



7-18-1974

M. Caldwell Butler Audio Diary, July 11-18, 1974 - Transcript

M. Caldwell Butler

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Butler Tape - Thursday July 11

The day after John Mitchell appeared before the House Judiciary Committee
The day after the News Headlines and complete news articles on the differences in the Nixon White House transcripts, and the Judiciary Committee's transcripts and those same tapes.

Now let's see if it's moving. It's rolling. Well I can't see through your hand. Everything is rolling. Alright now I guess we have to start all over again.

This is Thursday morning following the testimony on Wednesday of John Mitchell. He testified earlier on Tuesday evening for about an hour. He refused to take the 5th Amendment although the Committee clearly indicated to him and the Chairman himself and Counsel before hand that if he choosed to take the 5th Amendment he would have been excused or not even called if he let us know and that's happened by Halderman for example, but he didn't I think it goes back to the history of maybe, Joe McGarthy, perhaps, it's where started in but through the mentality and the thought process of people like John Mitchell. The 5th Amendment has become equivalent to an admission of guilt. To plead that the 5th Amendment does not require you to testify on a given point or area is a Contintutional right which would not be invoked by anybody with a clear conscious. Stated otherwise if you have nothing to hide, why hide behind the 5th Amendment. Strickly speaking the 5th Amendment says that a man shall not be forced to testify against himself. John Mitchell's lawyer ~~insisted~~ ^{insisted} that if the testimony that John Mitchell would - it would not be against himself. This is my paraphase of it, but it would be for himself. But the reason he did not want to testify, the reason he did not think he should be required to testify is that these were matters that were charged against him and the indictment of the conspiracy case which is coming on for trial in September of this year. It's ironical I think that John Mitchell has been so ~~atiment~~ ^{atimient} over the years on this particular point that he now find himself in a position were he can not invoke the 5th Amendment without imposing on himself. The implication which he is so previously, so liberally applied in the past, his friends. I think maybe it was a little imposing, this indignity on him. My view of it was that clearly he would be required to testify if we need his evidence. On one occasion in the cross of his examinations the question was asked to affirm or deny was almost in the identical language of one of the alligation of the indictment. Mitchell's lawyer was objecting that this was fundamental constitutional right that he should be required to answer that sort of question and rather than an repeachive objection he recorded a privilage of having not continuing the objection as the Chairman said to everything which was alright. The way he procedurally handled it the Chairman overruled him and said that he knew of no such Constitutional right and John ~~Dole~~ ^{Dole} said he knew of no such Constitutional right that would protect you from testifying as the criminal proceeding which was pending else where. It offends my ~~sense~~ ^{sense} of due process and I thought it was unnecessary. I joined in an objection raised by his Counsel and on the particular one I just mentioned before and Ginner got on his high horse and seems to think his professional integrity was being questioned or in technical qualifications that he wouldn't ask a question if it wasn't alright. It really is a shock to me, let me finish that line first, but the Chairman, however, agreed with me and Counsel for the witness that he shouldn't be required to answer that specific question unless he an awful good reason for it and he didn't think much of the reason that Ginner gave. Basically, I think his reason was that he considered everything anybody had done in the Executive Branch of Government is relevant to an impeachment

inquiry but in effective, I think we sort of cut him off there and he quit asking those, quit that line of questioning and wind it up pretty quickly after that, but I can't help commenting on the Committee's reaction to Albert Ginner's performance doing this week. I think his professional standing has diminished tremendously. Santclaire, of course, obviously has an easier questioning position posture because he doesn't have to go into so much background for us but the tedious slow direct examination by Ginner is not necessary in my judgment and the judgment of many in the Committee. The General feeling that, his professional standing has slipped greatly. Someone suggested that he had demonstrated the value of regular in your attendance at the American Bar Association meeting. I certainly think his professional confidence does not appear to be in the same league with Santclaire's but Ginner would dispute that. The particular question I asked along with the objection I joined into a moment ago, we got a little lecture on, well it wasn't a lecture it was a selfing unigy of Albert Ginner and how he practiced 44 years and been mentioned evidently been in the jail or gone down to door or Constitutional principles and things of that nature. Which is actually uncalled for and it just irritate the devil out of me that we had to get a lecture of that dimintion from the hired help at a time when, when we were - just because we were questioning what he was doing and I think that that's index to Mr. Ginner and the view he takes of himself as this preceeding goes on and that's one of the fundamental weaknesses of many lawyers but you think a man of his confidence would have that. You start identifying yourself with a litigation and lose sight of the fact that you have a client and I feel in this instance that Mr. Ginner is getting too personally involved in it and too deeply involved as a prosecutor instead of an investigator. John Doler never did hold himself out as a great trial lawyer and certainly he hadn't mislead us on that and his examination of the witness has been confident but artless and certainly not big league. I tried again on Wednesday informally to get a commitment from John Doler as to just when he was going to get some kind of memorandum which spells out the theories of impeachment. I chatted with him for about 5 or 10 minutes during one of the breaks and I told him that we had all the information slapped on our desk the morning we had to make a decision on it and I didn't want to be in that position again and he agreed that happened and it was wrong and it wouldn't happen in this case. But again, his promise, he just said he hadn't gotten around to it, to working up this brief or memorandum you want to call it I suspect that he has. It's further along, but Rodine is having to take a look at it or somebody like that. We are going to be presented ^{fairly PAIT} ~~complead~~ one of these days and it's wrong. Another surprising move yesterday when we finished the days business quite by chance I happended to be standing around on the floor for a minute he brought up a resolution for the printing of 20,000 copies of the Hearing of the Judiciary Committee on the Impeachment and 50,000 of it's report and the cost is going to be adapted without going through the House of Administration Committee or anything else. The resolution was introduced by Rodino. I don't remember the Committee having any discussion of it. I know it hadn't been to the House of Administration Committee and I was shocked when I heard it. Mr. Gross you know in our procedure unanimous consent one person can object but you ask questions by reserving the right to object and then questioning the man who's presenting the resolution. Rodino wasn't presenting it. John ^{BADEMAS (S)} ~~Dadimous~~ from the House of Administration Committee was handling it on the floor but Mr. H. R. Gross reserve his right to object questioned him pretty extensively on it and it was all sort of discussions on it. I start to get in on it myself but I did listen. There's some urgency about getting the 20,000 printed but none about the 50 since the - 50,000 report casue we don't even know what the report is going to look like maybe. I guess I just wasn't quick with it enough because

nobody objected. All of sudden when Mr. Grose finished asking his questions why the thing selled through without anybody objecting.

Grose did not object?

Grose did not object, Sanman was there, he made a speech against it and he did not object. John Dent made a speech with reference to it, he didn't object and it's just a little bit surprising that it went on through. Of course, the practical matter the Democrats had got the vote, but surprising to me that - caus what I think is that there now getting to print 50,000 of this report and they are going to write a report very daming of the President of the United States. And use that as a instrument to steamroll the impeachment proceeding on the floor and perhaps in the Senate. I'm a little bit disturbed with the strategy of it. Ed Hutchinson, however, agreed to the resolution apparently. That surprised me too, but he didn't discuss it with anybody but he just approved it. Well it just means that we got to get ready to write a strong, not we as an individual but we the Republican got to write strong opinions if we're differ from what the report is going to be because I think regardless of how the impeachment vote goes there is going to be a Democrat position far more extreme than the center role of the position that most of the Committee going to take anyway. So to gather the history of the World was with 50,000 copies of this trash upsets me, upsets me more that the Republican raise and I kind of imbarressed that I didn't myself get to my feet and object because I thought clearly that's what somebody else was going to do and then boom it was over. That happens in the House so you just got to live and learn. It only cost people or the tax payers a million dollars.

CUT OFF

Yeah, I thought, well yes I thought Mr. Grose was going to object, I thought Mr. Sanman was going to object, I thought Mr. Frenchie was going to object and there were a lot of people taking part in it and all of a sudden it was over. What you do, you live and learn.

Do you have a notion that they are going to try to get this 50,000 copies out shortly or ----- a public opinion against the President?

I strongly suspect that I will see the report the same time 50,000 Americans do. I think that the report is, my guess is that the report is in draft form at this very moment.

Which means certainly that the theory of impeachment is in effect by the staff.

The staff, that's right, yeah and of course if it's found theory that I don't have any basis to object to the surprise but if it's an unfound theory, I think, well I think we ought to have reasonable opportunity to test it and even talk to others about it. That's where we are on that.

Have you begun to form in your own mind the possible theory of impeachment if you decide that impeachment is called for.

Alright let me go back to my conversation with John Dent cause I asked him. Basically, he is now developing his theory he discussed alone the line that the circumstances, so clearly indicate that everybody in the ring of Presidential Power was involved in a conspiracy to accomplish these things and that the conspiracy itself included a commitment or agreement to withhold any evidence

from the President to create a pattern deniability. That's the word Bill Hungate used with me some little time ago and that's popped up from several different areas and so that's theory that's evolving on one hand. Now that to be accompanied by a whole lot of ~~FOVER~~ acts or circumstances and I said well that's what you call vicarious liability, which you know that the master is responsible for the action of his servant which has very little to do with the criminal law. So I said that's the ~~doctrine~~ ^{DOCTRINE} of vicarious liability and he said oh no it's not vicarious, it's circumstances, it's a ring of circumstantial evidence that when you add all the circumstances up together they spell out pretty strongly that this was a conspiracy and the President was part of it. Of course, the direct link that the President is missing but they are of accumulating all the circumstances which indicates - well I think that's I real reservation about the belivity about that. I just, I think the President can be impeachment on circumstantial evidence that is the circumstances that he was standing there with a knife and blood running out victim's back but the circumstances that his wife ran screaming through the House with a bloody knife doesn't impose a conviction on him or circumstance on him so the circumstantial evidence is that I have heard at moment in recall doesn't make that same strong case that he's talking about, therefore. And other theory is the failure to see that laws are faithfully carried out or confied which is a Constitutional Amendment. Those are the two situation the two theories that they've got working at the moment. And then, thirdly of course are the (just pulling car) three cars lined up together. One of them bumped into the rear of the other so they stopped and held up traffic. You know, during the War they just take a ~~dark~~ airplane that crashed and just scrape it off with a bull doser and I think we ought kind of do that on the freeway.

↖ (CHECK TAPE ON ABOVE)

Those two theories are certainly the ~~essitate~~ ^{ESOTERIC} theories that he's working on. Now third area of impeachment actual ~~event~~ ^{event} on the part of the President. I guess they are the three that troubles me the most, the one, the \$75,000 the two is the ~~Klein~~ ^{KLEIN} setup and the third one is the tax problem. Now there maybe others that are in the ovalvert act area that is a definite Presidential link. With reference to the \$75,000 - and of course Santclaire's strategy curious to take out the microscope on the, the loss out on the now I think he's entitled to that. I think that's the appropriate way to do it But I think you have enough little items that spell a big picture but I'm not sure that - I'm interested to see what kind of big picture he can develop on that theory with reference to the \$75,000 it's pretty well, one thing I think it's been pretty well established this week is that the President knowledge, discussion and conversation with John Dean with reference to the \$75,000 did ~~not~~ influence the course - I'm quite well satisfied that decision by rule to pay the \$75,000. ~~We~~ ^{He} made on his own hook independent of any kind of President direction. John Mitchell ~~is~~ has testified before and again yesterday that he said ~~to La~~ ^{to La} well that's the thing you got to do since you've already done it. That's only attorneys fees, since it's attorneys fees. You got to settle that commitment. Anyway, John Mitchell, Mithcell telephon conversation with Halderman.

You're going to go to the Office?

Yeah, I better go to the Office, John Mitchell's telephone conversation with Halderman, he insistly after, after talked to ~~Berie~~ ^{EARL} Berie. John Mitchell telephone records does not indicate any call to ~~Berie~~ ^{Earl} Berie and I think that's the first statement on the 21st. I think that picture is pretty well fallen in line that the President commitment to John Dean unless he tell us differently

today, John Dean didn't go out and on the basis of they say that somebody pay the \$75,000 the President's it done.

You think that was already in motion?

I think it was not only in motion I think it is a possibility it had been accomplished. If it wasn't accomplished then it sure was accomplished quickly because the President was talking to John Dean around 10 in the morning. You know and Berue had the money out his safe before noon. He had to have had a conversation with John Mitchell about this and he had to also call the bagman who came and got the stuff and he had to call Bitman to find out if he was going to be home, and just I think that all the time that it took clearly indicates she got (interruption) and that's all that I got out of that.

Was John Mithcell ~~at home~~?

Well, I think John Mitchell is a very tuff-minded sort of guy if you know what I mean. I think he's perfectly ^{CAPABLE} of lying if necessary but he's also smart enough not to have to put himself in a position that's not necessary. He recollects, he has a convenient memory, I put that way cause his recollections are pretty limited. But in view of the situation in which he was in, testifying on the matter to which he was about to go to trial. I think we can give him a little likes[?] than what he gives anybody else. I sure he has modest ~~recollection~~ recollection in the area in which he had no recollection but as witness he was completely in character with what we were I have been lead to believe and I think the great stone face is true he doesn't have much expression on his face. He had a pretty good sense of humor, he didn't seem to be a bit nervous about the situation. He tried to be candid, I mean, excuse, he was trying to be candid in the sense that he didn't give us a lot of words in response to our question. He either recollected or he didn't and if he did he gave it to us straight. His health appeared not to be nervous or slightly pink which concerned. It doesn't appear to me that he had that kind of overlay of factors to indicate that he was drinking a lot or anything but I would say that he's held on it pretty well, pretty tough cookie. His lawyer was a kind of a smart ~~oleck~~ little Boston Irishman of some kind. He objecting himself into it and making jokes which I thought was a little be undigified but he tried.

