

Oral history interview with John J. Chester
Conducted by Sam Rushay and Sam McClure
College Park, MD
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Q: Good morning, Mr. Chester. We thought we'd like to ask you some questions about your experience as Special Counsel in the Nixon White House in 1974. And at first we would like to ask you briefly to discuss your legal practice and political experience in Columbus, Ohio.

Chester: My legal practice—when I came out of law school, I had always thought I'd join my father in the practice of law. He had a type of law practice that, he had been a prosecuting attorney in our county, and he had a good mixture of criminal and personal injury and small business-type things, and so I joined him in the practice of law. He had, he was always somewhat politically minded, and as I say, he had been a police prosecutor then prosecuting attorney, was defeated for reelection when the Democrats started gaining, coming back into popularity in 1930, '30, which led to Roosevelt's election in 1932. My grandfather had also been a doctor, had been a lawyer, and he had always been interested in politics. And he had run for office I think four different times and had never been elected to any of them. The, and I was, and I was close to him. So I sort of grew up in a political world. And my first time that I became interested in politics was when I was six years old, when my father ran for prosecuting attorney. And I think that I participated in some way or another almost every election after that with the exception of 1940, 1942, and 1944 when I was aboard destroyers for Uncle Sam. And the, my college political activities were climaxed by having had the opportunity to ride the Willkie train across Massachusetts in 1940.

And in any event when I got into, came back to Columbus I joined the Young Republican Club, became active in local club activities, political, with the idea of running for the legislature. And I did run for the legislature in 1952 and was elected and ran again in '54 and in '56. I had hoped to run for Congress, and John Vorhees was a long time congressman from Columbus, and I had looked up to see when he'd get his full pension and one thing or other and figured that he'd retire shortly after that and I was right on the nose. And he retired in 1958 and I wanted to run for his spot. But my father died in 1957, and I had to pretty much choose whether I was going to hang on to his law practice or, because we had just a small office, or whether I was gonna try to run for Congress. To run for Congress I would have had to run against the local Republican organization and against the principal paper. And I assessed my chances as not being very good and I decided it wasn't worth losing my practice and so I dropped out.

But in the meantime in 1952 when campaigning for the legislature I had met Bill Saxbe, and Bill ran for and was elected speaker of the Ohio House in 1953. And in 1954 he ran for the Senate challenging the endorsed Republican candidate, who was George Bender, and I helped him with that campaign; was very active in it. And then again in 1956 he ran for attorney general and I was his campaign chairman and I was again his campaign chairman in 1958 when the Republican ticket went down to defeat in Ohio. I was his campaign chairman in 1962 and again in 1966. I was not his campaign chairman when he ran for the Senate in 1968 by reason of the fact that it was too big a job, and I just couldn't take the time to do it. So that he was elected senator in 1968. But as a result of all this I formed a very close personal relationship with Saxbe.

As a matter of fact his wife introduced me to my wife. So that they were both from the same county. And that led to the, led to my coming to Washington with the Nixon Administration.

Q: You've said that Mr. Saxbe recommended you to the President as his Special Counsel.

Chester: Yes, I, he did. He when, he had decided not to run for reelection, and I think it was in the summer of '73. He would have been up for reelection in '74. And he decided that he would not run for reelection that summer and announced it publicly that he would not run for senator. So that I think that this led directly to his being selected as the President's appointment to succeed Elliot Richardson. And as Bill says himself probably because not so much that the President liked Bill, because I think Bill had said some harsh things about the President, but I think because the Senate always elects their own. And, and he (tape stopped)

Q: Yes, sir, following up on that—

Chester: That's, that's a long answer to a short question.

Q: Oh, no. That's, just what we're looking for, that type of thing. I think Mr. Saxbe has said that in fact he had recommended you to be to the position that Mr. St. Clair eventually assumed. Is that accurate to say?

