



7-10-1974

M. Caldwell Butler Audio Diary, July 10, 1974

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B the son gets criticism for not being objective about it. So, I'm getting some of the same kind of mail. I guess I have 5 or 6 ~~sk~~ letters now who say I'll never vote for you again if you vote to impeach the president. Which speaks something - in terms of the loyalist - I'll have to admit that they're pretty much easily identifiable with an older age group and I don't find my contemporaries often have that attitude - that strong a feeling about it and the young people simply do not age-wise insist on impeachment. They insist on defending the president at all costs so that gives you some idea of the cross section of the president's loyalty. I think his friends are still the elderly - the elderly primitive republicans and they are his strongest supporters.

Partly: Good stuff → ~~Gettin~~ Getting back to this conversation. Incidentally, Fish made a comment which I thought was kinda revealing as to his feeling. Basically, we said, well, can the country stand an impeachment? And he w said, well, there's no use trying to avoid a tragedy - it's already a tragedy - and the Great American Tragedy and there's no other way to look at it regardless of the outcome. But then both he and Railsback sort of took the position that we as lawyers got to find something we can be comfortable with - we can't resolve this thing on the basis of public opinion one way or the other - that we've got that problem. So we want to get together and I'm sure we will shortly. After Railsback and I had walked off - we were going somewhere else - he said to me - you know, you may not realize it, but you, meaning me, and I, meaning he, and Walter Flowers are ~~gi~~ gonna decide this thing as far as the Committee is concerned. No, he didn't as far as the committee is concerned - ~~in~~ you and I have this thing in our hands - which I've been thinking all along and have said from time to time but he narrowed it down to a smaller group. But we sort of concluded tentatively that Bill Cohen is pretty committed to impeachment. Hamilton Fish is less committed but almost there. Jim Mann is beyond redemption and the rest of them are not truly fence-sitters so - truly mugwumps, I guess is the word I want - so that's where we are. So, I'm sure we'll be talking more in the next few days and hopefully we can work something out.

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WX Which makes me wonder, have you yet sought or received counsel and advice from anybody that you really trust - any of your long time associates, people you trust - ~~had you hoped to talk~~ - or is it too delicate a relationship with where it is now... LINWOOD FLETCHER -

B It's not too delicate a relationship - he just doesn't know as much about it as I do. And - I had and I still have it in the back of my mind - to go over there and talk to Hugh Scott about it. I have a good deal of respect for his judgement and he came down to campaign in my district for me - he was born in Fredericksberg and his brother

B lives in Clifton Forge and he's a graduate of the University of Virginia and so I would think that Hugh Scott is a man that I had intended talking to and I just simply haven't had an opportunity. I had an appointment with him one day and then I couldn't keep it.

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I guess I'm influenced a good deal by Bill Cohen because he sits next to me in the Committee there but he's suspect - I mean he has a reaction of having been a prosecutor. He's suspicious of most witnesses.

W Oh, he was a prosecutor...

B I judge that he's been a United States Attorney or a deputy attorney or something like that. And he's had a little trial practice. Hogan on the other side of me, is so wrapped up in his gubernatorial operation that, you know, he's a candidate for the Governor of Maryland, and he's been sweating that out for several weeks and months and now he's finally made his announcement. It's hard for him to concentrate on what's going on there and I think his judgement - he's pretty good in his analysis of - he's pretty suspicious of Doar and Jenner and I buy that, now. And he's been down on Jenner from the first and Jenner has certainly demonstrated a limited capacity in the experience that we've had with him in the last few days, examining witnesses. He and Doar are the two most laborious examiners I've ever seen in my life. They are masters of direct examination.

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W Do you think they have it and just aren't. .

B No, I think they are slow and you know, each thing has ~~to~~ got to be a work of art - deftless prose...

W What's their latest promise on when...

B Well, the promises are getting closer together because of the inquiry. Well, our hatchet man is Wiggins on that score. And he's too much of a gentleman to bear down on them but he asks them for it regularly and gets another promise and that's it.

W He hasn't really come out and demanded it in strong enough terms to really get...

Bq No, but I think that moment is coming. The other thing that is bound to be confronting us now is the Supreme Court decision in this Jaworski case. I mentioned before I had read the briefs in the thing and I felt like Jaworski had the better of the argument - much the better of the argument - that I feel quite sure that the Supreme Court is going to tell the president to release those tapes. And I ~~g~~ just don't think we've got any business making a judgement on impeachment until we have the benefit of those tapes and it looks like they are going to be forthcoming so we may run into some kinda showdown before the Supreme Court makes its decision and the majority is ready with its impeachment and yet these critical questions are hanging out and so...

