too dumb to know that it was illegal.

This is one of the things that surprised me, obviously over the week-end he had prepared his testimony with instructions from Doer and Jenean. They wanted him to develop the point that ~~a~~ Nixon was a great detail man so he spent about 20 minutes telling us about details that the President got involved in. Ex: The seating arrangement for dinner, the guest list - all social details--things of that nature which he probably ought not to have involved himself in. But if John Doer is instructing his witness that this is significant, then John Doer hasn't got the picture of what the President's job is.

July 10th

On yesterday which was July 9th between the between the time that John Mitchell was to begin testifying and almost the time ~~of~~ that we were to conclude the testimony of Whitman-- I ran into Hamilton Fisher and Tom Roosevelt talking about a scope up and they were rather ~~shag~~ shag about getting together--I joined the conversation partly by invitation and partly by aggression. Basically, ~~Tom~~ Tom Roosevelt said that those of us that are still on the fence should get together and ~~f~~ visit a little and he mentioned that Walter Flowers was pretty much in the same boat and we all agreed to do that. During the course of the conversation, we all handled the same problems. From the basis of this discussion, Hamilton Fisher is not committed to impeachment as we frequently read. He had applied earlier that his father was no Republican-Congressman in the pre and new deal era and his filing and putting ads in the newspaper to support the President has been reflected in his son's mail.

Every time he put an ad in his son get criticism.

The young people simply do not age-wise insist on impeachment. They insist on defending the President at all cost. However, I think his friends are still the elderly -the elderly Republicans and they are his strongest supporters. Incidentally, Fisher made a comment which I thought was revealing as to his feelings. He said "There is no use trying to avoid a tragedy-its already a tragedy-the great American tragedy, there is no other way to look at it".

We as lawyers have to find something we will be comfortable with--we can't resolve this thing on the basic public opinion-one way or the other. So we want to get together and I am sure we will shortly. After Roosevelt and me had walked off, he said to me "you know, you may not realize it but you meaning me and I meaning he and Walter Flowers are going to decide this thing as far as a Committe is concerned Meaning, you and I have this thing is our hands.

Bill Coahan is pretty much committed to impeachment and Hamilton Casan is less committed but almost there. Jim Madox is beyond redemption and and the rest of them are not truly _____.

Bid-Roosevelt-indicate

My conclusion is that if the three of us vote for impeachment and all of the Democrats it would reach ~~onesix~~ one-sided proportions and it would be difficult to beat it in House. However, if we vote against it (having put on such a show of this Judicious approach) and it split on the party line-we will be persuasive in the numbers game. For that reason, I think it is critical. I think in the numbers game, if the party line splits--the possibilities of impeachment under those circumstances is slim. If the Southern Democrats (flowers) votes against impeachment and the vote end in something like 21-19, 18 or 17, this would mean that the Southern Democrats like Joe Wagner and the likes would go with the Republicans and that would be endangering the House. This would mean a close vote in the House and I think a close vote would be a tragedy.

The Senate says they will not give a 2/3 majority for impeachment. Certainly, the Southern Senators would be reluctant to vote for removal.

John Rosen had no business talking about the President resigning and now he has reversed his position which I think was inappropriate. The first thing the Republican leadership should be talking about is fair-play, presumption of innocence and reserved judgment and get into this fight for all of the evidence in the end and join in all these courses of criticism of the ~~Ji~~ Judiciary Committee. It shakes my confidence in him to advise me in this particular situation--I think he is a very able and honest guy but I think his ~~job~~ view of his job is such that it would not be helpful to me.

The judgment I have most respect for is my wife and I have talked to her about it and she is inclined to change her mind about this matter almost as often as I do. I guess I'm influenced a good deal by Bill Cohen because he sits next to me in the Committee but he has a ~~ra~~ reaction of ~~that's a prosecutor~~ a prosecutor because he is suspicious of most witnesses. On the other hand, he is so wrapped up in his gubernatorial operations (governor of Maryland) and he has been sweating that out for several weeks or months and now he finally made an announcement. It's hard for him to concentrate on what's going on now but he's pretty good in his analysis. He's pretty suspicious of Doer and Jenean and he certainly demonstrates a limited capacity in the experience we have had over him in the last few days of examining witnesses. Jenean and Doer are the two most laborious examiners I have ever seen in my life -they are masters of direct examination.