What's his name, Hoodenly, yearh I didn't know Hoodenly from Adam is that an Irish name?

✓ CK. THIS NAME ON TAPE

I think so.

He looks like an Irishman, he said he was an McGovern supporter. That's about all I got on John Mitchell.

They said he had a sense of humor, did he?

Well, I mean just, when we had a little laughing in the meeting and he smiled just as quickly as anybody else. Several occasions which I thought he was doing alright in terms of not getting attracted you know, he just laughed it off. The questions were stupid, let's say we had our share.

It's a little early I guess to tell whether the release two days ago to the Newspapers and radio TV is the differences between the Committee version in transcripts in one aspect -----

Yeah, I thought the Washington Post over stated it in it's story yesterday, I haven't seen the local papers to find out what the local reaction is. No I think there's been enough prepublication publicity of the disparity between the tapes to not to be a sesation as they would have it. But I can't help relating the release yesterday of those transcripts to the action which took place on the floor to publishing those report. Quite obviously Rodino is moving into the prosecutor approach he's I guess with being a minority you're stuck with that.

Does that make it more difficult for you to retain judicious and uncommitted

~~Well, it puts a little more sport in it I guess but now I really made up my mind a long time ago that I'm not going to be influenced by that, and I'm trying not to but that's why I'm so anxious to get to see exactly how they lay this thing out and what their theories for an impeachment. I don't think that we'd be influenced by editorial commits, I mean generally in general a reaction of things, I mean we just live and learn sort of as we go because the public reaction was a way of waiding pretty quickly on these things and I think we can beat the old horse to death and a little be what they are doing on both sides, I mean both sides when say now, now it's obvious to Rodino and I don't know who's helping him make the leadership. The White House on the other hand are playing their particular tunes to a point that the public is phased with them. (? - ck. TARG)~~

What I meant is the apparent turn of Rodino, ^{from} fact finder, ^{to} prosecutor, if that's what's happening. Does that make it a little more difficult to those of you who are somewhat still considered fact finders even at this point? It's the Republican who is saying see that's what those dirty democrats, what we are thinking that if anybody that's trying to

Yeah, that's right we are getting that I told so approach I just think that we reached the point that recognize we just got to be a little more alert and but still it don't leave us an obligation that it always have. We have to take a look at it and see what we can come up with.

Search it.

OK I better go.

See witness report for details

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This follows an interview with Peterson saying that he was the most candid and most effective witness we've had. He voiced it a little bit, little bit high pitched too impressive but he has a physical presence and a degree of sincerity that made him a very, very effective witness, the direct examination by John Dean has reflected once more his lack of experience and there were a number of interruptions by the members of the Committee as ----- he would examine him after a conversation and get up to the point then, then fail to listen to response and we would have to get him back to it and that's happened several times but basically he gave us a pretty, pretty strong review of what happened. The circumstances preceding his visit with the President. You know, it's most impressive I guess to realize that all these guys that are suddenly major characters in this drama are just as much strangers to the President as they are to us up until the time that they took place in it. For example, John Dean and his testimony before he really got to be critical had not over one or two real interviews with the President. He's been in his office sweeping up or something but ----- but on a practical point of view he just had been involved with the President. Henden Peterson said prior to his interview with the President on the, I believe it was the 15th of April 1973, he really never had met the President. He's been in his office on occasional ----- but he's never had a conversation with him. So he went into some detail, his primary statements after that basically he has headed the Department of Criminal Justice. I suspect he has header responsibilities but he was called on Saturday morning to, and this has been accounted, I suspect before, although I did not have the same feeling that he presented with a kind of a fascinating presentation of how he was advised to devote to the Watergate case and he had to come in on a Saturday morning and discuss it with Salbert who was the prosecutor Gilbert and then they got the attorney general and had a conference with him at 1:30 to 4:30 in the morning. It was Sunday morning when Claimbeach went to see the President and came back and told our man that Peterson said he was withdrawing, recusing is the word he used and then Peterson had an interview with the President around 4:00 that afternoon. Now he could well unload to the President, of course, this is an imbrassing situation because this is the tape that ran out on April 15, 1973, so we had a pretty detailed account of exactly what took place by Mr. Peterson and his accounted conversation is pretty good and then at the President's request he gave him a written memorandum of what had taken place. I mean what he told him about and substance of what it was, of course, is that Dean and Magruder had spilled the beans and Halderman and Eickerman, he felt were so deeply involved that they ought to resign. It's a little bit shocking to me that Peterson made it pretty clear that he was pretty righteous and the President was not surprised, not horrified at what he said which surprised Mr. Peterson, well Santclaire I got him on cross examination. There were a possibility that Claimbeach told him about it earlier in the day when he had his interview with him but his assistant said Halderman and Eickerman resigned and the President's resistance of it under these circumstances and the ----- of the President to tell at the same time all of the things that John Dean told him earlier on his cancer commentary on March 21 do not, do not reflect well on the President. The creditability of Peterson's ~~is~~ ^{pretty} substantial with me is just sort of alter integrity about it that it's hard too hard to over raise a conscious, hard working, talented public servicer but he was prepared

Prz's lack of moral horror surprise Peterson.

CHECK TAPE

to resign rather than apprehend in something that he hadn't approved of and so I was pleased with his testimony and encouraged about it. He had a discussion with the President about imunity and the things that indicated that the President did not, was not totally carrying it with him. Also that Eickerman influenced with what the President was doing in regard to the imunization of John Dean and White House witnesses and alike. I guess the thing that disturbs me most is that the President assured Peterson.

Of course, Peterson went to the President because he felt like he was the highest executive officer and these were his two most trusted ~~ALDES~~ and that he ought to take the information straight to him. The President on the other hand, when he got the information in his capacity as the executive officer of the Government, the Chief Executive Officer and that was the reason it was taken to him.

The President assured Peterson then and later that, that was just between them sort of, it was probably in a telephone converdation somewhat later. Then he kept him posted on how things were developing. What disappoints me is why the President reassured these two. Peterson was the one to pass it on. He did in fact call in Eickerman and Halderman and in effect participated in their program in their defense a little bit. This affends my sense prior to this situation strangely enough Peterson defends the President's right to do that, in fact I was wondering why Santclaire had called as a witness, had wanted him to be a witness. Until Tom Railsback and his zeal to ~~put~~ ^{put} this thing down asked him what did he think the President done, ----- and Peterson surprised us all by saying that he thought that the President would do that. Would have been appropriate for the President to ----- to his employees presented to his responsibilities. That was developed later in examination by Mr. Railsback. It leaves some real questions in my mine, however.

It even left some questions after Peterson?

After Peterson but see Railsback just plain interrupted ----- and then we all went to lunch and we came back Santclaire started his examination, and when Santclaire got through whey Railsback got his turn again in a five minute ~~run~~ ^{run} and he started on the same round again. Peterson enlarged on it but basically what he said was he didn't think it was too bad for the President to do that. I am interested -----

Well it is, it is and I'm not satisfied with Peterson's explanation I think, in my own view of it the President should have said well you've been charged therefore, you should get a lawyer and take a leave of absence or resign.

And so to the extent that which he participated in an obstruction of justice to the extent to which he has acted improper of course, we just got to think about it. But it's pretty much of a disappointment for me. It wasn't much else in Peterson's testimony that I thought was particularly interesting. I was surprised to learn that the suggestion of Judge Burns has originated with Peterson. He been in the Justice Department and worked with him for years and recommended him for the Judge ship potential. I mean endorsed and he recommended ~~Glimben~~ ^{Glimben} when he asked for who he had in mind.

Thus was for the Judge?

For the Head FBI and he also told ~~Glimben~~ ^{Glimben} that he didn't think it would be proper for him to talk to Burns and give the ligation pending of course, Eickerman did.

and
we
will

Nixon should

REINDEER

Klein 11/11/67

Peterson didn't know who ~~Eickerman~~ ^{SHUKUTMAN} was talking to?

I didn't say that, no, Eickerman talked to him later so - yes, the Eickerman conversation with Judge Burns took place not at this time but sometime thereafter.

Peterson must have expressed or did express dismay in making that approach.

He sure did, well he just said no don't do it. -----

^{John Peterson} We had our republican ^{CAUCUS} ~~talk~~ early this morning and I didn't get notice of it in time to attend. And I kind of view those with some mix emotion so I did not go, but I think for the first time that it looks like its going to be some blood shed ~~ed~~ because when we're also through Ed Hutchinson announced that he couldn't understand how the Republican could vote for the impeachment of a Republic President. If he did that he just wasn't a Republican and that brought some evidently some private vocal response from Tom Railsback. And surprised me too because up to now I think he sort of bent backwards. Come on in. What you got?

Where are we?

You were at the point where Hutchinson had made this remark.

~~Railsback challenged it and that must for a little bit of heated discussion but I wan't present so I won't report it. It's just the fact that Hutchinson has taken that position.~~

CHECK TAPES : B. LOSING RESPECT FOR HUTCH

✓ Yeah, because the only reason for example, he passed rather than undertaking the influence of our voting. He had passed rather than receiving his influence from the voting. In this occasion he seems to be taking the lead in determining who's true republican and who's not.

Right, that's exactly right.

Yeah, did anyone else get a good letter or memo? (?)

Oh I don't know, I don't think anybody else got into it. But yet he passed one time and then voted after everybody else got through so that he wouldn't influence our vote. I forgot the situation. But I've always known how he felt about it but I don't think he was going to take to impose his will on the group. This surprised me. So following that Bill ^{Cooper} ~~Cooper~~ told me about it when I got to the Committee meeting. We went to lunch and ----- joined us and later Railsback.

Jim Johnson tells about the pressure you are under from your ³ ~~upset~~ colleague and I wasn't aware of any pressure. But it surprised me a little bit. So maybe there is some talk going around but nobody ----- to present me with it.

So but that was interesting and we discussed because I feel like the four of us, are the closest to impeachment, I feel like Hamilton, Fish and Corn are pretty much determined to vote the impeachment. Railsback and I have reserved the judgment but it's interesting in their view of it. At the moment we have trouble figuring out exactly what the strategy is and what the proposal is in terms of theory and so we're hoping that would develop. They'll probably be meeting over the weekend but I thought I would rather go and read up. And meet on it when we get back. The other thing that seems to develop apparently I was upset about the resolution that went through to print all of those things and the Senate sent it back with a change of which I haven't examined ----- when he ----- that it came back basically with the Senate requiring that it be - that they resale them rather than give them away and save the tax payer a little money. And they asked again unanimous consent for the approval of the resolution as amended and at this time John Loserow and H. R. Gross objected and so now it will have to be voted on by the ----- and glad the damn pleased to that vote. Alright now that takes care of Peterson.

What else do you want to ask?

John Dean

Alright now John Dean testified yesterday, all day on Thursday. John Dean is the same old John Dean I guess. His recall is good as it always has been His facts come back to him pretty quickly. There are several things that disturbs me a little bit about him. Let see, we better start it off while I'm trying to find voluntary ----- disruption is in tape ----- Here self assured a witness that most people saw on television he hadn't changed his monotone. He's freller than I thought, maybe he's lost weight. But he did not look real strong and didn't look very forcefully in appearance.

Frail, or pale or what?

Well doesn't have much color anyway, he kind of a, sort of, somewhere between a jaundice in the dark completion area so if you were pale it would be hard to pick up. I think if he work the ratio at moment I think he could do that with clear conscious. We had a pretty extensive examination of John Dean but I really didn't feel like he contributed a whole lot to the same total human knowledge that we didn't already have. My own view of it was that he didn't implicate the President any greater than he did before. I was little bit shocked to see that the Newspaper didn't imply this morning that had. My view of what he said was pretty much what he'd said all along, one sheraid that he been through before about asking the IRS to help him with it and then it didn't work out. ----- Could help with the observation that his cooperating witness for this particular line of testimony ----- but his is been living when he could have tesified to the subject earlier. So I made a mental note to check to see if Chapman had been involved, but it is disturbing to me to learn that this IRS sort of thing had been developing for a year or two ----- and I certainly that IRS turned them off, turned back in this effort and wondered whether that's the proper tense, so I got to add that to my list of potential impeachable offenses is the use the IRS for the intended use of the IRS in the invalidation of the law. I was concerned about that. Also John Dole

CHUTINER C:1 - CR, TAPE

disappoints me again in his examination of the witness he never really asked the ----- he's thinking about something else after he ask the question instead of listening to the answer. Several times I thought he had him pinned down on something that might have been critical and then he went off somewhere else. John Dean teels us that he was pure until he came back from Manila after the break in and then he undertook the cover up Santclaire asked him the question. The reason I mentioned that is because he kept saying well thereafter anytime he did anything wrong he excused it on the grounds that he was pregnent was the word he kept using.

He was what?

SEE THIS IN WITNESS BOOK.