Chester: Well I'm not sure about that. When Bill was first under consideration for the appointment, Bill talked to me about coming to Washington with him. And at that time he talked to me about the possibility of perhaps some position at the Justice Department. And we never really got down to what position, and that was just sort of luncheon talk when Bill would come back to back to Columbus, and we'd go to lunch and he'd tell me what's going on, and asked me if I'd be willing to come down. And I'd indicated I would, I thought it would be interesting experience and my law practice had been, I had enough partners and one thing or another that I thought I could take some time to do it. And it was, and at some time it was in, I think, around early December of '73 he approached me about the possibility of taking a position with the legal defense team. And I think that, as I recall it, he indicated that his confirmation proceedings, the Senate had confirmed Bill as attorney general and Leon Jaworski as special prosecutor all at about the same time. And that he had agreed that he would keep the special prosecutor, he'd keep the Justice Department out of Watergate, out of, that there'd be the special prosecutor would in effect act independently of the Justice Department. And so that he said they were going to set up a legal defense team in the White House, and would I be interested in participating or, you know, taking a job or what, however you want to describe it. And I said that I would, and I thought that would, you know, I'm basically I've been a trial lawyer and I, a trial lawyer not in the sense of plaintiff's lawyers but in the sense of being a litigator. And I'd had a number of difficult cases and some fairly high profile cases and so another high profile case just sort of intrigued me, you know. As I always, I've always said that when the game goes on I'd prefer to be on the best side of the game but if I can't be on the best side then I want to be on the other side.

Q: Right. Did you look forward to maybe working with Richard Nixon himself?

Chester: I, no.

Q: Did you, had you campaigned for him, or done any other work for him, or consider yourself a pro-Nixon person?

Chester: Of course I had followed Nixon's career. I had been active in the National Young Republican movement in 1952. And I had supported Dwight Eisenhower for President in 1952. I had gone to the national convention in Chicago in support of Dwight Eisenhower. I was sort of a renegade at that time because Ohio was firmly dedicated to the candidacy of Senator Taft. And, of course, Richard Nixon was nominated for vice president at that time, so I had followed his career from that time on I knew some of the Young Republicans had gone into the Nixon office whom I saw from time to time and into the vice president's office. And so I knew something about him. And also in 1950, Ray Bliss was elected chairman of the Ohio Republican Party. And the years I was in the legislature I was very close to Ray Bliss, and I carried the bills in the legislature that Republican headquarters wanted carried. And so, as Ray Bliss moved up the line he became national chairman. Once again I had some insight into Richard Nixon. Ray Bliss did not like Richard Nixon, he, now let me take that back, that's premature. Ray Bliss was, had the confidence of President Eisenhower, and you know President Eisenhower refused to campaign for Richard Nixon in 1960. And it was really Ray Bliss would went to President Eisenhower and got President Eisenhower to come out and campaign or to announce his support I think maybe as late as October in 1960, almost too late to help him. And if he'd, you know, who knows what would have been the effect on the election if President Eisenhower had come out earlier and really campaigned for Richard Nixon. And let me say this. Richard Nixon's style was not particularly my style either his style of speaking or there was just something about him that I didn't warm up particularly to Richard Nixon. But that had nothing to do with whether I was going to come down and take this job.

Q: Right.

Chester: My, and also let me say this, and this was before I decided to come down here, I had been around politics long enough. I was close to Governor Rhodes in Ohio and, as well as Bill Saxbe. And so that I had been around politics long enough to know that if something like this happened, if I were chairman of Bill Saxbe's campaign or chairman of Jim Rhodes's campaign and something screwed up like this, the first thing I would do would be I'd get on the telephone and then I'd call Bill and I'd say "Bill, we've got a problem." And so that I of course had no knowledge that that John Mitchell would call up Richard Nixon and tell him we've got a problem. But, you know, it was just, it's just such a natural thing to do and such a probable thing to do that I always wondered about it. But again, that doesn't have anything to do with my coming down and taking the job.