In the Republican Conference before our first meeting with witnesses, we asked "how in the world can Butterfield take a whole day" and Jenean said well you will have to understand that Mr. Doer is a very slow and particular examiner. ~~How~~ However, Jenean is the ~~worst~~ worst examiner I have ever seen--when examining O'Brian and also _____, he wants to know the size of the envelope the money it was carried in, how many envelopes, what color was the envelope, who carried it and just that degree of examination. It may be relevant and I'm sure we can connect it up some day but at this moment we can't.

We have been asking John Doer for many days now to give us his theory of impeachment and I think this is important as we go forward in the examination to know what the theories are that our examiner have behind them and this has been promised to us long ago by Doer and Jenean and they keep telling us they haven't gotten around to it. I don't want to accept the theory but I want to know what they are trying to come up with and what exactly they have in mind in terms of arguments of impeachment with the facts that we now have if you are inclined to impeach and this is where we are at the moment--we can't get it out of them.

The other thing that is confronting us now is the Supreme Court's decision on this _____ case. I mentioned before that I read the _____ on this and I felt that Ja-was-ke? had the better of the argument and I'm quite sure the Supreme Court will tell the President to raise those tapes and I don't think we have any business making a judgment on impeachment until we have the ~~benefit-of-these-tapes~~ benefit of those tapes. We may run into some type of a showdown before the Supreme Court makes this decision and the majority are ready to go forward with ~~impeachment~~ impeachment yet these critical questions are hanging out.

It seems as if you have changed your position on this.

The reason I revised my thinking on this is probably my conversation with Roosevelt and Fisher yesterday, we made such a show of _____ adverse interest for non-compliant that we may very well find ourselves in a position where we may have to rely on those adverse interests between the time we vote on it in the Committee and the time it comes off for consideration on the floor--the question would have been resolved and that I think would be a poor situation to be in to have indulged an interest and then have the interest blown out of the water by Presidential action.

I think I want to raise the same question that Wiggins raised and that is "when are we going to get the tapes."

Did you get any sense of how the oral arguments went or how the people thought it went?

I think everybody thought Ja-was-kee's man (Jacobe) did a good job but lack of _____ and then he forgot to sign the brief too. Sinclair they felt was pretty adroit but I judged from the feelings of the Committee's also that the decision was pretty drear. I was surprised to see the Washington Post editorializing on the arguments and I think it was in poor taste.

Sinclair does a far better job than Jenean and Doer of examining witnesses - he doesn't just bore you to death.

Have you split into the Task Force?

Yes, But I have not done anything in my task force- my task force's responsibility is our friend (Se-gre-ta).

What are the first personal face-to-face contact you have ever had with Richard Nixon?

I've had face-to-face contact with Richard Nixon prior to the time I came to Washington. In 1960 when I was the Roanoke City Chairman, he came to Roanoke City and I had a lot to do with planning that event. Particularly, _____ the stadium and getting the platform organized. In 1965 he campaigned for Lenwood Holton for Governor and I made all of the arrangements. I was the Master of Ceremony one day for about 3,000,000 at a breakfast and luncheon in Norfolk - Lunch in Staunton and Harrisburg and dinner in Rome, Also, he came to Roanoke when Lenwood was campaigning in 1969 and I had to preside over and be the editor on the civic side. This is the origin of Nixon's favorite master of ceremony.

This is the way he identifies you.

I have revised my thinking, I felt that we shouldn't impeach if we felt the Senate wasn't going to remove him. ~~Simply because of what I said before we have a certain amount of discretion as to whether we want to impeach or not because it is up to the Senate because it is a judgment called upon Raybond?~~ as well as ours.

Let's take a set of uncontestable provable facts, its still a ~~kid~~ judgment as to the whether the House think he should be impeached or proving crime. Its still a matter of judgment as to whether the House think he should be impeached and its also a matter of the Senate's judgment as to whether he should be removed--its discretionary to that degree- he may be impeached or removed from office for a high crime or he does not have to be.

mandamusly

Its nobody you can hire as a representative to impeach the President or can you mandamus the Senate to remove him from office--that's discretion. They can say that all the facts are not true and we don't think he should be removed and that's it.

Guilty means the facts are proven and he ought to be removed. What I'm saying is that what the Senate is going to do ought not be determined by what the House is going to do- so we should not speculate on the Senate (what's its going to do).

I think it would be a useless exercise.