Pregnent

Pregnent

Yeah, Of course to have achived a male pragnency is pretty remarkable but that as he said in examination that was his way of saying that having found himself a fallen man, His standards became some what lower and so when he was asked to do something or to cover up further why it feed upon itself. Which I can believe but watching John Dean and realizing that he really didn't bail out until McCord started putting heat on him and he was cornered and he went and begged for imunity. And I think that's the thing we learned out of Peterson that although said my lawyer did all the talking about imunity. It was John Dean's idea and John Dean had authority over me and that's what he was trying to get. And he was trying to sell out for the President. Sell out to save his own skin and that's entirely inconsistant with a man who would start a cover up operation when he had nothing to hide So Santelaire worked for that moment, and got dropped because what he wanted to establish wasn't - if was covering up he didn't know the President if the President didn't ask him to cover up. That was in the beginning. So that's fine, that's all Santclaire wanted to do. Well I wanted to learn a little more but I wasn't skillful when five minutes - I haven't had that much experiece in this trial in five minutes I couldn't do that much with him. But I would like to know - I really have a feeling that John Dean is a person who's going to save his own skin, wouldn't cover up for somebody else to protect him. Unless he was trying to ~~---(---)~~ himself with somebody or he was trying to cover up for himself. So I suspect very strongly without knowing, without being able to establish it that John Dean knew about the earlier break in at the Democrat National Committee, The Ellsberg break in the illegal plummer activities and the whole bit. But he doesn't admit it but I think that was basic. He has good recall, excellent recall but in my judgment of course that not a measure of integrity. As a witness he was more candid than John Mitchell I mean he recalled better than John Mitchell and he admitted to his own ~~defaults~~ that he had previously ----- and to ~~know~~ knew ones unless it was Mary Chapman which I wasn't familiar with. He's a little bit of a smart Alick and he had a big mouth for a lawyer.

MURRAY CHUTWICK

Do you know his name?

His name was I think it's Shaffern. Something like Shaffern but he didn't make any friends with the Committee or John Dean. Basically the questions he was asked if there were no one in the White House involving the break in then who were you covering up for? That was the question I though that was pretty critical to what Santclaire asked him and he gave us a long answer, he gave long answers that was the way he got out of them by answering long

as apposed to the Michell method of not recalling. That's about all I got out of John Dean I didn't feel like that he --- anymore deeply except for the tax thing and he still insisting sometime prior to March 21 the President was aware of the cover up but he can't place the date. And that's about it.

Did he claim he told him prior to March 21?

Tapes - This must be the tape that Frankly St. Wilson in

He has a vague recollection of having done it but he can't pin it down. He seems to think that we can get a few tapes that will help. There's a seventeen minute tape conversation that we are still trying to get with Halderman. That's in existance and in Judge Sirica's possession. And we tried to get it shaken alose because I suspect that it's a conversation between Halderman and the President earlier in the game and that's...

You mean in the Summer of '72 or what?

Yeah, Yeah, no no, yeah in the Summer of '72 I forgot the date now but I'll make a note of it, I'll find out. And that's where we are.

It was soon after the break in?

Soon after the break in, yeah, it's one of those days which he gave us part of the conversation but not all of it.

Who went after Dean and Halderman, Sanclaire, some of the members of the Committee?

Well, Santclaire was cross examining him, trying to shape his creditability but he wasn't quite as effective, kind of cut his ---- a little earlier in the examination by kind of restricting him and I think he got out him what he wanted to ---- there are conflicts in his testimony for the Senate they have brought out before. He's not a critical witness at all but he may be the best witness of certain facts. I would certainly be unwilling to remove a President on the basis of what John Dean said alone. And of course John Mitchell did nothing to hurt the President.

Did he do anything to help in a sense of being a forthcoming witness?

Well, he helped him in several of the things he said I think was pretty well established now that John Dean's conversation with the President is in reference to the \$75,000 worth instrumental in a change for man that my (?) view of it at the presence. Of course, if we had the conversation between the President and Halderman which follows that interview somewhere along the line but hell - right now that's where we are.

How important is that to establish exactly when that was paid? Does that matter in terms of the conspiracy sense - Does it matter if it's not shown the the person tried to cut off any for him?

Well, the earlier you place the President knowledge the more ----- it is. The way it's shaping up now the President really never took any affirmative action that he wasn't embarrassed into doing. McCord blew the whistle. Dean told him the story. And the President certainly didn't say Dean go ----- Santeluire he can find statements where he suggested that Dean had to go to the Grand Jury but he didn't say you're relieved until you go to testify

which the appropriate way to act, you know we had this discussion before. The same about Halderman and Eickerman they never - he's taken any, he was just ----- and to Peterson almost offensive to Peterson he blew his top with him several times on collateral matters which he wouldn't have done if he didn't, wasn't irritated by it.

Who blew his top with him?

The President, several times Peterson said and got chewed out by the President twice on the same day. He didn't enjoy it very much but he felt that the one of them was examined when he called the President attention to the Eilsberg break in one day. The President said well that's national security - stay out of it. And he chewed him out. Got angry about it. Well this is not consistant with what he should have done. Certainly is not consistant with what he should have done. The longer he sits on this, I mean I don't think he can fault the man for thinking it over or even more in cautiousness. But his attitude obvious was neither one of them, but cut your losses and let's try to slow John Dean and John Michell is the worse and a few things like that and they're not at all consistant with the public position he's trying to take and that disturbs me but it is sort of like the Chinese torture treatment - one drip and it really upsets you but then you keep it up all day long, why it does kind of get to you.

I guess after a while your ---- gives in. - ~~CHUCK TAP~~

That's it yes sir.

Did Mitchell betray any feeling that maybe he feels like he may have been had in this whole thing?

No: no in deed, no he didn't he's.

His transcripts indicated it's though -----

Yeah, well John said the President was preceeding on this information from his other advisors and never would have done that.

Never would have done that, you still seem to think the President was his friend?

I still think the President was his friend, yeah that's exactly what he said.

He said he was his close friend, just hadn't seen much of him lately.

And Dean, Do you get the impression that this guy kind of railished his place as a man who might bring down the President? And you mentioned that he seemed a little smart elick.

Who is this now?

Dean.

Page 8

No, Dean alone can't bring down the President you see the institutions is got to be stronger than that.

Yeah, but did Dean seem to be at all cocky in that regard or did he have any demeanor along those lines that was detective or was he just answering these questions in his own manner.

Yeah, that's about the best I can say.

Yeah, he's sort of...

He wasn't belligerent but he did in several occasions I felt like could throw in recturous, a recturous shock you know, that wasn't really necessary.

At the present?

→ CHECK TAPE

At the present, yeah.

So to sum Dean up the pressure is not terribly critical?

Dean is not terribly critical.

Though you said....

Well, I would say, yeah his creditability as the areas that conflict with others I would resolve against him.

Against him as a conflict with others?

Somebody else's testimony I would resolve against Dean and that's my approach to it but I'm not sure that there - well I think the one, certainly the one critical area that is how soon did the President know about it. I have to accept the President's view to presituate the effort from that so I can't believe Dean with his instant recall could push the thing back any further than that. His actually recall.

Would you consider it a valuable witness in terms of that recall, recall in

Yeah, well, I don't know whether he's valuable, I don't know why needed it cause we'd had most of it already in the rackered but the President wanted him for a witness so we got him.

The President wanted him, I would think that maybe the President wouldn't call him for a witness or Santclaire.

Yeah, Monday we got to call him back and Tuesday we got somebody else.

And then you get into what seminars or what ever...

The seminars are going on at night but I have not bothered to attend them.

What would the schedule be for the Committee after...

I don't know one thing about the schedule

NO MORE ON THIS SIDE OF TAPE

This will cover the testimony of Kalmbach and the conclusion of Charles Colson and will attend to explore some questions as the decision time nears in the impeachment process.

W Since we haven't had one in a while (taped in a while) maybe you could start in where you want on Colson and Kalmbach and work backwards or whatever you want...

B Okay, let's take Kalmbach first cause that's one of the impressions of mine. This is being dictated on Thursday morning following Kalmbach's testimony which was I believe entirely - did he start - gosh I can't remember whether he started Tuesday evening or whether it was it was the first thing Wed. morning?

W I believe he was the first thing - I think he finished - well, I don't know.

B Yeah, well, we had some of Kalmbach, come to think of it on Tuesday evening, I believe we did, yeah. I'm quite sure we did. But - yeah, it was there on the stand two days. I took pretty extensive notes because it's - he wasn't necessarily that significant a witness - he had a ring of candor about him and honesty which I think made him a ~~very~~ ~~successful~~ fundraiser. His appearance - all things considered, I think he's got what I would call an affidavit face in the sense that you are ~~inclined~~ inclined to believe him. He has a very calm and composed presence so that he doesn't raise his voice. Almost a monotone. He has a tear in his voice kinda that is ~~very~~ persuasive - it's not persuasive in the sense that it ~~is~~ invites sympathy. He has - his testimony indicates the naivete that is not consistent with his sophisticated manner in which he handled over several million dollars of campaign funds over a period of about 4 or 5 years for some of the most active people in the country. He has a - but the committee generally speaking - was impressed with his efforts to be - his integrity, apparently ~~integrity~~ integrity - sympathetic with his having been taken in ~~by~~ by his - taken in, misled by principally Dean and Erlichman out of his loyalty to the President and - you can't be sympathetic with him without thinking he's a little stupid and yet you can't believe stupid when you realize that he ~~is~~ has parlayed a modest country law practice into one - that a firm of some 25 people, income which enabled him to be quite successful, both in his law practice and in his real estate deal. And, gave him freedom enough to spend almost full time without compensation on ~~R~~ fund raising and so I just - my own feeling about him is that he may be a little naive but I think that maybe we are - I think he's probably quite capable of doing pretty much anything that he wants to. He gets _____ right now isn't he? (yes) I can't believe that given a fair hearing - given an opportunity to be heard by the California bar that he would be disbarred because I think he's - he makes a very good presentation. He gets a lot of sympathy and he's clever enough not to flaunt it. I think the committee has been taken a little bit by his air of naivete but you do have a feeling that he's a pretty decent guy.

W Does he have any prison ^{PALLOK?} power?

B Oh, no, no prison ^{PALLOK.} power. None of that sort - no, his guards sat there for a while. I didn't see them when we went back at ~~was~~ one time but most of the time there was a guard there with him - at least there was one person I didn't recognize, might have been part of our security staff that was designated to keep an eye on him but the same way about Colson, he had his guard there. They are both over there in Maryland in one of these Federal - what do they call it - waiting stations or something - something of that ~~type~~ ^{TYPE} and so they're probably having a helluva a bridge ~~f~~ game over there.

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B I liked Kalmbach. I didn't like Colson. The interesting thing - you know there was an article in the paper yesterday - Wednesday - about Jenner and the fact that the Republicans are now looking to Sam Garrison to present the negative on the impeachment inquiry - I think Jenner was pretty deeply hurt by the publicity ~~and~~ - nothing he said to me cause - nothing he said to me - I don't mean that he ignored me - we simply just did not have a chat but just - he looked a little bit whipped.

He came in on Wednesday morning and that kind of been his examination with Kalmbach was quite extensive. I felt that during the time that he was clearly tiring and he is 67 years old - that he's not as sharp as he might have been. Occasionally he would have to ask a question twice. He has the most painful - I think I've said this before - method of direct examination. I couldn't help resisting the observation of my cohorts who are burdened with having to sit near me on the bench and therefore get the benefit of my judgements as they occur to me, that if this thing ever gets to the court of appeals, we'll ~~xxx~~ have a helluva a good record.

I mean I say this because I just don't think that Jenner ever has adjusted psychologically or intellectually to the fact that this is not a case that's going to be tried in the court of appeals - that he's got to make his case there and when he - when people lose interest or when he goes too long, he - we don't retain the facts that we ought to be retaining and he ought to be leading the witnesses more and getting us along faster. I can't say that hurts the situation - I just think it's unfortunate.

✓
✓
Doar - I think we can excuse his ineptness by lack of experience. He's an investigator and an assembler of evidence more than he is a trial lawyer. But Jenner, I think, must have been a great trial lawyer in his day but he flunked out in traffic court. I'm sure he put antitrust cases together and things that take a long time to build a record and where you keep feeding documents into it but as far as this committee is concerned, his stature is dropping rapidly by virtue of his slow presentation and of course the republicans feel like that he is not representing the negative of the question which is part of the responsibility of a minority counselor and certainly should be solid in the instructions of many of the republicans who are asking him to do just that and I don't think he's being hard to get along with I just think he has limited energy. Well, he's one man and he hasn't figured out how to delegate - hasn't worked this - he hasn't controlled this thing as it should have and gotten - brought us along. He's concentrating on presenting the evidence and lost sight of the fact that he's got other responsibilities to the minority and it's hurt him. And I'm afraid it's going to hurt him professionally in the long run which he probably deserves better than that. Several people have suggested - several people are so disillusioned with his presentation that they are really questioning whether he's got the status, the standing in the profession that he held himself out to have and he has. You criticize him and you get ~~the self-servant~~ a little self-serving eulogy from him about his 44 years of practicing and nobody ever questioned him and so forth. But I think most of the people that I've talked to on the republican and democratic side have said that Jenner is a living example of the value that can come from attending regularly the meetings of the American Bar Association. And I have suspected that. You just - you know it's a pompous profession to begin with and the more pompous you are, the greater your standing in the profession and you evidence that by the ~~hot~~ positions

high

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B that you - the elective positions within the Association. And so the greater - the more pompous you are - the presidents of the American Bar Association are so far removed from the common people that it's almost comical and Albert Jenner is a ~~character~~ caricature of the traditional American Bar Assn. ~~president~~. Course we've had ~~at least~~ one or two from Virginia. One is on the Supreme Court. He's a great guy but you know, they ~~talked with~~ talk to him in a rarafied atmosphere. And Jenner will use words - for example - misprison - misprint was a misprison - he expostulated which is a word nobody uses - he just uses what I call pedantry except that I'm sure that they talk in that language and then sit down and then - so you get - the American Bar is a collection of all of these people from one area - from the whole country - they get together and they exchange these big words and it's become part of their vernacular and so that's what Jenner is. It's too bad cause he has got a lot of talent and ability and when you examine him in terms of the court of appeals he's presented it to us very nicely - no facts have been left out but they could have been - he could have led the witnesses and said now here read these facts over, in effect, now that's accurate. Now let's get down to the nitty-gritty of what we want to find out about it.