Q: We were wondering what your impressions were of Watergate as you undertook your responsibilities as special counsel and whether those views changed in terms of, you know, initial feelings about the President's complicity or knowledge of these, the burglary. Or whether that changed from the time you took the office to your experience in the White House. Did you find it hard to separate your personal views from your professional obligations as the special counsel?

Chester: Well, you can never quite completely separate your personal views of a matter from how you conduct yourself. You know, lawyers take on their clients' cases. And you fight hard for your client. And in this instance, Richard Nixon was my client. It's a little bit different from private practice in that it was the government that was paying me. It wasn't like President Clinton had his own counsel that he was paying one way or another. We were actually on the government payroll. And I had to take a leave of absence from my law firm so that my law firm wasn't at all involved. And so it was a little bit different. But nonetheless I think we looked at it pretty much as that the President was our client.

You asked me about, or you mentioned preliminarily about the brief that I wrote on the basis for conduct for which you would impeach a president. After I wrote that, I was in the White House in one of the big rooms where, I can't remember which, where they were conducting a press conference. And I was talking to General Haig. And General Haig complimented me on the brief that I had written. Or that I was responsible for, I didn't actually write the whole thing because there were others who contributed to it, but I was responsible for it and I had put it together. And General Haig told me at that time he says "if we lose on the tapes we've lost the presidency." And that simply confirmed what I believed had probably happened: that somebody had called the President and told him, and that it must be on the tapes some place. And I never said anything about it to anybody, never talked about it because I considered that simply a communication between myself and General Haig. And it was not to go any further.

So that, you know, you can draw whatever conclusions you want from that as to what the situation was so in any event there was never any serious doubt in my mind that there must be something somewhere in the tapes that that would pose great problems for the President. We of course as legal counsel and for the Watergate matters we were never permitted to listen to the tapes. And Jim St. Clair was to my knowledge never listened to any tapes.

St. Clair was the head guy of the legal team. I suppose technically I was supposed to be the number two guy. Getting back to when I was hired, Bill told me that General Haig had come to him when he told him they were putting together this legal staff. And had asked him to recommend the number two guy. And Bill understood it to be somebody that would be, that Bill would have confidence in, and would be sort of a liaison between the legal staff and the attorney general. I might add parenthetically that that never worked that way, to my knowledge it didn't work that way and I was never used as a, I was never used as a liaison with the attorney general. But I'll tell you more about that later, too.

Q: Okay. We were wondering what your day to day work was like. I guess this would be a good point to interject in terms of your duties vis-à-vis the Ervin Committee, or the House Judiciary Committee, or the Special Prosecutor.

Chester: Well they varied from time to time. When I first got there, I think I was there before St. Clair was, actually took my job before then. I had had an interview with the White House in the middle of December. And this was after Bill had recommended me. He said, Bill said he had talked to the President about me. And he said the only thing the President said was that he didn't know me. Which there's no reason why the President should know me, you know? But I

had an interview with, it was four or five people sitting around the table in General Haig's office. And one of them was, Haig was sitting at the head of the table and Bob Bork was sitting across me, and there was, and I my recollection is that it might have been Fred Buzhardt who was there, and there was a man who had been with the Defense Department and I think was an assistant secretary of state. And he had been a top executive in one of the big companies whose name has slipped my mind now and I can't remember his name at the moment.

Q: David Packard?

Chester: He subsequently, he subsequently became Ambassador to France too. Was quite an outstanding guy. In any event—

Q: Wouldn't be David Packard, or—

Chester: What?

Q: Packard. David Packard.

Chester: No, no.

Q: He's the first big executive I think, uh.

Chester: It was not. Well.

Q: Ken Rush?