W Lets see - you've changed your view a little bit on that I think - a couple of weeks ago, I think you said you might to go on and make the decision - now that it looks that if the Court moves expeditiously, you think...

B Well, the reason I've revised my thinking in that is that - and I guess it's my conversation with Railsback and Fish yesterday - how we made such a show of the adverse inferences from noncompliance that we may very well find ourselves ~~where~~ in a position where we are going to have to rely on those adverse inferences and then between the time we vote on it in the committee and the time it comes off on consideration on the ~~for~~ floor, the question will have been resolved. That, I think, would

B be a poor situation to be in - to have indulged in inference and then have the inference blown out of the water by presidential action.

Well, I want to get there this morning on time (to the office) to see if I can raise that question.

W What question...

B The same one that Wiggins raised - I want to raise it again - when are we going to get the tapes - when are we going to get this theories information - yeah. and that's exactly the question I want to raise again, myself.

W I guess you read the accounts of the Supreme Court's oral arguments,

B Yeah, yeah, and several people from the Committee attended.

W Yeah, I saw them there. Railsback I think was among them

B Oh, did you go over there.

W Yes, and did a story on it. Did you get any sense of how the oral arguments went or any other people's impressions of how they thought it went?

B I think everybody thought Jaworski's man - what's his name ^{LACOVANA} ~~Jacoby~~ or ~~some~~ something like that - did a good job but that Lavalor, that's it or something like that and then he's the guy that signed the brief too, then St. Clair, they felt was pretty adroit but I judge from the feelings from the Committee's also - the same one we've already had - that this decision is pretty clear - what it's going to be.

I was surprised to see the Washington Post editorializing on the arguments this morning.

W Editorializing on the arguments?

✓ B Yeah, I mean, basically, you know, just tell the Supreme Court how to decide the case. I just think that's kinda poor taste but I was surprised.

W They must gone and got some real presidential lawyers on the editorial staff.

B Oh, yeah, I'll say - oh, my god, have we ever.

W That's going to be crucial to the timing...

B I think it's very important to the timing, yeah.

W The tapes themselves...

B We're not moving too fast on the witnesses either. _____ problem is _____ draw it, slow pace examination by Jenner and Doar, yeah. St. Clair does a far better job of examining witnesses. He limits himself, you know, he just doesn't bore you to death.

W Have you split into the task forces yet?

- B Yeah, but I haven't done anything with my task force. My task force responsibility is our friend Segreti -
- W Old dirty tricks -
- B Yeah, I guess so - I haven't looked at it too thoroughly. I plan to take that home with me this weekend.

W What were the first personal face to face contacts you ever had with Richard Nixon?

B I had face to face ~~with~~ 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 part of it at the stadium and getting the platform organized and all that sort of stuff.

In 1965 he campaigned for Linwood HOLTON for Governor and I made the - I got on the plane - where you down in NORfolk in those days - (yeah) and I flew around the state with him one day. No, I was the master of ceremonies at about 3 million - breakfast in Norfolk - luncheon in Stanton ~~and~~ or Harrisonberg and dinner in Roanoke. Flew around the state with him - we had a whole enterage.

Also I think he came to Roanoke in his campaign in 19 -let's see, he came to Roanoke in Linwood's campaign in 1969 and I was - I had to preside over a deal we had in Roanoke at the civic center. That's the origin of Nixon's expression - he calls me his favorite master of ceremonies or something like that. Did I tell you that?

W Yes, apparently that's the way he identified you when...

B That's right.

W Well we might pick up on that a little later - a little more description of that.

B There was something on my mind that I wanted to mention here that's gotten away from me. Oh, I've kinda revised my thinking now - earlier in the game I thought that we ought not to impeach if we thought the Senate wasn't ~~was~~ going to remove him - on the theory that there's no use tying things up for everybody. I'm rethinking my position on that simply because of what goes back to what I said before - we ~~have~~ have a certain ~~amount~~ amount of discretion as to whether we are going to impeach or not and it really ought not to - it's up to the Senate because it's a judgement call on their part as well as ours. Well, I mean sure, I mean, a given offense. I mean, just take a given set of provable & facts - uncontested, provable facts. It's still a matter of judgement as to whether the House thinks he should be impeached for that - is there a crime, a proven crime - it's still a matter of judgement as to whether the House should impeach him and that's our judgement we bring to bear and it's also a matter of the senate's judgement as to whether he should also be removed and it's discretionary to that degree - I mean - he may be impeached and removed from office for a high crime - also he does not have to be. The mandamus lies - a mandamus is a court order for a performance of a purely administrative act. There's no discretion. It's just got to be done and the administrator is not doing it. Well there's

NO

B way you can mandamus the House of Representatives to impeach the president and no way you can mandamus to remove him from office - that's discretion. They can say that all the facts are true but we don't think he should be removed and that's it. I think that's my view of it. Guilty means the facts are proven and he ought to be removed - that's what the Senate - I may be wrong, I'm thinking that through but what I'm saying is that what the Senate is going to do ought not to be determined ~~ive~~ for what the House is going to do and we shouldn't speculate on what the Senate is going to do. I thought earlier that it would be a useless exercise but I'm not ~~SME~~ sure I share that view anymore

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B Yeah, yeah, and several people from the Committee attended.