The nitty-gritty of what we want to find out about Kalmbach were not as many as a day and one half of testimony would indicate. I was - we learned his expression - two or three things that I thought I ought to pass on - I think it's a big thing that I learned from Kalmbach that had me upset or was the accurate timing that - with reference to the shake down of the milk in 1971. Now he had the benefit of a calendar - an agenda - which he hadn't had in earlier testimony so maybe we've gotten something new but basically it's perfectly clear that he was in on the pledge of \$2million so he was present when it was made and he was aware of it. He denies having been aware of the relationship of this pledge and the imminent decision by the President of the United States to grant within the discretion of the statute the increase in the Federal price support.

So, here's what happened. He got a call from Washington in California in anticipation of a trip to Washington on the 23rd - March 23rd, 1971 from Erlichman saying he wanted him to come by and talk to him before the annual finance dinner of the republican party the next day. So he stopped by and saw - a meeting with Erlichman at 5:30 - also when he talked to Erlichman, Erlichman said, "save time for a meeting later on in the night - like 11 p.m. so he had on his agenda 11 o'clock - keep it open - that was after the dinner. He went by to see Erlichman and Erlichman said I want you to meet with the daily interests - they want to reaffirm their campaign pledge - the milk producers. He met with them at 11 o'clock at night. Shotner was there and Kalmbach was there and a spokesman for the industry. And Shotner opened the meeting, and this I don't think we knew before, by saying in view of an imminent increase in the Federal price support these people want to reaffirm their pledge of \$2 million whereupon I believe it was Mr. Nelson - and I'll check that - anyway the spokesman there confirmed - the spokesman said we do reaffirm our pledge. The next day Kalmbach had a luncheon meeting with Erlichman and took him aside and said this pledge has been reaffirmed - anyway - he let him know about. And Erlichman nodded assent. It was that same day, I believe, it was either later that day or late the following day that the announcement was made. Now what disturbs me is that during the conversation and their meeting in which the president made this decision, Erlichman said can you hold it up a little while and I'll check that and then there is a 3 minute gap at the end of it - the end of the transcript when the president - it's deleted because it's not relevant - that's the president's ~~position~~ deletion from the tape - and we subpoenaed it - when they had 3 minutes to chat with the president. Now if this thing came up during that 3 minutes, we ought to know about it and if it didn't

ABA
conscience

Subject
meeting

tape

B we ought to know about it. In view of the fact that we subpoenaed the tape, and in view of the timing of the thing, it comes awful close to making a prima facie case of a bribe and so I think all of that is strengthened today and I think that's pretty alarming.

Bribe?

The sale of the ambassadorships is likewise, Kalmbach, stripped of all of the other languages, Kalmbach sat down with Symington and said Fife - Fife said he wanted to pledge \$100,000 but he wanted to make darn sure that he was going to get a european ambassadorship - that he was tired of being stuck down in Spain or whatever - and before he made his pledge firm he wanted to get that assurance. Kalmbach said I can't give you that assurance. He could have said we don't sell ambassadorships but he said we don't give you that assurance. And this is the whole thing.

Incidentally he didn't see the president but once a year - but he was his personal attorney and being the president's personal attorney gave him so much law business he didn't have time to see the president. But anyway this particular conversation took place - and what I'm saying is this affidavit face and this you can trust me attitude - they trusted him. Everybody trusted him - they gave him millions of dollars to put in his - actually over a million dollars was turned over to him to enter the campaign - to put in your safe - I guess if he had pocketed it they couldn't have charged him with embezzlement or anything - they trusted him. And of course John Dean called him up and they met in Lafayette Park and made the deals to start paying off Hunt and those people - helping them out - out of compassion, he insists. Well, that's a diversion except to say all this secret stuff makes you wonder how naive he was unless he reads James Bond for his kicks.

Everybody trusted him

Getting back to the conversation with Symington - Symington says no, he said, I'll go to bat for you in effect and he said no that won't do, I want Bob Haldeman's personal assurance. He went back and called Haldeman - he called the White House - the White House is pretty good about running down - when the right people call up, they run them down and Haldeman and Higbee and the president were in Chicago at a meeting. And this is probably general information but the way Kalmbach presented it to us, I mean he was sitting at dinner and he called him up at lunch and before they got through, Higbee had called him back or he made have already gotten through to Higbee in Chicago on the same operator - you know - I guess he just said get me Haldeman at the White House and its Kalmbach and pretty soon he picked up the phone and it was Higbee in Chicago. That was about as quick and he said alright I need this assurance. I've got \$100,000 on the table or something like that and sure enough Higbee called him back in a little while and said the word is go - lock it up.

Haldeman - Nixon says go on Fife you might Embassy my

Now what Larry Hogan wanted to know - that was a 30 minute interval - did Higbee talk to the president or did Higbee talk to Haldeman because eventually they welched on the deal. I'm quite well satisfied that the president wouldn't have made that kinda deal and I think Haldeman would but it's this suggestion that Haldeman was close enough to the president that - you know - you almost have to conclude that this sort of activity was being licensed by the president and that disturbs you. There's not quite enough evidence to convict - certainly not beyond a reasonable doubt - but the question keeps rising in my mind as to just how - you know whether we should set up a trial or not - I guess I'm influenced - I hope I'm not influenced but there's an editorial in the Post this morning that kinda articulates that whole approach to it. You've got to be pretty blind not to see a need for a trial but I'm blind in spots but this is one area that disturbs me more, following Kalmbach's testimony than it did because it was just as blatant as it could be.

Need a trial

B The Homestead is a large resort in our district and they have a lot of Jamaican people working there and when I first got to Washington they ran into some kinda road block down in Jamaica. The Jamaican ambassador was involving himself - it struck me - unnecessarily in the release of labor to fly up here for the six months - ~~where~~ well, they were needing them, they were planning a banquet - big banquet - and they thought they were coming - they had sent the plane down there and he was refusing to give them the clearance because he thought - he wouldn't say it exactly - but he thought that they - the Americans were exploiting the labor. Well they pay them fantastic sums in my judgement over there, cause they all come back at the Homestead but anyway I - they called me and said what could I do and so I picked up the phone and called the Jamaican ambassador and eventually and he was very cooperative - ~~he wasn't very cooperative~~ eventually, I mean. He wasn't very cooperative but he cooperated because I'm persistent and probably he just got tired of talking to me. What I'm pointing out is the Jamaican ambassador was Vincent Rulo-derolea, who was the good friend of Kalmbacks - his name was Pedge - and Kalmback visited Pedge and got a \$50,000 pledge from him for the campaign with the assurance that he would be considered for a higher post when it came up and he got a commitment from the White House on that - from Haldeman and never delivered it because - as a matter of fact - and this is the interesting part, it turns out that Derolea was recalled which means fired, and never given a better job. Peter Flanagan blocked it but the point is of the story is that when I talked to Derolea, he said I'm leaving this spot as soon as they can find a replacement. And I did not realize that he was leaving under duress. But it's interesting to find out that - in fact comforting to find that Flanagan's assessment of his capabilities were such that he didn't think he was worth another job. They offered him \$50,000 back but he wouldn't take it but so that was interesting from my point of view cause I had this earlier contact.

B's
deputy
with
Jamaican
ambassador

Kalmback had no business doing all of that and so it disturbs you.

W That sort of game as ~~you~~ far as you know it is just foreign to Virginia politics, isn't it?

B We've never had - in Virginia - a two party system and we don't really have it now - we've got the same group has kinda taken our organization that ran the ~~democratic~~ democratic party but they had control of that and they never had to sell positions and Harry Byrd, ~~was~~ who kinda set the tone for it was very literal minded in his understanding of personal integrity and when dollars - any money involved - that compromised the man. So we have traded in Virginia on - in other areas - but we haven't ever accepted any bribes of money. That is entirely foreign to the Virginia idea but we do use our positions of honor - which should be positions of real challenge and responsibility as political plums. And so we have ~~we~~ found that many of our boards and things of that nature are peopled by less than competent - by people whose intellectual attainments are not consistent with the challenges of the ~~job~~ job and so we have, in my view of it, in many instances, used these positions as honors when we should have been going out after somebody else. That - and Linwood changed that a little bit - Holton changed that a little bit. Godwin has got to back and restore it to maintain his organization so I'm a little bit concerned about that - that's kinda of a aside but we don't sell any honors but we do reward and reward everybody for their efforts to the extent that we can. But you know, it isn't that but really it seems to me it's worked the other way around in Virginia, in many instances we would have been gone out and sought out people of, you know, of standing in the community, the business community and urged them to get - get them - put them involved - get them involved in that point and then it's sort of a - it comes from the other end. And you can do that when you've got a one party system and you don't - everybody wants to be - ingratiate themselves with the kind and so I'm not sure that we've gotten the best set

Paul
Stall
w/...
old way

B set up on that but we've tried - I think we've tried - but there's a lot of people that we ought to be getting involved in ~~Virginia that we~~ things that we don't in Virginia - simply because - I'm not sure except that they haven't given their entire loyalty to the party so then they're not - they don't want to get them involved.

W You lose out on a lot of ideas.

B And - that's right - and you don't get anybody until the arrive they arrive.

W Yeah, that's the problem...

B You know - and really you ought to get them on the way up, I mean ugh -

W ~~When~~ they are fresh and they've got energy...

B that's right - and ambition. I'm offended. ^{By} nature Virginians are more reserved, I think, and its good. It's makes for better people...more comfortable to be around them. And so that nobody pushes himself forward in that area, ~~You have to wait~~ in Virginia and so you have to wait to you really kinda surface to the top. Well, people at the surface are the ones who inherited money or businesses or the ones who have arrived - haven't arrived until a little bit - I mean it takes a little while to build that up and when you select your leadership from out of that group, it's a mistake but that's really not related to this. ~~Our ambassadorship~~ and our ambassadorships -

The to... that

But getting back to it - nobody in Virginia as I've ever seen, has said = has related a contribution to a job - what Kalmbach called the linkage and incidentally, he used that word. He said there's definitely a linkage between the ~~and~~ ^{AMP} contribution and the parity and the president's price support WHICH I thought was a kinda damaging statement, coming from him but we don't have that in Virginia that I know of.

W I guess the closest you come to us is the situations such as developed with Holland where a guy is appointed to a job that puts him, by way of being in a position of knowledge - pre-knowledge that helps him. (B-Right) Well, it was an aside but it's kinda interesting to explore that.

B Getting back to Colson. It's interesting to compare our two felons, Colson and Kalmbach, Colson, he didn't have prison ^{power} and he was no whipped dog but when he was asked why he pled guilty to an offense that he said he didn't know existed when he committed it, which was basically was malining - using the offices of the White House ~~to disseminate truthful~~ and to disseminate truthful information about Elsberg to influence the trial. He just said that he himself had been experienced the same and he just went so around Robin Hood's barn explaining why he pled guilty that ~~he~~ it made you realize that the professional con man had not retired and so I gave - I listened to what he had to say and, of course, he's not going to lie just to keep in the habit but I had to recognize - and I think everybody else on the committee recognizes that Colson may have religion but he's still not going to be - can't - I - ugh - that the wire services picked this up - I didn't realize - but I said he had - he was trying to be candid but he lacked experience, that was basic - the wire services picked that one up. Well, it's almost true. I just don't think he could put it over and so it's if anything - I would hate to impeach the president on testimony that - from Colson and nobody else, I'll put it that way cause I don't ~~he~~ think he harbors any animosity toward the president so - ugh -

cf... film

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W Did you get the feeling that he was trying to help the president or was did you have the feeling yielding to any motive?

B I felt for a while that he was - he wanted to stay out of jail as long as he could and he ~~was~~ was going to string this testimony out as long as he could, hopefully for two days. And that was about all I could get out of him.

Let me see, thought, he was very self-possessed, he looked - but he just looks like a thousand - well, I dnn't want to maline the Jr. Chamber of Commerce, but, young man on the make - you know - yeah, hail, fella, well-met, glad to see ya' - has all the charm in the world. We went to dinner. . .

W He even had his button didn't he ? Some sort of Mixin button, white hat...