See Horn's version

B We opened up the sally of Wiley Maine who wanted disclosure of all the milk contributions to the members of the Congress prior to the legislation which was in question or with reference to the President's involvement. Danielson offered a point of order and he was getting ready to argue when Jack ~~Wood~~^{Brook} suggested that the motion to table so we could go on and get disposed of it and voted down and that would be the end of it. The motion to table was defeated by a vote of 15-21 which meant that Jack Brook's strategy had backfired and we had to talk about it a little bit. The significance of this was that there was real lack of organization on the Democratic majority side and Jack Brook's isn't as popular as his big mouth would indicate. This is the second day in a row where Bill Hungate voted with the Republicans and I saw him going back and suggested - the earlier vote dealt something of mine that escapes me at the moment. When I moved to strike the supoena for the President - the daily news summaries - he was the only one who voted with the Republicans on that one- so this is the second day in a row he's voted with the Republicans and he said he thought we were right but he didn't remember why - that was all I could get out of him.

Some erosion in the Democratic party...not much here - Jack Brooks is not going to be able to bulldoze that crowd by just being rude. Ed Hutchinson surprised me by jumping into the breach here on the motion - on the ~~point~~ point of order by saying that it ~~came~~ came too late, which it did. - My notes escape me here because I had thought that I would have the transcripts in front of me and I don't know where it is but the problem of reconstructing with limited notes but -

The thing that struck me as interesting here was the lack or party organization on the Democratic party side. And so Hutchinson did ~~step~~ step into the breach and argue that the point of order wasn't timely made but they skipped that by going to this motion to table of Jack Brooks and then that was defeated and then Rodino has the expression that the motion which was to disclose the milk contributions was not germane to our resolutions. He had that opinion but he didn't rule it out of order - if I remember it correctly. I think Ray Thornton probably made the argument of the democrats that it was a question of whether the promise of money was a factor in the President's decision or not. Well, I think that's an oversimplification of it - the plain fact is that the president was being subjected to a whole lot of pressure from the Congress for the same reason that they are now saying that the President - they are now suggesting that the President made his decision on the same basis that the Congress had placed its pressure. So I felt like it was relevant but this was a straight party line vote on this motion and - I thought it was relevant for the Committee to know that the president was being subjected to pressures from Congress. The pressure from the Congress came from the same sources they are now suggesting that the pressure to the President came from - only the accumulated effect of it somewhere along the line makes it clear that it was a political decision and a bribe and I think it was a little bit unnecessary cause I don't think anybody - seriously at this moment - was pushing the milk fund - now that may get into the picture before we get through simply as one of the things that's thrown in there but standing alone - it wouldn't get very far.

Now when we got to the question of do we want to go into executive session because the rules provide that we can't release our information without voting ourselves into Executive Session and Edwards believes that it should be public _____ whenever possible but he doesn't want to go in - until we get to that point of the discussion

B that was basically his argument. I think maybe that's probably right but we really didn't have that choice. The choice was to go into executive session and I had to vote for it simply because - principally because Chuck Wiggins said that as far as he was concerned - when we got into executive session - we were going to talk about it - the possibility of defaming these people and you know under the rules, we had to go in. My view of it that we wasted an awful lot of time. But anyway we went into executive session and the purpose of this session was to discuss what witnesses we would call.

Now everybody knows all about that. The thing that disappointed me is when we got in there and talked and when we got through I really don't think we revealed anything that we could not have discussed publically and this is a factor - as I realize - that it would be nice to go into executive session but we really haven't got basis for justifying it except the fact that our people talk too much - in public - and that takes time.

Incidentally - for example - in our session of July 2nd - when we still had the 5 minute rule and there was a good deal of restraint exercised and we got out of there pretty quickly. If it had been public under the 5 minute rule, I think we'd be there yet.

Basically the arguments that took place and the votes on the Committee ~~were pretty~~ during this time were pretty clearly along the party line theory that the republicans are entitled - I mean - excuse me - the party line vote. The republicans feeling that the president is entitled to have every witness that he wants and some others which we thought. I voted this way every time.

This is the day that Wiggins stated that we were going to discuss sensitive matters. The thing that he was concerned about was that the President speculated on the John Mitchell several times in the course of his conversation. They speculated on the theories in which obstruction of justice would be involved and a few things of that nature and he didn't want this to get out because the ~~trial~~ trial is set for September 4th - or it may be the 7th - in Washington - and that's the John Mitchell case involving all of these guys and that's the one that's before the Supreme Court. So he was concerned about that but we kicked it around and eventually voted to release it - to release the information in support of the motion that was made by Kastenmeir - that right, the total presentation of evidence - and my notes don't even reveal who made that motion - the idea being that Rodino would release it a volume at a time as its printed and it should come out like today or tomorrow - portions of it and my view of it was that it was prejudicial and I didn't want to do it but the Committee made that decision and we're sort of stuck with it now.

On June 26th - the day that we voted to discuss the witnesses. (June 25th was on the presentation of evidence) Right - and I'll just have to go back and clean that up.