Chester: The thing that stood out about the interview were two things. One was that General Haig had to leave every once in a while to talk to the President. But more importantly, I remember that being from Columbus, Ohio, and not really being a very sophisticated fellow in the ways of Washington, I made a remark that I didn't think it was proper to tape people's conversations without their knowledge. And whereupon all these gentlemen sitting around the table said that they all did it. And that this was the custom in Washington, either tape the conversation or have your secretary on the line. That they all had switches on their telephone that they could cut their secretary in on the line so he didn't know it. Well, you know, after I said that and I thought about it later I thought, "God, you know, what a hayseed you are, you'll never get that job now." And so that but I did I felt strongly about it, that if you're going to tape somebody you should tell them ahead of time you're going to tape them. In any event, so then I didn't hear anything for quite a while. I thought at first I had the job, and I had started to shut down my law practice. But then, when I didn't hear anything, I said well, "I'd better go back to work again at the law practice." All this excitement at going to Washington was going out the window. About that time I got another call from General Haig early in January, I think, and I went down and very quickly after that came down and went to work.

So that, when I came down there was no law library in the White House. Of course, we were in the Executive Office Building. And I was taken over there and I was given an office. It was a nice office – two room office, so that I had my desk in one space and - it wasn't a great big place

but it was adequate - and my secretary in the outer space. You know, I had all the things that went with it. TV, you know, the TV arrangement that the White House had, and that sort of thing. I had a secretary by the name of Connie Kupa (sp?) and she was an experienced Washington secretary, knew her way around, could tell me what to do and what not to do. Keep me out of trouble, that sort of thing. Knew all the places - the social things to do, you know, the right restaurants to go to. If I needed something, if I needed a book from the Library of Congress, why, she'd have it down there in a, within hours and, if I wanted a particular, if I'd missed a program, a TV program over the weekend or something, she'd have it on the TV for me in no time at all. And I got all the various daily reports that were circulated through the White House, the events of the, the events of the day.

The first thing I did was to set up a library and make arrangements, with the help of Connie, make arrangements to get the basic law books that we would need, you know, like Federal Code and all that kind of stuff. So we set up a library in the building. And then the rest of the staff started drifting in. They all came from either US Attorney's offices or from the Justice Department. Until we had, I think, probably twenty-five lawyers on the staff. They were all, for the most part, pretty young. But, but a well, you know, a good group of young lawyers. And it wasn't very long after I was there, I think, that St. Clair came in. And I met him, and one of the first things that we did, that I did with him, was to go with him to a meeting with Jim, with Doar. Jim Doar? I'm not sure what Doar's first name was. John Doar.

Q: John Doar, I believe. I think so.

Chester: A meeting with John Doar. And St. Clair being the guy in charge I sort of sat in the meeting and didn't say a whole lot. And I always thought that afterwards, as I look back on it, I always thought that the fact I didn't say much at that meeting might have influenced somewhat St. Clair's and my relationship. Because I think maybe St. Clair didn't think I was aggressive enough, you know, to meet his standards.

But the, one of the first assignments I had was, was to put together the brief on the law of impeachment. And I had, I used certain members of the staff to do research on it, but primarily, my primary research was done with constitutional law professors around the country. There was one constitutional law professor, for instance, who had been with Ohio State and then I think he was down in North Carolina or some place. And he was very helpful at supplying materials to me. And then there were, you know, this thing attracted, the whole thing attracted so much attention it wasn't hard to find people who were interested in helping. And there were two, three, or four other law professors who, constitutional law professors whom I talked to and worked back and forth with in trying to come up with a reasonable basis for a brief on behalf of the President. The result was that, and this took a good bit of time and went on for some time before we got the brief finished. The position that we took, part of also I relied on the brief that was filed on behalf of Justice Douglas when Gerald Ford tried to get started impeachment proceeding on Justice Douglas.

Of course the, I say parenthetically, I recently attended a luncheon that was, where I sat right beside Kenneth Starr. And Starr brought up the Clinton impeachment proceeding. Something, I've forgotten what triggered it. And Starr made the remark to me, he said that a number of

constitutional scholars had indicated to him their disapproval of his position on the Clinton impeachment because that they didn't think that what Clinton did rose to be, rose to the level of an impeachable offense. And I told him that I didn't think it did either from my study of and from my experience in writing the Nixon brief, and dealing with the Congress and the Judiciary Committee brief on impeachable offenses. And he said, well, we said, we followed the examples used in judicial impeachments. And so my answer to that was the difference between judicial impeachments is that judges are appointed for life and presidents are re-elected every four years. And I then, I said that I thought that that made a big difference in how the law of impeachment would apply to a president as compared with a judge. Obviously he didn't agree with me.