B Yeah, that's right, all of that sort of thing but he's just such a, well, he just got such an appearance of sincerity that you know he can't mean it - sort of thing - ~~such~~ so I was not - I mean, I was charmed by him - I mean he got a lot of charm and ~~was~~ all the ability in town that he would need to succeed - it is a tragedy that he's blown it but - he's blown it. But he's ~~still~~ ~~and~~ ~~I~~ ~~think~~ ~~he's~~ ~~still~~ ~~got~~ ~~basically~~ doesn't - he's still and I think he's just got basically weakness of character that I dont - think he's got to get a whole lot more religion than is apparent to me at the moment and of course that's a right cynical comment but I guess is - he hasn't developed the humility that you would expect from the religious experience that he's ~~had~~ advertised.. So I took him with a grain of salt. I told Bob Drinan that - I asked him, I said, you're a professional, were you there when I told this story - you're a professional in this field and you're ought to be able to recognize a convert when you see him and do you think Mr. Colson is a convert? Well, you know, I - It was half in jest - in completely in jest but he - and he took it that ~~waxy~~ way but his response, without a moment's hesitation was that you can't really tell until you find out how much money he contributes to the church! So I felt that was a pretty good response - I told him - I told Bob Drinan, with that kind of attitude, I was surprised that he wasn't a Bishop by now.

Then, Wayne Owens, as you know is a Mormon, and they have to take a year of missionary work, you know, and so I had asked him earlier about whether - he said you're a missionary - and he told me he'd been a missionary for a year and he'd had a lot of experience with conversion and - but he was a little bit more reserved in his comments towards Colson but he certainly did not say that he's got all of the earmarks of a complete convert and he had the opportunity.

W You were saying something about going to dinner and I ...

B Oh, yeah, we went to dinner over at the Capital Hill Club - several of us - and ~~Larry~~ Colson was over there, probably still has his membership card with a date behind on his dues, he and his lawyer and - let's see, who else was with them, a third person was over there but we decided to eat with one another, - for all of us agreed to that but ~~he's~~ just he's just a great glad hander and he would have been a fine spokesman for the White House and it just make you kinda sick to think that the guy was in such a position to really be of service to the administration and to himself and just overdid it - over shot. He's just got plenty of ability and talent - and his questions - that was apparent throughout everything he said - that he - you know - his entire line of testimony was - indicated to me that his mind works fast and he doesn't stand for people. He just had this basic character weaknesses that he just wasn't burdened too much by principle and it's just a shame - cause he had a lot going for him - still does, I guess.

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W I guess we'd better stop, it's 9:30 (a.m.).

B Okay.

Continuing later in the day. . . side 2 tape fouled.

B I took pretty extensive notes on it this morning and, of course, I don't have them with me, but I have this so maybe its better to draw on my own recollection since its that fresh.

In the first place, his presentation, his manner is very disarming in that he is not a bit offensive and very solicitous of the procedures. He began with basically a ~~f~~ view of ~~how~~ how large the responsibility he was and he questioned whether he was equal to it but he had to give it a try. Then he turned to the committee and said - but of course your job is heavier than mine and rather subtly suggested to us that he could pick up his briefcase and go on when he left there but we had to answer to our constituents and not only that, we were going to vote and then the evidence was going to become available to them and they were going to have an opportunity to second guess it and so we had better be careful.

W Pretty smart

B Yeah - that was his opening shot. And then - I thought a very masterful presentation. He selected pretty carefully issues which he thought were relevant and completed them and gave his arguments. They were more or less familiar arguments but his presentation was virtually without notes. He had a yellow pad which he referred to from time to time but it was logical. He took five or six issues that he had envisioned that we might be considering - ITT - Kleindists, and he tried to explain away that by saying that the President was simply, that Kleindists was simply talking about whether the President had tried to influence the appeal and not the case then he - in other words, he was very persuasive but he glossed over - I thought - the critical questions that he probably should have faced up to. For example, he made no mention whatsoever of the President's non-compliance with our subpoenas - ignored that question entirely. I felt like he should have addressed himself to that and told us that if there was such a question about it that we shouldn't draw any adverse inferences from it.

He then took a couple of cracks at Watergate and the coverup and then he denounced in the course of it that he had prevailed upon the President to let us have three minutes of Haldeman in which Haldeman said, "I wouldn't pay blackmail to Hunt - Howard Hunt." Nixon's saying that to Haldeman on the day after the conversation which is supposed to be so damaging. Well, he reopened the whole question of the President's noncompliance. Rodino promptly announced that he's got to recognize that the President didn't give us that subpoena - didn't give us that tape - cause he said there wasn't any relevant evidence in it.

St. Clair responded to that very quickly - well, John Dean said for the first time that the President was aware of - I've forgotten exactly how he expressed that - but it was pretty resourceful but not very convincing.

The overview of all of these things is - my feeling is - if the Judiciary Committee were a jury that had to retire and deliberate and conclude its deliberations immediately, that we would have - that St. Clair would have carried his day but on reflection, I'm sure ~~we~~ are going to poke holes in it and, of course, he is going to supply us with a brief that will be more extensive.

He completed on a rare, ~~dean~~ pretty dramatic note, he said now, Mr. Chairman, may I be excused? Which was kinda humble note. He also had compliments for the committee and a few bouquets that way. Overall I thought his presentation was masterful. He was very restrained - took an hour and a half - maybe two hours. But when he was through, he was through and he didn't keep us

B) around. Actually I guess it was an hour and 45 min. and we didn't spend all day winding up. He has a good ear for his audience, touched on issues that were troubling some people and bore down on some others.

Basically his thesis is the same thing - you don't connect the President to these items and that was it. Another opening gun was basically the standard of proof - that we ought to insist upon is clear and convincing evidence - must be clear and must be convincing. Which is a good deal standard than of - beyond a reasonable doubt - beyond probable cause.

There are three standards in the law of proof - prevailing evidence; by clear and convincing evidence and beyond reasonable doubt. And I think he's asking right much to push for clear and convincing evidence as a standard at this stage of the game and really I - it's ^{strange} strange. I hadn't heard that standard offered before but by the end of the day, everybody - the die hard Nixon supporters in the republican party were certainly articulating that thesis. So, he's suggestive and strong and puts on a good show.

His point - I guess, most telling point was you can't convict on an inference - an inference upon an inference - which is what we might be doing. So there's food for thought there. I thought he was better when he addressed himself generally to the principals of the evidence that we were talking about and our responsibilities than when he got to the specific items because he glossed over what was on the table - convinced a few and then basically he glossed over and omitted some of the obvious things for example:

I didn't think he dealt properly with the President's misrepresentations.

W On the Watergate or on...

B No, just prevarications in his public statements. He just didn't touch on that.

W Did anybody try to question him..

B No, he just presented it. He wasn't there for that purpose. He talked about the telephone conversations from Peterson where he said, "Mr. President - The president said to Peterson I'm not going to tell ~~anybody else~~ anybody else I know the rules of the Grand Jury and, of course, there wasn't Grand Jury evidence involved in those disclosures and so he argued that the president understood that there wasn't any Grand Jury evidence therefore he could pass it on. I don't that's true at all but he argued that point. He addressed himself to that. He was quite composed. Wasn't bothered by a thing and didn't pause - moved from point to point - spoke very deliberately and, as I said before, quite persuasive in his manner.

more detail
W He made a dramatic finish...

B Oh, I mean it was dramatic. It wasn't deliberately dramatic - he selected wisely - in his sort of humble way, he was backing away. He couldn't said, he could have stormed out - he could have said good-bye and good luck and all that sort of - but he said, May I be excused. I thought it was pretty ingratiating and, as I tried to mention this morning, I feel like he's made a lot of friends and his professional standing has certainly been enhanced by his performance here. Any more questions on St. Clair?

W Well, of course, nobody questioned him. (B-no questions really) but there was some...

B There was some by-play about his slipping these 3 min. of tape in there. Yeah, they were like a bunch of monkeys over there on the democratic side when they suddenly realized he was going to sneak in these 3 minutes and they all jumped up and started raising questions but Wiggins, I think, put the quietus on that when he got a ruling from the chair that the record was still open - which it should be because ~~of~~ the Supreme Court may rule and bring us some more information. So the chair had to rule that the record was still open...

W Wiggins' point being that to allow it in...

B If the record was ~~still~~ open for that purpose, its a record for anything. And the chairman said well he violated our rule but I'm going to let it in. So that was that.

W Who was trying to zing him - the usual groups?

B Oh, I don't know, they're just a bunch of screwballs over there. No, I think George Danielson actually but maybe Liz Holtzman. (W-Danielson is usually quiet over there, isn't he?) No, he has a lot to say, nothing very earthshaking, but he likes to talk and he does.

W He thought it should not have been in -

B Yeah.

W Later, in the tv news, some of the republicans were quoted as saying they were also upset about the 3 minute portion of the tape - (B-Oh, they were?) And Railsback was quoted as saying that ~~and~~ its an insult to the committee and Fish said something along those lines - I don't remember exactly what it was - McClory seemed upset but within the committee itself, there wasn't that much fuss.

FAIT ACCOMPLI

B Well, it was sort of a ~~fedecomplie~~ (sp.) it was ridiculous, the way I think the president ought to be, I mean if that's what he wants us to hear, why we can hear it and we can weigh it but that's a comment on the news media cause a couple of guys asked me about it and I said I wasn't upset about it. But nobody quoted me.

W Nobody's quoting anybody who wasn't upset. They listened to the people who were.

B That's right. It didn't upset me but I just think it kinda embarrasses the administration's position because it points up what we've been saying all along - we ought to have these tapes. And now he's kinda admitted that there's relevant information in there - he hasn't culled it very carefully.

W So, in that sense, it backfires...

B Well, it would backfire except that they've had ~~some~~ so much brass all along that it doesn't make that much difference.

W Is there much talk among the members about the opinion - the Supreme Court decision ~~today~~ -

B No, everybody kinda looked for today. (W-yeah, I had a feeling it might be today) And I expect it'll be around Monday. We wound up. We're going to go in around 10 a.m. tomorrow for sort of a private briefing. Tomorrow is Friday and come back Saturday. I didn't have the heart to tell my wife I

Ervin

B was coming back Saturday since we've got a big weekend planned but I'm coming up Sat. morning and go back Sat. night and listen to all of that. Gerald Ford, as you know, is coming down to Roakoke tomorrow, and he called the office today - his ppeech writer or something - and wanted to know if there was anything in particular we wanted him to say. So I sent word back to just leave me free to go either way on impeachment and I hope that he will do that, I expect that he will.

[Handwritten mark]

We had a republican caucus with the leadership this afternoon. I was a little late getting to that because we had some district business that I ought to take care of. I got in there in the middle of a dissertation by Bob McClory, evidently he was saying that he was disturbed by several matters, which I can't remember and evidently I had missed a statement by Chuck Wiggins to the effect that there's not a sintilla of evidence that the president is involved in these things and John Anderson, who's in the leadership, evidently took violent issue with him. I don't think they had any blood shed but there are republicans now saying in the caucus and Railsback spoke up, that they are disturbed by some of the evidence and that there's always a possibility that they will vote for impeachment. But most of the people said that there wasn't enough evidence.

*Got something
Author keeps
stressed*

I kept discretely quiet cause I was late and see any minds I would change there. Less Arrens was there and his position is that this is plainly political and we fight politics with politics and we've got have a strong, straight, republican line and that's what they are trying to push us towards. John Rhodes is the same way.

W Rhodes has also said things like that... or pushing in that direction.

B Well, yeah, basically, yeah. I wouldn't consider that unusual pressure. I just think it's was a discussion. But you know my view about that is that it's political and of course the democrats are united. We speculated on the possibility of 3 votes against impeachment and pretty ~~happy was zflowers~~ well decided that the only hope was Flowers and that's pretty remote. The democrats are in a position to bring a lot of pressure to bear and I think they really are bearing down on one another and so I believe there's going to be 20 or 21 democrat votes in the committee. But you say it's politics! but it is but it's an opening that we've given them and they've taken advantage of it which is instinctive in a politician and of course, I think we as the republican party ought to be measured by how it responds to the problem and if we respond by condoning or putting our feet in the ground, we're really going to hurt the party. And I looked around the room and only us young fellers are even in doubt - with the exception of Bob McClory, the republican young fellers, me in addition, course Henry Smith is leaving and so you can't read a guy - it's not fair to judge him - but I suspect he's going to vote for impeachment. The rest of the group there is very solid backing of the president - thinking they can do it and not condone what he's done and so I think we're going to have some real hard times. We broke up before I had a chance to speak and then John Anderson - I caught him on the floor and he really feels strongly about this thing. I mean I made the mistake of asking him almost, but he said, I've been meaning to talk to you and then he told me - he didn't ask me but he really unloaded on just how horrible it was sort of attitude and we just can't condone it and he says like what it's what he's got to do. Well, he's got to do everything he does, you know! But that's strong, strong talk. Peggy Heckler - the one who took Joe Martin's place - she stopped me on the floor and asked me - which surprised me - how I was going - she says, there are a lot of people who are watching you meaning me or this group that's in doubt - but she said there are about 30-35 republicans that will vote for impeachment if they get any support in the committee. She said it would surprise you who they are but they are

*The
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and still
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John
Anderson
Peggy
Heckler
adv. -
Baker*

B all looking to - I think she meant me and Railsback - cause I don't think Cohen has got much of a following from what I... Am I right on that, do you think?

W Probably, he seems to be pretty much of a loner and I think one who counted pretty early as probably favoring impeachment...

B Yeah, I just don't think in the membership that he has - I don't know what it is - I just have a feeling that he doesn't have the - I think he's a loner and I think he's also ambitious - he's so ambitious that it offends a lot of people - I may be wrong but anyway, I don't feel like he's got the following. I feel like Railsback does and I was surprised to hear Heckler say that I was ahead of this problem outside of the Virginia delegation.