It didn't seem to me like we were making - we were doing a lot of talking and accomplishing very little. On the 26th was - Thornton made the motion to call the vital witnesses. I couldn't help observing that it was prepared for him - they just passed motions down the line and it got to be his turn but he made a nice presentation and he put it together all right. But it did limit the number of witnesses pretty severely to 4 or 5 and then they had class 2 witnesses which would be reinterviewed and then called if the majority members - the minority

B felt it was necessary after consultation with the staff. Well this is probably necessary to hold back - to limit the number of witnesses. I thought it was pretty severe.

Then we went into ~~xxx~~ an executive session. There was an argument about whether we would discuss this motion to call witnesses in public session or privately. Thornton moved that we go into the executive session and there were a few comments on it and the vote was 25 to 13 to do that. Now my principle reason for voting to close the meeting is this was the very day that Erlichman's jury was being impaneled and I felt like we ought to maintain our confidentiality/~~at least~~ ^{at least} Erlichman's jury had been sequestered and that surprised me how quickly they did do that - got the jury organized and so forth. And the other reason was that the rule that the possibility that we might defame and so forth but that has less validity to me as the leakers get more potent.

W In other words you think the defamation is going on anyway.

B Defamation is going on. That's it exactly. But the security is better than the world believes. I kinda agree with Don Edwards comment that we made a mistake on the day before but we have to go along with it but he doesn't like it and we've got to learn to live with that because eventually we're going to have to release all of this - go public on what our witnesses say.

W You don't buy Ford's comment that this is the leakiest committee in the history of the Congress...

B ^Well, he's been here longer than I have - and certainly the leaks are inexcuseable and I don't know - nobody seems to be willing to hide it anymore. The republicans who think they are doing a service to the president by leaking the stuff - I think - are pretty narrow in their view of it. I just don't believe that's the way it ought to be done. We're in the business and we just have to take all this crap. We've got some weak horses and it's their constituents fault - not ours.

Jenner made the possibility that the ~~evidence~~ information tends to degrade or defame and that was kinda jurisdictional finding that we had to have. But when somebody makes that statement then we're going on ~~it~~ in. Then he went into the list of witnesses. Butterfield was the first witness. And that surprised me a little bit. We learned and of course, what Butterfield was going to have to say from the - later-because he testified and dictated this memorandum - but basically I don't think he can serve us at all as to what he's going to have to say. He explained his reasons for each one of the witnesses - none of which were really ~~material~~ mature - pretty narrow. So we really didn't get very far except to kick it around.

And then during the lunch hour - I had an extensive conversation with Hungate and Rodino. Now haven't I been over this before?

W I think so - now let's see - to kinda throw it ~~g~~ together at the point where you stopped at the debate over the - who should be called ~~as~~ a witness and the attempt by some of the democrats to limit the number of people being called and there was some danger that the bipartisan inquiry nature - bipartisan nature of the inquiry - I guess that's breaking it down.

B Well, during this day - the 26th - we had all these things about witnesses that eventually divide on a 19-19 vote. Now that's the 26th.

bitterness

W There wasn't much ~~business~~ on the 26th on the wrangling over the ...

B I didn't feel like ~~x~~ it was bitter. Then we've already talked about the floor debate on the 5 minute rule. Now that's when I felt like it - the feeling ~~w~~ got the strongest during that period. Now, I was probably wrong - yesterday, as an example, why we didn't abuse the 5 min. rule but if we go public, I think we will. Now the thing - the other things - is that during the discussion of the 5 min. rule or during the debate of it, why, Rodino also made a statement that we're going to call all the witnesses that we needed so they washed out on that - in effect, accepted the republicans' position on that - the majority has, so on the basis of that whatever bitterness that's there is gone because Rodino has done it again - if he feels like there's a partisan split, he goes home and ~~pr~~ prays over it or something and comes back and figures out some way to gracefully accede to it which is one of the techniques he may have learned from the president in dealing with the Committee and Jaworski but - no I don't feel that there's that partisan rankor there but I will say that I read the Washington Post this morning about the comment the democrat view versus the republican view of Butterfield's testimony. All of the democrats came out of there swearing that Butterfield has linked the president through Haldeman to all the conspiracies but I had exactly the opposite impression.