Q: Do you recall some of the arguments that you presented in your brief?

Chester: Basically it was – I don't know whether you have a copy of that brief or not. Do you have a copy of that brief? If you don't I have, I do have copies of that brief.

Q: We've seen some of the preparatory material in some unprocessed files, but I don't think we saw a full copy of the brief.

Q: I'm not sure. I don't know if we have it or not. We'd certainly like to have it.

Chester: Well, if you don't I'll make a copy and I'll send it to you.

Q: We'd appreciate that, sir.

Chester: It, basically it went, going back to the English precedents as to what constituted impeachments under English law. And then also an analysis of the Federalist Papers, an analysis of the notes that Madison made of the Constitutional Convention. And certain references to judicial impeachments as well, I mean, such as the Douglas attempted, Douglas impeachment, but then it went back to Judge Chase's impeachment in, early in the Jeffersonian period. And more importantly, the impeachment of President Johnson. Of course, the impeachment of President Johnson was because he didn't follow the wishes of the Congress in the appointment of certain, in the appointment a Cabinet member. And so it really didn't help our, didn't really help our situation very much. But basically the argument was that it took a very serious criminal offense to, that the President had to be guilty of a serious criminal offense to be impeached. The Judiciary Committee brief argued, and the Judiciary Committee decided, the basis for impeachment, of course, was that they agreed that it had to be, we were in agreement that the offense had to affect the government, had to have a direct impact on the government and the abuse of power, the abuse of the exercise of the powers of the presidency. But what we maintained in our brief was that it had to be done criminally, as opposed to simple abuse of power that might be determined, that might not be a criminal offense. I'm not at all sure that I knew at the time. We had almost, when we prepared the brief we had almost no information about what the President had done. And we never were briefed on what the President had done.

I learned, one of my assignments after that, for instance, was I did work on the President's tax returns. Chapman Rose, who was a Washington lawyer, and who was originally from Columbus. He had been an Assistant Secretary of the Treasury under Eisenhower and he opened

up the Jones Day office in Columbus – in Washington, their branch office. It's a Cleveland law firm. And I spent a lot of time with him while I was here. He was very kind to me, inviting me to his house and to the Metropolitan Club for lunch and all that sort of thing. But then I did work with him. He was the President's chief advisor on his tax returns. And so it was, the Judiciary Committee wanted the President's tax returns and certain information about them. And I worked with, I worked with Chapman Rose on preparing those documents to be submitted to the Treasury. And, of course, in that there was always, there was discussion of what the President, when the President had submitted his Vice Presidential papers to the ...

Q: Right

Chester: to the National Archives. I'm sure you're familiar with that story.

Q: Right.

Chester: Getting back to the, you asked about the day to day activities. In writing the brief we spent a lot of time. I went home on weekends. I'd go home on Friday night and come back on Monday morning. Most of the time, unless there was just too much going on that I, I would have to stay once in a while. But I went home when I could. And I had four children, three of whom were in school, one too young to go to school. There were times when, later on after I'd been, later on. Well, I think the next real thing that I did after the brief was, we had the Senate Watergate Committee case. They had, Sam Dash had brought suit on behalf of the Senate Watergate Committee in federal court to get the tapes. And they had lost, Judge Gesell, I think it was, had decided that they weren't entitled to the tapes. One of the main cases that were involved in that case was a case called *McClain vs. Daugherty*. And it was brought when, had brought against a man named Mal Daugherty who lived in Washington Court House, Ohio.

Q: Oh, sure.