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I had lunch with Joel Brodyhill one day this week after Kalmbach's presentation and he very much wants me to vote against impeachment - now he didn't say that but he wants some kinda crutch to go to his people with cause as he's analyzed it from a political point of view, and I think that's true, that if you vote for impeachment you are going to offend your die hards and you are not going to get any support from a bunch of democrats that wouldn't vote for you anyway. And so, politically, I think he's right and it would provide you with quite a crutch and I told him that he better start educating his people to the idea that an impeachment was not necessarily a conviction, that's the Senate's prerogative - all we are saying is that if we vote for impeachment, that there ought to be a trial.

As I indicated to you recently, I changed my view of that. I feel that way, principally because all the evidence hasn't come to us and we have to ~~rely~~ rely on inference to weigh.

Frolick

off
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I can't think of anything else that took place in the republican caucus. Harold ~~Polik~~ brought up the point that shocked me - in the caucus - basically his position is - and Trent ~~Loth~~ too - they feel like - Railsback sort of opened this line of discussion by saying that he thinks that Rodino has done a fair job for a man who isn't fair - meaning I think, that it's hard for him to be fair but he's probably done - the rest of the republicans feel like he's been very high handed in it. Railsback pointed out that all of the procedural questions, we've forced them to back down - that have come up all throughout and then he mentioned a few of those questions. Trent ~~Loth~~ said, yes, that's true, they let us win the little ones because they are getting ready to zing us on the big ones and they wanted an appearance of fairness. Frolick's contribution was that we have - through our skill - have doctored up imperfect democrat action and then they've thrown it in our face. I guess he was shooting at me. I worked on one subpoena. But (W-that's right, you did strengthen that) Well, I don't know, certainly - I don't think that deserves a separate chapter in the history of the impeachment but that's probably a legitimate criticism, but here again I'm just shocked to see - and this was a leadership meeting - the republican party talking in terms of deliberately lying down on perfectly a document - you know - because of this insignificance. (W- a document designed to get the facts) Well, that's the subpoena but now we're talking about the articles of impeachment. I feel like we ought to hone it and refine it and then decide whether we are going to vote for or against it. That's basically is where we left it.

- B Bells rang as always and ended the interview. Then I ran into John Anderson and Faye Hecht on the floor and then I talked to you and that's about all we've accomplished in there today.
- W Anderson didn't say much of what he said to you on the floor - didn't say much of that meeting...
- B I think he must have said it before I got there. No, I think he expressed it more strongly to me than he did to anybody else.
- W There really is a kinda cross roads for the republican party, isn't it?
- B Well, I feel that way about it. My, God, we've had - all these years we've run against Trumanism and chrony-ism and Johnson and all of those damn bums he brought in there and here is - we've got that sort of situation in spades and we turn around and act like a bunch of ostriches or whatever you call them - what is it that puts its head in the sand? And start getting legal technicalities and things like that. St. Clair made the point says uh, the proof of the pudding is in the eating. That the president may not have acted as quickly as he should have - and may not have done exactly what you would have done - but all these people in the Executive branch of the government are under indictment. And the president is not solely responsible for it but certainly he has a some responsibility for pushing them. So how can you impeach a man when he's done his duty? Well, the answer is because well, goddamn, he put his foot in the sand and did everything else he could ~~do~~ to stand in the way, including firing his special prosecutor. I mean, his argument is persuasive until you analyze it and then it - it almost makes you want to go the other way. But that's what we're doing as a party if we don't at least have a total airing of the charges. Now the Judiciary Committee has proceeded in ~~secret~~ closed session, not in secret as you know - (W-hardly in secret) hardly in secret - so we really never have had an airing and I feel like its indicated and Chuck Wiggins says well, he doesn't worry about this thing cause we're all good lawyers and we're going to look at it like lawyers and lawyers insist on clear and convincing evidence and this is all about it. Well, he didn't persuade me with that logic and so I still am waiting to see. I'm disappointed. We haven't gotten the theories of impeachment but we've been promised that tomorrow morning. I'm sure that every democrat in the body has gotten it - has it at this moment.
- W That's the part that must make it a little hard - you know a lot of politics is being played by the democratic side and yet some people on the republican side want to play it politically - and few of you that think that whatever the party stands for is at stake and shouldn't put it politically and yet if you wind up - I guess you've got something of a problem in what kind of impeachment articles you might or might not vote for. Is that it?
- B Yeah, well, that's right. I mean good gosh if they come in there and they allow - you know they do that, those crazy liberals, bring you a bill to eradicate mining. Well, I mean you can be sympathetic with the environmental problems and can't vote for a crazy thing like that. We're libel to get articles of impeachment that charge the president with an impeachable offense in going to San Clemente for the weekend - just going. So, shoot, and that's why I keep saying, let's see what sort of presentation - I don't think it's my responsibility to come up with a bill of impeachment. Not only is it not my responsibility - I'm not going to waste my time drafting what's not going to be considered and what - you know - I'm not convinced of the relevancy or the necessity for anyway so that's where we are on that for the moment.

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W Presumably I guess you could - if there are several articles of impeachment, you can - a member could choose to vote for two or three and not vote for a couple of others...

B Oh, I envision the same situation as we are having on the strip mining bill right now. I just think we've got to go down article by article. You've got to have a point of departure and that's what we've got.

W Could be some dissenting views... (B-Right) Let's see, we've covered the St. Clair presentation, the caucus - is there anything else today that occurred.

W B Just that TIME magazine took a picture of the six of us - for this cover. Six presumably marginal republicans I guess - but you know Time magazine has got at least 50 pictures of me - every pose from stark naked to polar jacket and they've never run one and they must have a file a mile high but they keep teasing ya with something worthwhile - I mean - being on the cover of Time ~~hasxgax~~ is kinda heady stuff for a freshman, and it's amusing.

W That brings up a point I've been wanting to raise with you - you've mentioned a time or two that there is so much material being put on everybody and the presentation as delivered by Doar and Jenner often gets kinda weighty and that you do sometimes lose focus - (B-Right) What publications have been most useful to you in getting honed in on what's going on?

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B Well, I had that feeling this morning when I was reading the Washington Post. I can't remember - it was reporting - and you understand how this is working now - we're taking the evidence of Kalmbach for example, in our closed session and then everybody goes out and tells the press what happened and then you read in the Post. So you get emphasis - you learn what the emphasis was the next day cause I am always surprised after I read the headlines in the Post at what's happened the day before. Never what is significant correlates with what I thought was significant. Of the weekly publications I just feel like Time magazine although it may change my view of it, if its cover standards pick up - Time magazine is so opposed to the president that you don't get even accurate reporting. That disturbs me cause they've got some sharp people around here but they are determined to get the president. Newsweek, I think is less so but not - in fact I think Newsweek does a little bit better job on being objective on it - both of them have been talking in terms of the inevitability of impeachment and all of that sort of stuff - long before it was apparent to me and I just wonder. U.S. News does a good job too so I just go through those three things and just kinda look at it and we really haven't had time. I go back and read - spot read - a point that concerns me. I've got a set of the tabs at home and a set of the tabs in Roanoke and a set here in my home here in Washington and a set at the office but I don't have any time at the office to do anything. So really in terms of organizing the evidence myself, we're totally at the mercy of the staff but I think we've got enough minority representation that the facts ~~xxx~~ have been ground out - if not then I think it was St. Clair's responsibility to tell us what facts were not accurate. So I believe the facts we can live with - I mean we can accept the facts as concluded.

That gets back to the thing that McClory and all these guys were screaming about - the democrats working up their own operation which is true but the evidence and the material and the staff is acceptable to everybody on the committee at the time

accessible

B committee that's got the time or the energy to go over there and talk to them so I'm not that critical of it. I've never been in the majority so I don't know to live with it so it doesn't bother me a bit so we have to move faster when we get our day in court and we have to do a little preparation - be resourceful - but I'm perfectly willing let them do the nitty gritty of culling the stuff and come up with what they think is the impeachable offense cause I'm sure between that crowd, I'm not going to think of anything impeachable that they haven't thought of so that doesn't bother me a bit.

When we get a chance - now that we've got Sam ~~Ag~~ Garrison honed in on cullin this out, we'll get a fresh crack at it so I'm not upset about it. I've diverted from your question haven't I?

W Well, in a sense but it gets back to it. Have you been over to the staff and had them help you.

B No often, no, but tomorrow morning - well, you know, really, I feel like we've gotten to that point where we need to and of course we have Monday and Tuesday off and Wednesday we start in on our serious deliberations. And we planned that. And I'm a little bit offended by that - we are moving mighty fast for all the slow times we've had. Sometimes I have a feeling that Rodino is racing with the Supreme Court but we can't do that so I think we ought to put off the vote on impeachment - I mean we can start playing games with the articles which is alright but if we have a final vote before we hear from the Supreme Court, I think it would be a mistake. I don't - if we are forced to ~~that~~ point, well, we'll have to vote, but I believe it would be better to wait that out and see what we actually have.

W Why would he want to that - why would he want to get a vote before the Court ...

B I think the leadership wants to get it over with and I think they sense that the country is tired of hearing about it. I sense that too. But if they had left us alone, immediately left us alone to quietly deliberate, that's asking too much - I think the committee - I really feel like the committee can be proud of the way its performed. The leaking and all of that is an individual infraction but over all, the way we've gone about it and every-thing, I'm really not upset about it.

W There really haven't been any specific publications that have been really helpful to you in the sense of coming back and looking over...

B No, I guess the truth of the matter is I've probably been a dilitory in not researching enough - both the law and the facts but you know it's kinda an osmosis situation and I just want to be saturated with this and then I can go back and appreciate.... (both talking at same time - lost comments of both)

W That was the NY Times story today - we were laughing about - (B-Was it in the NY Times?) Yeah, it was a story about - kinda color story - mood ~~stary~~ piece, it mentioned that June occasionally would read to you at night from "All the President's Men" to kinda keep you in focus - (B - Yeah) Is that right? You mentioned to me that you had been reading the book...

B Yeah, you know, I read parts of it. She's finished it and she's marked the good parts and she tells me about them. I worm it out of her and, yeah, that has, I mean, she has told me about it and of course, they put it pretty strongly (W-yeah) and there's a suggestion in there that the

B Grand Jury had enough evidence to impeach the President. (W-to indict?) Well, to impeach - well, to indict the president and therefore impeach him. St. Clair ~~skewed~~ illeduded to that a little bit today but he didn't tell us - ~~he didn't mention~~ the racist composition of the Grand Jury, I'll give him ~~credit~~ credit for that, the racial composition - but, true or not, that's a poor public statement to make. It came ~~b~~ from Buckhannan, he's a graduate of the Haldeman ~~school~~ school - of political savvy and those guys - oh, St. Clair, I was mentioning St. Clair's illusion to that and the un-indicted conspirator and then he referred to four counts in the 40's tying, linking this call to Mitchell in N.Y. by Haldeman and I think he dealt with that pretty effectively - saying that this was supposed to be a road map to the president but St. Clair took the position that the road wasn't there and I think probably so - that - I don't believe the vital link to the payment of the \$75,000 was the presidents'. But the combination and failure to act and all of those sort of things - are there! The point that you made pretty subtly was that we had ~~xxx~~ information probably that the Grand Jury didn't have in that Kalmbach - in that ~~K~~ John Dean ~~isn't pretty~~ has pretty well established that Mitchell didn't talk to Haldeman and so forth and the subsequent time situation clearly indicates - as he says - that John Dean could have gone out and played tennis and not spoken to the president and the money would have been paid - that John Dean had already set it in motion before he came to the president and I expect that's a pretty good argument.

Trent Lott mentioned today something that has some credibility - all of a sudden, he says, the proof of the March 21st transaction is no longer the key - no longer significant to them, the enemy - that they are looking elsewhere and talking in terms of constitutional duties and this that and the other - which is true - this is true. And they indicate ~~axxx~~ the weakness in the overall case for impeachment.

W What indicates a weakness...

B Just that the significance that heretofore was attached to this indication of the president's participation in the coverup is no longer what they are pointing to because, of course, ~~the~~ the link has kinda been cut out from Mitchell and Dean.

W Do you find it hard to know when to believe people like Mitchell and Dean and Colson...

B Well, I wouldn't accept uncorroborated evidence right now of Dean - ~~of~~ Mitchell or Colson. I think Mitchell is clever enough, he may ultimately get out of this thing - but goodness knows, he's up to his eyebrows. But you know we may find ourselves in the ~~the~~ position where the only evidence, for example, on the ~~xxxx~~ IRS, John Dean says to the president, said if that Candy ~~and~~ Shultz gives you a hard time, let me know, I'll straighten him out... or words to that effect. Now there's a tape of that conversation and the president hasn't surrendered it but we've got to assume that John Dean has given us an accurate rundown on that conversation. Now Railsback says of course he has, because he knows that tape's around and he wasn't going to lie about that - so, well, regardless of that, there's certainly the ~~evidence~~ inference is there that the president could contradict or he would, especially after his performance today. And bring it for you - he discovered something or if he discovered something that would contradict this, he would bring it out.

W Did you get a chance to see Hugh ~~Scott~~ Scott yet ...

B No, I haven't. I thought about it ~~xxx~~ today. First time. I didn't know we were going to have this afternoon off but we had to stay so close to the

B FLOOR. I'm going to see him, I'm going to see him.

W Has ^{you} ~~he~~ talked to anybody else - like Holton, or would that be...

