

(Taken from H.J.C.

"Minority Memo on Facts and Law")

I will refer to a few of those background contexts. Those to which I refer are illustrative only. There are others.

The first of them is the matter of our acquisition of an extra 15 minutes of the taped conversation of September 15. You will recall that there was a misadventure that took place when our tape people, pursuant to arrangement with Mr. St. Clair, went over to the White House to have taken off for them the tape of the September 15 conference between the President, Mr. Haldeman and Mr. Dean in the oval office. Unbeknown to us at the time, the Secret Service agents in taking off a tape for us from the original inadvertently started the recorder at a point 15 minutes ahead of the point of time that had been specified in the committee's subpoena. The time point you had fixed in your subpoena was the best that you could do based on the limited data you had which consisted of Presidential logs. What was revealed that was new? I call your attention to pages 1 and 2 of the transcripts of eight recorded presidential conversations which have been printed and published by the committee. Those 15 minutes cover all of page 1 and that part of page 2 running down to the bracket within which it is recited: "Dean enters room". You will find in that extra bit of taped conversation significant revelations which absent the Secret Service agents' misadventure, would not have reached this committee because of the President's refusal to supply all relevant taped conversations. In the middle of page 1 there are references to Dean working on the IRS to stimulate tax audits of persons listed on Colson's list of McGovern supporters.

There are other new matters—Watergate, coverup, concealment, containment. All these matters are pertinent and relevant to and needed by you in these proceedings.

What is more, they are adverse in content and support an inference that other taped conversations which the President has refused to produce would be similar in content.

Now secondly, the September 15 tape has another significance, and that is there are 17 1/2 minutes of taped conversation that took place at the end of that meeting which we did not receive from the White House at the time the Secret Service agents took off the segment furnished us as I have related. Ultimately, and again by chance, a very small portion of the 17 1/2 minutes was received through Judge Sirica by way of a transcript. That bit related to Watergate only. Thereafter, the limited portion relating to Watergate came to your attention when Judge Sirica examined that 17 1/2 minutes pursuant to the mandate of the court of appeals to determine whether there was any Watergate material in that 17 1/2 minutes. He reported of excerpts from the a result, you had a very short page and one-half of transcripts from the last 17 1/2 minutes confined, however, to Watergate. But, a material portion of your investigation deals with abuse of the IRS. What happened? Within the past 6 weeks, the Special Prosecutor petitioned Judge Sirica to reexamine the 17 1/2 minutes to see if there was anything on abuse of the IRS in that 17 1/2 minutes. And the good judge did so, and he reported in open court that there were conversations respecting abuse of the IRS that was relevant to the impeachment inquiry. Mr. St. Clair, in open court and for the President, refused to consent to your being supplied with Judge Sirica's transcript of the portion of the 17 1/2 minutes relating to abuse of the IRS; furthermore,

Mr. St. Clair objected to delivery of that transcript to the Special Prosecutor and on behalf of the President appealed Judge Sirica's turnover order to the court of appeals where the matter is now pending. Judge Sirica also ruled, as I have reported to you, that the court of appeals mandate authorizing him to examine the tapes in camera was so limited that he was without authority to give the committee a copy of the transcript, much as he wished to do so.

Now, another pertinent event is the fact that by—again by happenstance, again by happenstance, we received from the Special Prosecutor by mistake on his part 160 odd pages or 180, of Mr. Ehrlichman's notes which had been filed with the court by the President in response to Mr. Ehrlichman's subpoena. You had subpoenaed the President to deliver a copy of those notes to the committee. We received from the President approximately the same number of pages but a large number of them were marked or blanked out. On the other hand, the 180-odd pages of the same notes received, by happenstance, from the Special Prosecutor contained far fewer blanked out pages. In the Special Prosecutor's copies, there is a host of material that is relevant and pertinent to these proceedings, and of a thrust adverse to the President's position, some of which has already been cited to you in the material presented to you last week, which is blanked out in the material received from the White House. Thus, here again, you have an example, a context, from which you may draw an adverse inference with respect to taped conversations and documentary material which the President has refused to produce.

I mention these three solely to say to you that it is true, as Mr. Garrison argues, that you draw inferences, adverse or favorable as the case may be, in the light of the context of the evidence before you. And here in the three instances (and there are more) in which this matter arose, this context, something that was relevant, material and pertinent and of adverse thrust to the President's position came to the attention of the committee.