*20 to
see
the
process*

Butterfield was the witness and he was on the stand all day long. Rodino opened with a little lecture on self discipline which I think helped ultimately in that we held ourselves ~~w~~ down to the 5 min - nobody asked a whole lot of questions. This is the first witness so we went all the sharade of oath and extending him the right to counsel. That's one of the things I think he probably did wrong - everybody testifying in a situation like this ought to have a lawyer. Especially since we've gotten so perjury happy at these things. But he chose not to have a lawyer. He was a good witness. He ~~gave~~ gave us his background - he was a Navy child and had aspired to the Navy Academy and didn't make it but did make it in the Air Force and so that was his career. His contact with Haldeman goes back to their days at UCLA together and I strongly suspect that his association with Haldeman was closer because of the associaton with their wives. They had met one another at UCLA. But in any event, they hadn't seen each other for about 25 years and in 1968 Butterfield got a call from - in January of 1969, got a call from Haldeman that he wanted his old friends - wanted him to go on the job at the White House and of course, he told us about his background which was such that it would have made him desirable. He'd been liaison in the Capitol for the Air Force and worked in the White House in one capacity or another so he had a background that was probably desirable but you can't overlook the assumption that this is part of Haldeman assembling his old friends in the White House in Washington. And that was certainly what he had in mind with Butterfield. My impression of him - was a thoroughly competent administrator, pretty limited imagination, not a whole lot of humor, but dedicated, decent sort of guy that was career oriented and probably reluctantly went to the White House to accept the challenge. And of course, I couldn't help during the course of ~~x~~ his testimony, feeling that this guy was completely removed from the coverup conspiracy. It wasn't allowed to touch him and he was - he acted candidly and honestly and course he did blow the whistle and so doing, he blew the whistle. But I don't know why everybody else in the White House couldn't have had the same attitude - if they had - why we'd never have escalated to the situations we're in. He spent a great deal of time going over the physical layout. He diagramed the Whole White House setup and strangely enough, this was probably the most interesting day we'd had. Not in

*Butterfield
background*

B terms of advancing the impeachment inquiry but just in terms of the information, the general view he gave you of how the White House operated.

He hadn't been there very long himself. He came in as sort of an alter-ego for Haldeman, really and he sort of worked into a better job as sort of a traffic cop and had a close - office in close proximity to the president and he was at his beck and call. I could not avoid the impression that Butterfield ~~had the~~ thought he had a more important job than it looks like he did. That he wasn't in on policy, he wasn't forming it, wasn't there when they discussed it and I'm sure he comprehended a whole lot of it. And I don't think he presumed it - to say that he was strong on policy. He was - he just moved the papers around but somebody had to do that - somebody ~~who~~ you could trust and I think they chose well for the job. Basically his responsibility was to see that the office ran smoothly. I was interested to find that no chart - he gave us a chart - worked out in his own mind, on his own time - of just how the setup was there but apparently there wasn't any chart at all - it just sort - administrative situation just developed and the responsibilities sort of followed - took on the responsibilities as your information was and somebody was guided but nobody ~~w~~ every bothered to put it down on paper. I was surprised that it developed in that fashion. He made a comment that he was being very frank with us, that he hadn't taken into consideration the feelings of those who might have thought they were closer to the president than they actually were. Well, the irony of this was that, in so doing, he, it became apparent to me that he wasn't quite as close to the president as he thought he was but he didn't have enough humor to see that.

Irony

Far and away - oh, the one ironical thing was that Haldeman eventually moved down into the office that Sherman Adams had previously ~~found~~ had and he made several references to Sherman Adams. Now I think that was because he was in Washington himself when Eisenhower was there. But he said Haldeman was far and away the closest man to the president and you know, they ~~call~~ called Sherman Adams the assistant president - and he feels like Haldeman was every bit of that. Then he interjected, for no good reason, that he wasn't Deep Throat. Didn't smile - just said it. The insight that he gave us into the people involved was pretty good. We had thought from what was earlier said by John Doar that Strone was - Gordon Strone - was closer to Haldeman but I had the impression from this man that Higbee was his alter-ego and not ~~Strone~~. 5/10 6/10

✓

We spent some time - he mentioned as we went along - that Colson in 1972 - that Colson was moved into his own. When he first came - the real difficulty - and you went to work in the White House was getting access to the president and getting into his inner circle because he was - he pretty carefully protected himself. The thing I picked up on this - Colson apparently - in the Spring of 1972 - really started moving into the president's inner circle. He started getting his ear and he gradually, he didn't exactly say it, but I think Colson edged Kline out pretty clearly. - Finch - I don't know why I said Kline - it's Finch. Finch's job as Director of Communications. Herb Kline - yes, that's right. He took over Herbert Kline's job by adverse possession and just sort of incroached and he didn't say he was ruthless about it but he did say he was aggressive and effective. His insight into Colson's gradual rise at the White House, I think was interesting. He had personal shots at pretty much everybody there - not malicious but just personal statements and I don't think I'll go into all of that but just - he was a pretty candid witness. But the most interesting thing was when he talked about John Dean, it became perfectly apparent that John Dean was just another young boy ~~in~~ in the White House.