W Yeah, I saw them there. Railsback I think was among them

B Oh, did you go over there.

W Yes, and did a story on it. Did you get any sense of how the oral arguments went or any other people's impressions of how they thought it went?

B I think everybody thought Jaworski's man - what's his name ^{LACOVANA} / Jacoby - ~~or ~~was~~ something like that - did a good job but that Laval~~, that's it or something like that and then he's the guy that signed the brief too, then St. Clair, they felt was pretty adroit but I judge from the feelings from the Committee's also - the same one we've already had - that this decision is pretty clear - what it's going to be.

I was surprised to see the Washington Post editorializing on the arguments this morning.

W Editorializing on the arguments?

B Yeah, I mean, basically, you know, just tell the Supreme Court how to decide the case. I just think that's kinda poor taste but I was surprised.

W They must gone and got some real presidential lawyers on the editorial staff.

B Oh, yeah, I'll say - oh, my god, have we ever.

W That's going to be crucial to the timing...

B I think it's very important to the timing, yeah.

W The tapes themselves...

B We're not moving too fast on the witnesses either. _____ problem is _____ draw it, slow pace examination by Jenner and Doar, yeah. St. Clair does a far better job of examining witnesses. He limits himself, you know, he just doesn't bore you to death.

W Have you split into the task forces yet?

- B Yeah, but I haven't done anything with my task force. My task force responsibility is our friend Segreti -
- W Old dirty tricks -
- B Yeah, I guess so - I haven't looked at it too thoroughly. I plan to take that home with me this weekend.
-

W What were the first personal face to face contacts you ever had with Richard Nixon?

B I had face to face ~~with~~ 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 part of it at the stadium and getting the platform organized and all that sort of stuff.

In 1965 he campaigned for Linwood HOLTON for Governor and I made the - I got on the plane - where you down in NORfolk in those days - (yeah) and I flew around the state with him one day. No, I was the master of ceremonies at about 3 million - breakfast in Norfolk - luncheon in Stanton ~~and~~ or Harrisonberg and dinner in Roanoke. Flew around the state with him - we had a whole enterage.

Also I think he came to Roanoke in his campaign in 19 -let's see, he came to Roanoke in Linwood's campaign in 1969 and I was - I had to preside over a deal we had in Roanoke at the civic center. That's the origin of Nixon's expression - he calls me his favorite master of ceremonies or something like that. Did I tell you that?

W Yes, apparently that's the way he identified you when...

B That's right.

W Well we might pick up on that a little later - a little more description of that.

B There was something on my mind that I wanted to mention here that's gotten away from me. Oh, I've kinda revised my thinking now - earlier in the game I thought that we ought not to impeach if we thought the Senate wasn't ~~xxx~~ going to remove him - on the theory that there's no use tying things up for everybody. I'm rethinking my position on that simply because of what goes back to what I said before - we ~~xxx~~ have a certain ~~xxx~~ amount of discretion as to whether we are going to impeach or not and it really ought not to - it's up to the Senate because it's a judgement call on their part as well as ours. Well, I mean sure, I mean, a given offense. I mean, just take a given set of provable ~~h~~ facts - uncontested, provable facts. It's still a matter of judgement as to whether the House thinks he should be impeached for that - is there a crime, a proven crime - it's still a matter of judgement as to whether the House should impeach him and that's our judgement we bring to bear and it's also a matter of the senate's judgement as to whether he should also be removed and it's discretionary to that degree - I mean - he may be impeached and removed from office for a high crime - also he does not have to be. The mandamus lies - a mandamus is a court order for a performance of a purely administrative act. There's no discretion. It's just got to be done and the administrator is not doing it. Well there's

NO

B way you can mandamus the House of Representatives to impeach the president and no way you can mandamus to remove him from office - that's discretion. They can say that all the facts are true but we don't think he should be removed and that's it. I think that's my view of it. Guilty means the facts are proven and he ought to be removed - that's what the Senate - I may be wrong, I'm thinking that through but what I'm saying is that what the Senate is going to do ought not to be determinative for what the House is going to do and we shouldn't speculate on what the Senate is going to do. I thought earlier that it would be a useless exercise but I'm not ~~sure~~ sure I share that view anymore