Also in this connection I mention the President's edited transcripts. You may attribute the President's difficulties with the edited transcripts to the fact that maybe stenographers put headsets on and just typed away. We must accord to the President the benefit of that doubt. But that is beside the point. The point here is that there were substantial omissions from those edited transcripts as well as material differences in text that were adverse to the President's position, as you know, so, when you consider the drawing of adverse inferences in the light of context, you must consider not only the eight recorded transcripts which we deciphered, printed copies of which you have, as well as the comparison of White House edited transcripts and Judiciary committee transcripts of the same Presidential conversations. Our transcripts as against the edited transcripts of the same tapes revealed in a good many respects material differences, including omitted materials, adverse to the President's position.

I attribute no evil purpose with respect to the edited transcripts but I do say that when you determine whether you are going to draw adverse inferences with respect to tapes and documentary materials refused to you by the President, you must do so in the light of the contexts to which I have called your attention, not to mention others that time does not permit.

** Albert Jenner explanation of the mysterious receipt of the Sept. 15 tape.*

BACKGROUND OF ALLEGATIONS THAT GERALD R. FORD
CONSPIRED WITH THE WHITE HOUSE TO BLOCK PATMAN INQUIRY

1. The September 15, 1972 White House tape reveals that Nixon attached the highest priority to obstructing the Patman inquiry in Watergate, the first such congressional investigation, initiated in early August, which was about to subpoena witnesses who later appeared before Senate Watergate Committee and unraveled the cover-up.
2. On September 15 Nixon attempts to head off Patman (accomplished with Ford's help on October 3, when Patman was denied subpoena power by majority of House Banking Committee); he expresses intent to stay out of the effort to block Patman and involved Ford (the taping machine is on; Haldeman knows it, but Dean does not); Nixon delegates Haldeman and Dean to contact Erlichman, Timmons, and Cook (Timmons' assistant) to get Ford and Garry Brown (Michigan Congressman) to take the lead in blocking Patman.
3. On the September 15 tape Ford is referred to 10 times, in the following ways:
 - "[Nixon]Uh, What about Ford? [Unintelligible] do anything with Patman?"
 - "[Nixon]Gerry should talk to Widnall [Banking Committee Member] and, uh, just brace him:.."
 - "[Nixon]Gerry has really got to lead on this..."
4. Virtually all of the assignments Nixon gives out during September 15 conversation are carried out-- Justice Department prepared advisories that Patman inquiry would interfere with legal rights of burglars; financial records of Banking Committee Members were checked; Rothblatt letter was sent; and Ford sent under his own stationery letter to Fair Campaign Practices Commission alleging campaign wrong-doing on part of McGovern and Shriver.
5. The one critical assignment that is now in question-- whether Ford did what Nixon asked him to do in torpedoing the Patman investigation can only be clarified by release of tapes subsequent to September 15 (it is known that Ford was in daily contact with White House during this period, in contact with Timmons and Cook on Patman matter)
6. In an NBC News interview, reported on Today show, this morning, Dean confirms he was in contact with Cook 15 times during Patman period, 9 of them via telephone; and that Cook told him he had talked to Ford about Patman inquiry more than half a dozen times
7. In his book, Blind Ambition, released today, Dean writes about Ford connection with White House efforts to block Patman:
 - "[In the September 15 conversation] Congressman Wright Patman's planned hearings on the Watergate money transactions posed the biggest obstacle, I informed the President. Maurice Stans had been calling me regularly

to express his fears about being called before Patman's committee. The President recognized the gravity of this possibility. He informed Haldeman that we would have to lean on Jerry Ford to block the hearings. 'This is the big play,' he observed intently, 'I'm getting into this thing, so that he, he's got to know that it comes from the top-- and that he's got to get at this and screw this thing up while he can, right?' " [p. 139]

"[In a conversation with Haldeman about four days after the September 15 conversation in the White House] 'Call Connally,' said Haldeman, 'He may know some way to stop Patman. And tell Timmons to keep on Jerry Ford's ass. He knows he's got to produce on this one.' " [p. 142]

"Timmons, who met regularly with Jerry Ford, had explored with him Connally's suggestions about Patman. . . 'Jerry and Dick Cook [Timmons' aide] tell me they're sure every one of the Republicans is lined up' [Timmons speaking to Dean]. [p. 143]

8. It is known that Ford and Nixon met and conversed by telephone numerous times during the period in question, September 15, 1972 through May, 1973, the beginning of the Senate Watergate hearings
9. The taped conversations covering this period of time is the only material, along with White House logs and memoranda, that could clear up Ford's role in the obstruction of the Patman inquiry; the September 15, 1972 tape, which is the basis of the allegations, was not known to the congressional committees investigating Ford's background in connection with Vice Presidential confirmation; the FBI Report on Ford could not have dealt with the tapes; the tapes subsequent to September 15 have never been checked, according to Special Watergate Prosecutor Charles Ruff, and are currently under litigation by Nixon's lawyers.