B That he really didn't have the president's ear. When pressed - this is Butterfield talking about Dean. John Dean never really had the president's ear up until his moment in the sun which is now pretty much history. But John Dean was the president's counsel in title but Erlichman remained his counsel in fact and he keeps referring to John Dean as counsel to the staff and not the counsel to the president because during the 3 years that John Dean was at the White House, Butterfield says he doesn't know that he saw the president more than 4 times during that whole period. This has a lot of relevance I think because certainly the privileged communication between lawyer and client wouldn't stand up between the president and Dean. And you remember this goes back to our conversation this morning - that we listened to when the president was chatting about the possibility of attorney-client relationship and that was clearly not there. The thought crossed my mind then as it does ~~now~~ now - that ~~frequently~~ the frequency of his interviews with Dean had suddenly picked up - was related of course to the Watergate but it also might have been related to an effort to build a lawyer-client relationship that would give them a privilege but eventually that was abandoned and so that's pure fantasy on my part - it was an observation - a thought that crossed my mind at the time.

Dean

He's not very crazy about McGruder - well he said he was a 100% PR man and he didn't have anything to do - he was an image builder - eager, aggressive.

My feeling about the guy is that his ~~x~~ military training is quite apparent and I'm impressed with his poise and his command of his job and he's quite a competent administrator but I felt like he was short on imagination but I may be wrong cause it's really not quite fair but that's making a judgement but that certainly my impression. But if the president were confiding - were making monumental decisions in his presence, I think it would have been poor judgement on the president's part ...of Butterfield. Bedause I don't think he would have contributed anything to them and that's the basis on which he would want him there and so it closed out on later testimony which I'll comment on in a minute.

Then we went through the whole shebang about many times - in some detail - we described the president's papers and all of these things are subtleties that were brought out in the examination by Doar that don't impress me yet but he spent an awful lot of time in the percentages - estimate of the percentages of time that Haldeman spent in the president's office and it was way out of proportion to the others. In 1972, Haldeman spent 72% of the staff ~~x~~ time with the president and the rest of it was divided up with ~~the others~~ all the others. Now the significant things that Colson was improving his time setup but Haldeman was 7 or 8 times more time with the president than anybody else.

Why would a witness go to all this trouble to work this out? Well, the answer is that John Doar told him that that's the sort of evidence that we wanted from him.

W He had it though.

B He had it - he'd worked it up over the weekend - after his interview with John Doar. It just indicates to me that staff now has a theory and they're shoring up the theory and they're moving out of the realm of investigators into the realm of prosecutors and I ~~rik~~ think its premature and inappropriate but I didn't say so at the time but that's my judgement. It makes me suspect of what we might now get from John

B Doar and Albert Jenner. John Doar completed his colorless examination of this guy and he went into detail and great detail and I don't think this is necessary to go into that - I'll get a transcript and go back to it - I took extensive notes but none of it really tied into ~~x~~ it except that it established the staff discipline and how it worked and the physical layout in the House. That ~~was~~ what I felt all of it was all about

I watched St. Clair while he operated. He took his notes sort of spasmodically. He zeroes in on what he thinks is relevant and then he relaxes when it isn't. But McCahill, with him, he's a full time note taker and then they come back and discuss it, I guess, between times.