Chester: And when the Senate was investigating Harry Daugherty, Mal Daugherty's brother who was Attorney General under Harding. And it was interesting in that the Vorys firm represented, which is a big Columbus firm, represented Mal Daugherty, who was a banker down in Washington Court House. They were trying to get papers that would incriminate Harry Daugherty, the Attorney General. And it was one of the principal cases involved which made it sort of a hometown...

Q: Right.

Q: Sure.

Chester: hometown interest. In any event, St. Clair said to me that he was going to go see Bill Saxbe, and that they wanted Bob Bork to argue this case in the Court of Appeals. And he said, and I remember his saying to me in particular, he said to me, he said, "You know," he says, "if Bill Saxbe doesn't agree to this," he says, "I'm going to have General Haig call him. General Haig or the President himself might call him to get this done." Of course, Saxbe had agreed to keep the Justice Department out of all the Watergate matters and my thought to myself, I didn't,

I don't think I said it to St. Clair, I said, "Well you sure don't know anything about Bill Saxbe." I don't think I said it, but that was the thought that went through my mind. And that gets, and the relevance of that is two-fold. First, that Bill had told me that the original idea of my coming on the staff was perhaps to be sort of a liaison with him at the Justice Department. But I was never used for that. Whenever they wanted something from Saxbe they always called him direct, they never asked me to go to Saxbe and get something. Never. That never happened the whole time I was here. And I saw a lot of Saxbe because I was over at his office once a week or once every two weeks for lunch, and particularly, and I went, he and Dolly would call me, they were going to a party some place or something, they'd frequently take me along when, or if I was down over the weekend I'd usually have Sunday night dinner with them. But never once did the White House ask me to use my influence with Saxbe for anything. But, in any event, when they talked to Saxbe, Saxbe told them, and Saxbe was always promoting me, I think, and he told them instead of Bork arguing the case why didn't they have me argue the case. And so, I ended up arguing the case and, of course, the Court of Appeals sustained the trial court. That case was about the only successful case that the President really had. There was, I think there was some criticism, of the way I argued the case by some of the younger guys, some of the brief writers because they thought I should. Oh, I know, they wanted Charles Alan Wright. You know, Wright had been in Washington with the staff, with the White House in '73. They wanted, if Bork wouldn't argue it they wanted to get Wright to do it. Because they could, they felt that those types could cite all the footnotes of any case that came along, that sort of thing, which, I couldn't do, which I never did do, and which wasn't my style, you know. My style, and I've argued a lot of cases in the Ohio Supreme Court, unfortunately, I never got to argue, never got to the United States Supreme Court to argue a case. But, I've argued lots of cases in the Ohio Supreme Court.

Q: The outgrowth of this was that the tapes, the original tapes issue was temporarily shelved and the transcripts were produced instead? Is that the right chronology of the arguments that you made?

Chester: No, we didn't produce transcripts for the Watergate Committee. I'm not sure what transcripts you're referring to.

Q: The April '74 transcripts.

Chester: Well, no, that doesn't have anything to do, that case, I think that case had been argued and decided by then. The transcripts of the tapes that were published in April, that raised such a furor because of the "expletive deleted" bit, I had nothing to do with. And my first knowledge of it was, I was, I had gone home for the weekend, and when I came back on Monday morning I was in St. Clair's office and I saw these transcripts on his desk. And I got one to read, one whatever, I got them to read, to see what had been done. And I think that same day they were made public. But they had been, and I think, my impression was, that St. Clair had been there through the weekend working on this and that, because I know he frequently went home on the weekends also, to Boston. But my understanding was that he had been there through the weekend. Who was responsible for it I don't know. But it turned out to be a disaster. Very damaging, very damaging to the President. I had nothing to do with it. I had no knowledge of it.

Q: I'm sure it was difficult for you to feel that you could adequately defend the President without the proper evidence, like any attorney-client relationship. Did you at any point feel like you, like this was untenable, that you were going to resign or leave Washington?