BACKGROUND OF ALLEGATIONS THAT GERALD FORD TESTIFIED FALSELY
BEFORE CONGRESSIONAL COMMITTEES DURING HIS CONFIRMATION HEARINGS

1. SENATE RULES AND ADMINISTRATION COMMITTEE HEARINGS ON CONFIRMATION
OF GERALD R. FORD AS VICE PRESIDENT, NOVEMBER 5, 1973:

Q. [Senator Robert Byrd] Representative Ford, will you relate to the committee your role, if any, in the blocking of an investigation by the House Banking and Currency Committee into the Watergate breakin... [p. 128, Committee Hearings]

A. [MR. FORD] I can say, categorically, Senator Byrd, I never talked with the President about it, or with Mr. Haldeman, Mr. Ehrlichman, and Mr. Dean. I know emphatically I had no conversation with them now... I talked with Mr. Timmons, or someone in the Legislative Liaison Office of the White House, but even in this case I do not recall any conversations concerning this particular matter."

Q. [Senator Byrd] But as I understand you, any efforts that you may have contributed toward the stifling or impeding or blocking of such investigation by the Patman committee were not born of your feeling, or at least your feelings as expressed to anyone, that such an investigation would be harmful to the President, harmful to his chances of reelection, or harmful to your Party?

A. [MR. FORD] The answer is no, Senator Byrd.

2. HOUSE JUDICIARY COMMITTEE HEARINGS ON CONFIRMATION, NOVEMBER 16, 1973:

Q. [Congresswoman Elizabeth Holtzman] Now, I understand also from your testimony that although you met with Mr. Timmons of the White House virtually every day, you did not discuss with him these matters of the allegations in the Banking and Currency staff report and you did not discuss the White House role or White House interest in stopping the investigation...

A. [MR. FORD] ...I did not discuss the action that I took [to block Patman inquiry]... with Mr. Timmons or anybody else. . . I do not remember discussing those allegations with anybody on the White House staff in 1972

Q. [Congresswoman Holtzman, NOVEMBER 26, 1973] I also wanted to clarify the record with respect to my questions on the Banking and Currency Committee investigation. . .

A. [MR. FORD] . . . I said I never called Mr. Timmons on this matter specifically. I also said in the course of our discussions about many legislative matters we might have discussed very generally the situation there, but I never called him nor he called me concerning these particular problems in the Committee. . . Whenever we talked [Ford and Timmons] about that matter [Patman inquiry] it was in general terms, not as to action requested by them or action taken by me.

"Prima Facie Evidence of Guilt":
Ford and the Blocking of the Patman Watergate Inquiry

The following five points, it is argued, establish a prima facie case warranting a review of the September, 1972 through May, 1973 White House tapes:

1. The highest ranking staff of the Nixon White House have already been convicted of conspiracy to obstruct justice and of perjury, for involvement in blocking Watergate investigations such as the Patman inquiry and other offenses
2. The September 15, 1972 White House tape, which became known several months after Gerald Ford was confirmed by Congress as Vice President, indicates that Nixon's No. 1 priority was the killing of the Patman investigation, the earliest such congressional inquiry into Watergate and which occurred before the 1972 election; the killing of the Patman inquiry was a major part of the conspiracy and cover-up, as cited in section 4 of the First Article of Impeachment of Richard Nixon
3. Ford admitted before Senate and House Committees charged with his confirmation that he participated in overt acts to stop the Patman inquiry
 - admitted he participated on at least two occasions with Republican Members of Banking and Currency Committee (and these meetings followed release of first Banking and Currency Committee staff report on prospective Watergate inquiry in which rationale was laid out for subpoenaing some 20 witnesses)
4. Key aspect of White House cover-up, as disclosed on September 15, 1972 tape, was the alibi that a Patman investigation would infringe on the legal rights of the 7 Watergate burglars; the White House arranged for the Attorney General and for Henry Peterson to argue this rationale in letters to Republican Banking and Currency Committee Members (and one of these letters was in fact written by Ken Parkison, the lawyer for CREEP)
5. Ford admits talking to Republican Members about their need to justify blocking the Patman inquiry on grounds that it would infringe on legal rights of burglars (incidentally, an argument that was later rejected)
6. Ford's continuous insistence that he wasn't working in behalf of White House to block Patman inquiry, not for the sake of politics, but to protect burglars' rights is, indeed, a perpetuation of the cover-up (since this rationale has already been shown to have been part of cover-up)