Doar and Jenner took no notes during ~~the~~ St. Clair's cross examination. Doar's examination was the direct, I guess you'd call it. He developed the whole case and then I thought we were going to move to my friend St. Clair but then Jenner stepped in. Jenner didn't question him long. He was sharp with the witness in telling him not to guess which made him sound like he was one of the president's friends. He went into a lot of things that didn't help us a lot. I think we got an image of the president as a - who uses his leisure time to work - and he doesn't have much spare time and I think we bore - Jenner and Doar bore down heavily on the president's - ~~on the witness~~ and on the witness as a result of that probably - on the president's ~~re~~ preoccupation with his place in history and his attention to detail. I don't think that our friend Butterfield who is not a psychologist felt that his preoccupation with detail was his concern with what history would say about him. I think it's just the sort of guy that likes to do things right and if he has a dinner party, he wants the dinner party done right. Sort of a basic social insecurity, he comes a guy, he's had limited social background, he's just not at home in that atmosphere - never will be and that's my analysis of it and it doesn't have a damn thing to do with history. But Butterfield bore down on it pretty heavily and then the lawyer that got it out of them. Well, St. Clair turned that around very cleverly when he got to it. Pointed out that no man so preoccupied with his place in history would do anything that would ~~harm~~ damage his reputation - which I thought was pertinent. Jenner, though, really did us in - did the president in - by the questions he asked at the end of his examination of Butterfield. Basically his question was directed to the line of did the president - did Haldeman make any decisions that the president was not consulted on and he asked him several questions along this line - obviously designed to illicit the response which he ultimately got that it would be entirely out of character for Mr. Haldeman to have done anything that the president had not been consulted on - it would be completely out of character and he emphasized out of character. He says - "I did not know Mr. Haldeman to be a decision maker." Now this was the second lawyer that got that out of him. I don't know whether that was rehearsed or not but it's certainly inconsistent with the representations that Jenner made to us at the republican caucus on Monday. That he (Jenner) felt like Butterfield was - well, that Butterfield was not going to do anything harmful to the president and that was he was going to say was along these lines but certainly he didn't indicate to us that he was going to press Mr. Butterfield on this point and I don't think as the minority counsel - I mean, even though he was an investigator, it was such a leading question and such a, well, such a judgement, well, I don't think anybody would admit that testimony. That would be my judgement on it - I don't think, although they lay the foundation, I still have reservations in my own mind whether that sort of thing would be evidence but for Jenner and the republican counsel to do it, I felt like was not out of character but inconsistent with his responsibility and it indicates to me that he's not - he's a prosecutor not an investigator

Jenner
tough

B Well, St. Clair - the ball was quickly thrown to St. Clair and of course it picked up this particular point and went back to it and shook him. Well, by the time St. Clair had gotten through with him, he was reluctant to say anything was anything more than a guess. St. Clair made him admit - as I mentioned before - about the percentages of time that Haldeman spent - just made himself point out that all of these things about percentages that we discussed before - St. Clair made Butterfield just - shook his statement in this regard. I think he adhered to it. He stuck to his view that that was his opinion but he was no expert.

My impression of St. Clair was excellent examiner - when he, he's so gracious about admitting that he's made a mistake - that it's disarming. Liz Holtzman is still trying to pin him down - to kick him around, as it were - and she stepped in there one time and raised some question about - St. Clair was asking a question of the witness as to his previous testimony, and Liz Holtzman said ~~wak~~ well, that's not the way, you're ~~mistaking the testimony~~ ~~testimony~~ misstating the testimony and her objection was - so St. Clair says well, very graciously, that he certainly doesn't want to do that and so he says to the witness, do you recall your testimony on that point and of course led him right back to the point where he was before but he did it in such a manner that Liz Holtzman was whistling in the dark sorta. There was some exchange about guesses but I think St. Clair pretty well shook the main point that Butterfield made that Haldeman wouldn't do anything without the president. So that was pretty effective I thought, and I went away from the thing - if that's the only thing we can hook the president on, he's in pretty good shape.

After he got through, during the course of St. Clair's examination Rodino had to leave the chair and Harold Donahue took over. Well, it amused me that St. Clair, finally after he had finished, and there had been objections about cross-examination and quite obviously, he had cross examined and no body had effectively stopped him and he was through. (Well, there were several tries but not many - well, just what I'd always said is that if he doesn't get too far out of line, that we're going to let him get away with it. And that's exactly the way it was handled. And beautifully handled. I mean St. Clair didn't push us too far. Then when he got through and he'd gotten ~~an~~ all the questions and answers out of the witness that he'd wanted, then he started in on asking some other questions but then he stopped and Rodino was not in the chair. Donahue was there so it was the perfect time to raise his question. And he said...

Well, I felt like St. Clair when he'd gotten to the end of his questioning thought it was a great time to bring this thing to a head about just what the limitations were going to be on his examination - Rodino was out of the chair and Donahue was in the chair so he said now, Mr. Chairman, I want to know whether I'm going to have the right to cross examine the witness es or not - just kinda dropped it like a bombshell. And caught - Rodino wasn't there - well, they had a hurried - somebody ran out and got Rodino and he came back and sat there beside our friend, Donahue, and ~~ix~~ he never really got a firm ruling on it but I think we pretty well got the thing settled that he had received pretty wide latitude in his examination and basically I think we kinda had a concensus that as long as he doesn't abuse it, there won't be a lot of objections raised and that's where we left it and I think St. Clair for practical purposes has got the right now to examine the witnesses perty much any way he wants to and ~~next~~ it's going to hard to stop him.