B No. You know, they keep asking...it wouldn't be very profitable cause I know more about it than he does. It's resolving itself down to a question of what just exactly what quantum of proof we are going to insist upon for an impeachment and I try to figure out some standard of conduct, basically you know, I - this thing of having to have a criminal offense in terms of a statutory crime, I think I left that a long time ago. I think the argument made by our counsel is that the uniqueness of the president's responsibilities don't lend itself to driminal things and I ~~things~~ think that's true. The general phrase "high crimes and misdemeanors" must mean what is traditionally a high crime and misdemeanor. What I mean is traditionally in that area of misconduct. So I think there's a standard of conduct that the president is required to adhere to and part of it is described by statute and part of it is described by the constitution and ~~the~~ I wrestle with is whether it's also described by the reasonable expectations of the American people. For example: if the President of the United States made a habit of getting drunk - no, let's do something - just made a habit of acting very badly, boreishly, at diplomatic functions, to the point - or a public occasions and so disgraced the office by any number of ways of conduct, that would not be what we would expect of the president and that's ~~but~~ beneath the standard of conduct that the American people have expected when they elected him. And I think when he falls ~~short~~ short of the standards that we are reasonably entitled too, that we probably ought to think about impeaching him.

Now, I've just kinda been kicking this around in my own mind but I just - just cannot accept, can no longer accept the views that we have got to limited to a statutory criminal offense but how you articulate or define your standard - why, it's hard and you just have to play with it for a while - so that's my current thinking on it - but like I say, this is something that I'm anxious to hear about as we go and see what others have to say. But we talk about impeachment, we've got discretionary - I've mentioned before - it's in our discretion to impeach and it's in the Senate's discretion to remove and they can - ~~x~~ the crime is to decide to remove. Now traditionally, traditionally, the articles of impeachment have been - the verdict has been guilty or not-guilty - and then the sentence comes in a different thing - you've got two opportunities on that, I think, to remove him and also disable him from holding further office. So there's a sentence problem in ~~it~~ there but basically I really feel like - guilty or not-guilty - is not exactly what the verdict is - I think they can think he's done all the things he's said he's done but it's not sufficient to require his removal in which case the verdict would be not-guilty. So they have discretion and bear in mind, there's no appeal from either one. I wish Jenner knew that. But there's no appeal really, for all practical purposes.

W No universal subject court of appeals on this one...

Well, I just wonder ~~now~~ now, if we impeached him for something that the Senate did not consider impeachable, that we did not consider impeachable, could the President move to go to the Supreme Court and say quash the articles...I doubt it, I doubt it. Course if the Supreme Court did it, the Senate would be in a ticklish position. So would the Supreme Court - we would have a confrontatinn - we'd have a paralysis in the country. We wouldn't know who was President - I don't think that will develop.

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WNT (1)

- B The real protection against the House of Representatives going haywire is the electorate in the first place and the Senate in the second. Of the two, I think the Senate is the weaker ~~xxx~~ reed but they've got to have a 2/3rds vote ~~xxxx~~ over there so that's a right big order.
- W Have you had that meeting yet with Railsback and Cohen and ^{Fish} ~~Pierce~~ and some of the others...
- B Well, I went out to dinner with them - no, really, ~~xxxx~~ not, we're meeting informally all the time. We're going to meet tomorrow morning with a briefing from Cates - a run down on all the facts. And the meeting has grown, as I told you - I think Hogan is going to be there and maybe Sandeman. Sandeman says his job now is to keep his eyes on the lefties like Railsback and see they don't get too far - (W - did he say that humorously) Oh, yeah, they've been here together for about 10 years now - maybe 8 years.
- W Does Sandeman throw you in that bag?
- B No, no, (W-he's just kiddin Railsback?) no, it tickles me, they - Sandeman and Dennis were disappointed that I didn't have anything to say at the caucus today - they are a kinda worried about what I'm going to do - so I enjoy watchin' everybody sweat.
- W I think you've got them all guessing or at least a little sweating -
- B No body knows - cause I dont' know. But I really do think I've got less public statements revealing my position on it than anybody else, don't you.
- W I think so - I ran into Edwards today in passing and ~~asking~~ asked him who he thought were the uncommitteds among the republicans and he said, well, the ones we hope to get are Railsback and Cohen and Fish and maybe - Butler. (both laugh) I think you've got 'em all - they're not quite sure.
- B Put this thing out for bid - (W-Right! Open the secret letters, sort of thing. That's probably good) Did you say he really thought he might lose? (W- on the democratic side - no, I didn't a chance to - the bell started ringing) I'll be curious to know about that.
- W But you had some informal discussions with - (B-Oh, yeah) Is there sort of - among that four - is there any feeling (B - Am I in that 4 you mentioned?) Four - I was thinking of you, and Fish and Railsback and Cohen - is there any feeling among the four of sort of being isolated, or banding together... or anything like that...
- B No, well, I think that Cohen feels that but no, really but Railsback, he's been around, he knows all of those guys and they're not goin' to horse him and I haven't been conscious of it. Like you say - no I think maybe it's the other way around. I mean they're are more interested in me than they would be otherwise be but I don't feel any strain on my personal relationship with anybody - democrat or republican - as a result of this thing. And I don't think anybody else does. We've got several people who go off half cocked - get upset but I haven't ever any of it was personal and I don't think anybody else does.
- W And nobody really has tried to put pressure on in the ~~xxxx~~ sense that you're a dirty rat if you don't ...'

Not since that one caucus that Ed Hutchins mentioned that and I think - I suspect that they had a little strategy meeting and decided that was the

B Wrong way to operate.

W So there's been no more of that.

B None of that, none of that. I didn't see any of that today.

W Have you had any invitations - well, no answered that guy yesterday about that - no ~~disseminating invitations~~ Sequoia invitations.

B Well, I did get an invitation ~~to~~ from the White House to go to the Kennedy Center but I think that just came up in the normal rotation.

W Oh, is that the way they do it.

B I don't know. But, that's my guess, / But anyway, I just respectfully declined. Didn't think anything of it. I didn't think I would mention it to that guy and I think I avoided - I don't think I ~~lyed to him~~ lied to him but (W-I don't think you did.) I'm not above it. It's none of his damn business. No, I mean, I don't like to be quizzed about - I just think that - I don't think the press gains anything by quizzing you on things like that cause obviously you could distort ~~things like~~ that as effort to, god knows, the Vice President coming down, if the administration wants to put ~~wishes~~ / arm on me, that's one way to do it. ~~Noby~~ Nobody has suggested yet that that's an improper - I mean, it's an influence... but Christ's sake...

W Not even Puckett, huh? Not even Puckett?

B Yeah, well, maybe, you know. That thing cuts both ways - maybe he's taking me down there bucking for a raise - buckin for a promotion.

W Yeah, maybe that's right. Have you had any contact ^{at all} from the White House from Friedersdorf's office.

B Only that one invitation. And that was obviously consuming the House. (or house at the Kennedy Center) (W-You didn't think much of that one way or the other) No, don't attach any significance to it. I let it be known in that first caucus a long time ago that I thought it was inappropriate for us to be having any dealings with the White House - and somebody must have mentioned that to them. I really don't feel like they've made any effort to contact me. Two times and you're familiar with both of them - one time when Ainsworth called me the night before the tapes were issued and this one invitation.

W Do you know ~~what anybody else is~~ whether anybody else is getting contacted - anybody from the committee?

B I haven't heard them - shoot, I think, I mean, I don't want to stand on my high horse, that doesn't really offend me, if it proved convenient I think maybe I'd just go on the Sequoia or the Kennedy or whatever it was - it just wasn't convenient so I was - simply wasn't convenient so I can take the high road.

W And you haven't heard whether anybody has gone on it....

B I haven't heard anything - Ed Hutchinson was going to the - he announced to me about a week ago that he didn't care what we were doing on the 19th, he and his wife were going to - had tickets to Lord George. Now I assumed that Friedersdorf got him the tickets and I'm assuming that anybody on the Judiciary Committee could call up to the White House and get the keys - if they wanted them - right now.

W I would think so - get them any tour they wanted, any box. ^{Coufflin} ~~Kauflin~~ is the only one I've seen who has really complained about that - you probably ~~was~~ saw the story - Kauflin of Pa. -

B No, what.

W He had gotten an invitation to the Kennedy Center, presidential box, and invited him to come aboard the Sequoia, cocktails and dinner - I guess it would have been last night - he thought it was all (B-waw that in the Post?) Post had it - I think maybe the Star also. One of those one day flaps...

huh B No, I'll tell you - that's a classic example of the way the White House operates. Larry Kauflin has been off the Judiciary Committee for 8 months - maybe a year - (W - you think maybe they thought he was still on) Yeah, sure, they haven't gotten the word!

W Wouldn't that be something - (laughter both) Do you and Cohen see each other much outside the committee or do you see any of them too much.

B Whew ~~W~~ - not since we've been working. Last night of course I went out to dinner with some of them - no, really haven't developed much social contact with them. Don't think anybody has. *✓*

W You've been too busy - I guess - and when you go out you've got your own Congressional work...

B Yeah, and of course, I like to get out here and cool off if I can and my wife has been sometimes here since the deliberations have gotten so heavy.

T W And of course Cohen plays the piano at night so unless you got a piano...

B I need a piano in the worst way - now where can I get a piano....

W Didn't ~~June~~ June find one?

B No, never found one.

We're running another pass at ~~the chairman to consider~~ getting the Chairman to reconsider the closed meetings question on ~~these tapes~~ these particular testimony on July 3rd but we didn't get very far with that one. ~~Although~~ Paul O'Brien was accompanied by an attorney - a great big Irishman, John J. O'Donald, but he handled himself nicely. The law firm that O'Brien was with was Hanson, O'Brien and Butler, so I was impressed with that.

lawyer He was employed by the CRP as the co-counsel in the civil litigation originally beginning on June 23rd 1972 and he lasted about a year and then he personally withdrew. I think he was scared to death. That's the civil litigation arising out of the democratic breakin - you know - all of - Larry O'Brien was suing them, everybody was ~~sui~~ suing the republican committee, they didn't know what a good thing they had so that was what his job was. I think the main significant thing that we talked about was O'Brien meeting with ~~Bitman~~ Bitman where Bitman called him up - you know this whole scenario - Bitman and O'Brien and Howard Hunt is - O'Brien popped up in the subsequent testimony a whole lot more significant than it had been while you were talking to him. You talked ~~him~~ to him why he only had one little ^{meeting} ~~meat~~ but after you find out later on - we found out Dean, he was running back and forth to Dean and he was all over the place. I think he was scared to death that he was going to be indicted - even now - so I just think that O'Brien comes through probably as a nice guy, a good lawyer, and a convincing sort of witness, but

B scared to death. And I don't blame him. He suddenly woke up over his head and John Dean, he was a nice enough guy, and John Dean suckered him in there as well as Bitman - cause Bitman called him up and said come on over here, Howard Hunt's here and he wants to talk to you about something and then he got over there and Howard Hunt wasn't available. I mean Bitman was busy on the telephone or whatever the reason - Bitman and O'Brien don't agree - but it wound up that ~~Bitman and O'Brien were talking outside of the presence~~ and Hunt were talking outside of the presence of Bitman cause Bitman was too busy and then that's when Howard Hunt gave them the business about the shake down. That was when he tried to shake him down. He said you go over and tell John Dean I need \$130,000. O'Brien says he ran right across the street. Dean's records indicate he was two or three days getting across the street. I don't think that has a whole lot of significance - it was all before - it was all by the 19th of March and the interview with the president was on the 21st of March so there was ample time and I think the record will straighten ~~that~~ it out that basically - that's enough for our purposes - it's not nearly as significant whether it was the 19th or the 16th - no need to quibble about that. \$130,000 It was clearly -

Then when he got over there and talked to Dean, Dean says I'm tired of being in the middle, I'm going to bust the ~~damn thing up~~ goddamn thing up you and I are being screwed unconscious we can get stuck with that obstruction of justice charge. And that was it. That scared O'Brien to death and I think' he started back peddling from there on. The interesting point ~~is~~ raised here was O'Brien said he was Mitchell's lawyer and he couldn't answer any questions about his relationship with John Mitchell on the grounds of an attorney/client relationship. The chairman rules, strangely enough, that our committee doesn't recognize that relationship and therefore ordered him to go ahead ~~and~~ and answer it - well, that clears his skirts ~~his~~ with ~~John Mitchell~~ with the law but it sure did shock me. But you know we never did do that again for a single witness. Of course, several times the question came up of an attorney/~~client~~ client relationship but we never were confronted with another ~~case~~ occasion to rule on it.

Dean's threat

W No, I mean, did anyone raise a challenge to Rodino's ruling...

B No, he ~~just~~ had to anticipate a little bit and he had a little evi -... or some thing there and I was just surprised, that's all.

O'Brien was anxious according to O'Brien (W- somebody will cite that some day as a ~~presiden~~ prexcident) Yeah, I'm sure we will be stuck with it. O'Brien was anxious to get to Haldeman and Erlichman - I mean to Haldeman and tell him that he thought ~~xxx~~ they ought to settle this litigation and waive executive privilege and settle the Common Cause litigation and permit everybody to go before the Watergate - permit him to go before the Watergate Committee - he tried to get Haldeman and he finally wound ~~up~~ up with Erlichman out in San Clemente so we had a little talk about that. As far as I understand Erlichman just let it pass, I don't think he passed it on to the president.

President?