We then went into the 5 minute rule -

W He (St. Clair) did this by carefully going ~~an~~ along....

B He asked all the questions he was going to ask and nobody questioned him really. Nobody effectively questioned him. And then every now and then somebody would nit-pick a little bit. He'd very graciously say, well, I'll ask the question a different way or something. Then he got all his questions asked and then he threw down the gauntlet and before we could get a firm ruling from the chair, everybody had had their say and basically I think Wiggins summed it up pretty well, he says we just got to exercise a little judgement here. We all know what's going on and we all know that we're just going to have to live with it but if everybody's going to raise objections we'll have a 15 min. harangue over every question, we'll never get anywhere. So I think we kinda agreed by consensus that we would live with it which is what I've said all along - that the Committee's going to be reasonable and he's going to be reasonable and we're going to get the thing over ~~twi~~ with.

So when we got to the 5 min rule, surprisingly enough, there weren't a lot of questions asked. Here again I think the democrats had gotten together in their caucus and agreed we won't have a whole lot of questions. Not maybe in caucus but there wasn't anything brought out in questioning by committee members that contributed to the sum total of knowledge. So I felt like I was right in the beginning - that we don't need examination by committee when we've got that good a staff working down there and St. Clair.

if this

My overall view of yesterday in terms of -/is ~~this~~ another nail in the president's coffin - it's not apparent to me. It's subject to both interpretation, if you are hostile to the president, clearly it indicates what Butterfield said, the president confided totally in Haldeman and vice versa and the president told Haldeman to do all the nasty things that were done. Conversely, if you are friendly to the president, your view of it would be that the president was totally insulated from what his staff was doing and therefore he can't be held accountable. So that's the substance of what had taken place. It does make more significant the tapes of conversations between Haldeman and the president which might be relevant to these questions. But in as much as Haldeman spent so much time with the president we've also weakened our right to obtain subpoenas - it seems to me - because of the sheer volume of the job. I'm going back to look at the justifications to see if we really justify - know enough about these conversations to justify turning them over to us. Cause from what Butterfield said, Haldeman was living with the president but it is important - I mean that could be critical conversations with the president and Haldeman on reference to these points but if there wasn't any such conversation on that point, the only way you can prove it is by listening to all of the president's tapes and I don't think that's consistent with the presumption of innocence.

W Did you have the feeling - somewhere between the view that the president was totally insulated ~~on this~~ from some of this and the view that he and Haldeman were almost living together.

B Well, no, I don't accept Butterfield's supposition. I don't think Butterfield is qualified as an expert in that field. I don't think he knew as much about the president as he thought he did and my complete reaction to it is, that if Butterfield is an expert witness whose purpose is to provide the link between Erlichman and the president through Haldeman, then he has failed in that. But it is an insight to the White House operation - as to how it worked.

W You don't feel that the tables ~~of~~ and statistical charts and the logs and the number of meetings and so on really tended to do much to prove that Haldeman and the president...

B Not on the basis on my present information but I don't have to decide yet - so I don't.

W Mainly because you didn't feel that Butterfield was an expert witness on that...

B I just think Butterfield - I don't think Butterfield - he wasn't there. He was a traffic cop - that's right a log ~~sk~~ keeper. And he kept things running smoothly - that was ~~j~~ his job but he wasn't there to make decisions. He wasn't there to be consulted on decisions cause he didn't have any knowledge or background that would help him make decisions. I mean he's well, he's not even as close to the operation as a secretary would have been. He's there with the frequency of a janitor but that's about it. No, I think Butterfield is a nice guy, well meaning, I don't know, maybe - we did discuss, he handled the \$350,000. He carried the bag for them. He got a man lined up - a friend of his - lined up to disperse the \$350,000 whenever it was needed and he lined him up and took him the \$350,000 and that's the only dirty trick he was involved in and he was too dumb to know that it was illegal. So that's another example of the guy.

Here's one of the things that upset me - not upset me but surprised me - obviously over the weekend he had prepared his testimony in instructions from Doar and Jenner. They wanted him to develop the point that Nixon was a great detail man ~~w~~ so he spent about 20 minutes telling us about details that he recalled that the president had gotten involved in, like the seating arrangement for a dinner, the guest list, all social details, most of them, protocol details, things of that nature, which he probably ought not to involve himself in, if he's got a trustworthy staff but it's something that interests him but if John Doar is instructing his witnesses that this is significant then John Doar hasn't got the picture of what the president's job is. That's kinda my reaction to it. But I can spend some time cause my notes are extensive going over those things if you think we can develop it later.