How this book is on books it must be in Hunt's name

A lot of conversation - evidence about what was the nature of the demand that Dean made but I don't have any problems recognizing that it was a shake down in no uncertain terms. Did I tell you that Bitman told us about the \$250,000 insurance, I mentioned that before didn't I? Mrs. Hunt - life insurance on Mrs. Hunt, when she went down with that plane, she had one of these accident policies, apparently, that brought her a straight \$250,000. So all of this time that they were running around feeling sorry for Hunt, he had \$250,000 in his pocket. But apparently, everytime I asked everybody about it, they said it was generally knowledge. I didn't know it was general knowledge.

B I was sympathetic with Hunt until I knew that but that just discretely, I mean, it makes it clearly not a plea for mercy - it's a shake down, a blackmail. I don't believe that O'Brien contributed much... strictly

W Was he Doar's witness ?

B O'Brien was one that St. Clair wanted to call because of his relationship to this - now have we talked about LaRue?

W No.

B LaRue came after O'Brien and Jenner examined LaRue (W- and LaRue was on the same day - right - July 3rd.) Yeah, a little bit later on the same day. Jenner... LaRue looked a lot older than I thought - than I thought he could be - he looked at Jenner all the time and not at the committee - he's just kind of a shifty appearing guy - he's also kinda whipped - you know, he's just going along but you know, I don't think he - I think his confidence has been pretty well destroyed by this thing - that was my feeling. He was down at Key Biscayne when they made the decision - or ostensibly made the decision to - on March 30th 1972 to have a surveillance operation - you know - a campaign intelligence operation - and that's the dispute about what Mitchell had to say about that but that's been kicked ~~at~~ around - the other thing that LaRue attended was - that's been kicked around you know that's the situation where Mitchell says no body - I mean he just dismissed it out of hand. LaRue doesn't have quite that impression but it was kinda tabled. But anyway, subsequent to that, they went to Colson and Colson called up - no subsequent to that Liddy and Hunt went to Colson and said I can't get any action out of MacGruder and Colson called him up on the phone and said you listen to these guys. McGruder took that as an instruction to go forward and he did. And that was the beginning. The Genesis of it. And that's where - then they proceeded from there on - into the Elsborg - excuse me - head for the democratic ~~committee~~ national committee.

Jenner writes { I made a little note here that Jenner has a way of putting his hands together between his knees while examining witnesses. Now this refers to the testimony of Jenner - the examination of Jenner back on the 2nd or 3rd of March - now today or yesterday, I felt he was tired and worn out and he's got a tendency to put his hands sort of visor-like, one hand visor-like on his forehead and I really feel like this has been a physical drain on him and then he tops that off with the republican caucus taking off on him. I think the old guy has suffered, certainly he was so tired yesterday with the examination of Kalmbach that he was - you know - repeating questions and not listening to answers and it's too bad.

W Just an aside - but - is that staff going to be able to take a rest somewhere along the line - (B-I think so.) inbetween, say there is a vote for impeachment...

B Well, ~~there~~ they're going to have to write the report and then there will be plenty of resting time.

W Who takes - from a staff standpoint - do they stay on for a trial in the Senate?

B Yeah, absolutely. They would have to be the - yes.

W Presumably, they would be able to take a vacation for a couple of weeks or something like that (B-yep.) or else they simply wouldn't be able to carry on

B OK. That's right. We're back to LaRue again aren't we. Then we went down on the 17th of June when LaRue - when they got this call out there in California. All of this has been testified to a thousand times - they had breakfast - you know - and I don't really ~~thing~~ think we're accomplishing much with that. Then we came back Monday, - evidently we didn't finish him on Friday and came back on Monday, July 8th - I was a little late getting there but I don't see anything that was very important in his testimony.

I mean we went through the evidence but nothing in there very shocking.
of when

W He was still relating to the point ~~where~~ the payoff was made -

B Yeah, well, all of that, of course, every little thing - he had to - that he was involved in, why we've got that here.

W Did that questioning ~~x~~ seem more significant to you then than it does ~~x~~ now. Exactly when that money changed hands and who authorized it , when and so on and so forth.

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B I think that that was the one point that St. Clair was trying to develop is the point that he made today that John Dean could have gone on and played tennis just as well as seen the president on the 21st of March and the money ~~and would have been passed~~ would have been payed and I think that's proven - from my thoughts it's been proven - but like I say the president knew about it - the fact that blackmail was being paid - certainly by the 21st - because the money - ~~cause John Dean~~ I mean, John Dean clearly said, we've already paid him a lot ~~of~~ of money...

✓

W And the implicat~~ion~~ ~~is~~ of St. Clair's is that somebody else set it in motion....

B Yeah, right. (W- Who does he - ~~course~~ ~~the~~ course that's not his ~~job~~ job, I guess, to imply who else might have set it in motion, but if Dean didn't. I mean, is he trying to indicate that Dean did - or persons unknown - somebody who was off on their own.) No, I think he says, Dean set it in motion when he passed the word from O'Brien to LaRue - I'm out of the money business - you check with John Mitchell - and he did and he did. (W- Oh, I see.) Now, Tuesday, July 9th was my friend William O'Bitman. Have you got him before.

Now I have a note here. We ~~we~~ began on - that's Tuesday the 9th and today is July 18th - I have a note that we began this meeting when Wiggins and McClory asked John Do~~an~~ where's his theories memorandum that he's been promising and he says I'll have it to you by the weekend. And today, I think, we were promised it by tomorrow morning.

The Bitman thing - this guy is a former Dept. of Justice attorney - he prosecuted Jimmy Hoffa, Bobby Baker and he's a partner in Hogan and Hudson, which is a big law firm here, very big law firm. But if he isn't the damnest thing - he's on the fringe of the practice - if he operates often like he did in this instance - and that, of course, was interesting about this whole experience - of Bitman, I don't think he contributed much to our knowledge about the problem except the money he was handling - \$166,000 for representing Hunt and the way he got the money and all of these things - he got a thousand dollars the first day and then he had all sorts of meetings and he said he had 15 lawyers or so working on it - he's been out a thousand - and then he pled guilty and now he's trying to get out of the guilty plea - you know - cause - Hunt is ~~g~~ trying to get out of the guilty plea and that's on appeal. He's got another set of lawyers. They

B keep time records - very good time records, I'm sure. And he's run up a \$50,000 fee and even more but then we got through all of the shake down of how the \$75,000 was passed from LaRue to Bitman by left in the mail box out in the front of Bitman's house but the ironical thing is that Bitman says he didn't get any of that money - that he gave the money to Hunt and he didn't get any of it back. But - Hunt paid him \$60,000 - but he said that was money left over from the insurance. ^{Impressed} The interesting part of that is - Bitman didn't want some kinda of a trust ~~invest~~ on this blackmail money and have to go back. And his firm's been right hard on him - they've put all that money in a trust account - \$156,000 - even now - he has been kicked out or has left as a partner but they've got that money hung up in a trust account - which means an escrow account - which means it belongs to them but they're not going to turn lose of it until they think it's free - but I don't think he endeared himself to his partners by that. I was just shocked that this guy was acting almost full time as a bag man or a messenger boy for Hunt - you see Hunt was paroid almost on his mail being checked and all that sort of thing - so he was having mail delivered to him care of Bitman and Bitman was delivering it and the money was being delivered surupitiously just like something out of James Bond - and - but I'm surprised to find a reputable lawyer allowing himself to get into that position. But that w as ~~really~~ the only thing I really got out of it.

W Bitman was the guy who getting paid off by Blasowitz ...

B That's right - he was getting paid off from Mr. Rivers. Bitman didn't know a thing that would hurt him - I'll say that for him. There was a little interesting exchange in there he said that - Bitman said something about this thing ran up - ran into a whole lot more legal work than he had anticipated when he was employed and St. Clair waid well, I understand that position entirely - which brought forth some laughter. Well there isn't any doubt about it, Mr. Bitman denied any knowledge of any kind of a blackmail, shakedown or prid pro quo and I'm sure everybody else did too but it's hard to equate that with the surupititious manner in which it was handled.

W Yeah, did anybody raise that -

B Well, everybody raises that question, Bitman, I suspect is - and Bitman was embarrassed about it - you know this is the second time he has appeared before our committee. He appeared in the Gerald Ford hearing as a lawyer for Wolfson and - in both instances - he had in effect - to contradict the testimony of another lawyer - this time it was O'Brien. That time it was a guy who was named Becker who is now with Dill, Cramer. So I think that's ironical - or coincidental - so I'm just a little bit shocked to find a man of a firm of that quality carrying on the way he did but his relationship - I doubt if he ever met the president - so his relationship with the president certainly doesn't add much.

W Does one come away from the Bitman testimony with the feeling that it certainly wasn't - I mean humanitarian aspects involved in paying these guys this money because of the surupititious nature of it.

B ~~But~~ No, but he did develop a very strong personal relationship with Howard Hunt and was anxious - and I think he was concerned about Howard Hunt committing suicide - but I think he did evidence some compassion for him and his family. He got to know him quite well. The - this embarrassing sequence took place and Colson talked about this and it was new to me - the significance of whether the conversatinn between ~~it~~ the payment of the \$75,000 took place on the 20th or the 21st - course/it took place clearly on the 20th, that would enhance - you know - the St. Clair theory. Sometime in the spring of '73,

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B no in January of '74, I believe, Breshov called Colson and Shapiro and said when did this payment take place - I'll dig that date out - the last payment take place/ Shapiro, who is Colson's lawyer, called Bitman and said when was it. Bitman says it's the 20th. Shapiro told Colson. Colson called ~~back~~ Busshart - Busshart said check again - Colson called Bitman himself that time and he verified that it was the 20th and then his testimony in the Grand Jury indictment came out - it was on the 21st - even the president got involved in that and called Colson or something and they called Bitman back and he ~~couldnt~~ remember the conversation with Colson and Shapiro and all those guys - the implication in here is that Bitman changed his story to avoid indictment - I think - I mean that's the implication but I kinda question that but I accept Colson's view that he checked with Bitman and told the White House it was the 20th. The White House got themselves out on a limb and that was the point St. Clair made again today, if, here we've taken evidence for 6-8 weeks, and we're confused about it, the witnesses are confused, think how confused the president ~~was~~ must be... and under those circumstances, don't you think he acted properly - maybe so but I don't know. That's not - I think the thing to do when you get in that situation is call in somebody to take over and not sit there and try to puzzle it out at the time.

One thing Bitman ~~w~~ said, you know - Hunt and O'Brien down at the end of the hall had talked about the seamy things that Hunt was going to reveal. And Bitman says it was much much later ~~before~~ before he heard about the seamy things comment. I question that. That's about it on Bitman. Now, let's see, I told you he didn't have a lawyer - I think that's right. I believe he showed up without a lawyer.

John N. Mitchell was next and we talked about that before, haven't we? Okay, my friend, I believe that's it.

I think we could have disposed of them quickly if we had - and I fault Doar and Jenner for that - hell's bells - if the White House wanted them for their witnesses, ~~why~~ they should have been allowed to examine them on the one, two three - and that's all we wanted them for. Excuse me, that's all St. Clair wanted them for - that's all they were called for. Now Colson, wanted to testify himself. So we let him go. I mean I wasn't talking to him - Colson wanted to testify himself - ^{Frankly} nobody really wanted to talk to him but these other guys, they were just involved in this \$75,000 - I think Jenner and Doar were outsmarted by St. Clair - I mean we've given emphasis out of all proportion to the _____ to the whole case. There isn't any doubt about Doar - I mean, in my view of it - and it would be interesting to go back and see what my view was, but my view of it is that the \$75,000 - actual payment of it is significant not so much that the president ordered it paid - there was a time when I thought he had - and I think St. Clair has certainly shaken us in that - certainly shaken me completely but it's still he said to do it and he condoned it and he didn't report it so far as I know, you know the blackmail attempt was never reported to the FBI or Henry Peterson - and you know, that's ~~another strange thing, you hear so little about the ~~is~~ earlier break in at the democratic national headquarters, no body has been charged with that - no body has been with the illegal wire tap, or no body has jumped on nothing - and that's strange - cause it was successful - it doesn't mean they ought charged with a crime but it's just amazing. But of course the articles of impeachment will probably have that in there. (W- the _____ tape?)~~

W That point you raised about the president having said, do it - get the \$75,000 or words to that effect, even if it had been paid two or three days before,

W that's troubled me a little bit and I've thought about it in terms of the business man who has a good staff person who anticipates, but his boss is going to say - or a congressman, whatever, and maybe two or three days before, he needs a speech written, he knows the boss is going to say write me a speech on ~~it~~ this thing coming up - and the guy has got the speech written two ~~or~~ three days before, couple days ~~before~~ later he goes in and the boss says how about writing me a speech on this event bcoming up and the guy says okay - but you know, it's been done but the will is still there - the will of the boss...

Widen could have shut it off
 B Yeah, that's right - there isn't any question ~~in~~ about it in my mind if the president says goddamn don't do that - John could have run out and grabbed the phone and said don't do that and it would not have happened.

W Even though it had been somewhat set in motion - he would have busted his balls to turn it around...

You're dern right, yeah,

B ~~Yeah, nooooooontz have~~ knowing what a sycophant John Dean was he would ~~have~~ have gone out there and intercepted the message and ~~bitton~~ at the mail box -

W So that in a way doesn't become almost technical, the whole...

B Well, sure, it's technical, but you know, crime is - criminal law is highly technical - it comes back basically what kinda - what standard of performance do we want for the President of the United States and I'll be curious to see how it comes out.