Chester: I gave thoughts to it, from time to time. And I finally did resign around the first of August. I submitted my resignation effective the first of September, thirty days later. Because I, I didn't, at that stage in the game, in the first place, things were getting pretty bad for the President at that point. But secondly, St. Clair, he had a young, a group of young guys that he was relying on, to work with him, and I was not being included in the impeachment work. St. Clair was going up before the Judiciary Committee regularly and taking a young guy with him which is, you know, is customary in a law practice, but I was getting nothing to do with regard to the impeachment. So, I thought that the best thing for me to do would be to get out before school started, so I could get my kids back in school, which I did, because if I wasn't going to play a role in the impeachment process there's no point in my being here. I'd gotten all the fun out of it that I was going to get. It became, it just became more important to get back to work, back to school, get my kids in school. I'd had, they were down here off and on through the summer, I had rented a house in Georgetown. So my wife and my two younger kids had been down here and when my two older boys got back from camp they were down here for a while. So, I, you know, we'd done a lot of sightseeing. I wasn't nearly, as time went on, I wasn't nearly as busy as I was at first. They just didn't give me a lot of work to do. There were times that I had nothing to do. And so I just made do with the time.

I had a lot of, I had some good, I had good friends here in Washington that I had a lot of lunches with, you know, Mike DiSalle, former governor of Ohio was here, and Jim Rowe was one of the most interesting guys that I spent a lot of time with. Jim Rowe, you know, he'd been clerk to Oliver Wendell Holmes and he was partner at the Corcoran office. I'd known him before he came down here. My law school roommate was Gilbert Hahn, whose family had the Hahn shoe stores here. He practiced law here. Another guy who had practiced law was a fellow by the name of Bruce Sundlun, that I saw a lot of while I was here. Bruce later became governor of Rhode Island. I think Gil's still practicing law here, in sort of a retired way. Jerry Riley, who was then Chief Judge of the Superior Court.

I had a NLRB case at one time that I decided I needed an NLRB expert for. It went up, it lost at the trial level, which we expected, but we hoped to reverse on appeal. I remember I looked up, Jim Rowe had recommended Jerry Riley to me and he was, I remember walking into his office and I saw a picture of him with Senator Taft on the wall, the first Senator Taft, not the second one. The great Senator Taft. And, after we had the conference and he agreed to take the case and I said to him, I said, "Well I looked up your, I looked you up and I said you were a prominent Democrat—Roosevelt era—and you come down from Harvard Law School like so many did," and I said, "what's that picture up on the wall with Senator Taft for?" And he says, "I wrote the Taft-Hartley Act."

Q: [Laughs]

Chester: So, but he'd become Chief Judge of the Superior Court. And he'd take me to the Cosmos Club a lot. And I always figured there were about, I figured there were on the wall

when you walk in there were about thirty pictures of members who had won Pulitzer Prizes and about another, probably another twenty who had won Nobel Prizes, you know, so it was pretty, I was a little bit out of my class, but I enjoyed it.

Q: Having submitted your resignation at the first of August, and having seen how things had been playing out from January on, when the President finally submitted his resignation, did you view it at that point as inevitable, was this something that had, pretty much had to take place based on what had happened, or, what was your impression at the time?

Chester: I think that we had come to the conclusion that the game was over. And obviously when the tapes were turned over to the court and it became known on the staff that the Smoking Gun tape, I think it was the June 23d tape, or whatever it was—

Q: Right.

Chester: Why, we knew it was all over, and the only question then was whether the President would comply with the Supreme Court order. I think we all knew that the President's position had always been that the Executive branch was equal to the Judicial branch and that, just as capable of interpreting what's constitutional and what isn't. And certainly the law of impeachment is a constitutional question. And that, so that there was a real question as to whether the President would comply with the decision in *US vs. Nixon*. And I think there was a real sigh of relief when he did. And when he gave, when he left and gave his farewell address, my wife and I sat right directly in front of him in the front row. And it was, you know, it was, the President was just really, you'd almost say, you almost might say he was out of it in giving that, I mean he was so emotional that, it was just beyond belief.

Q: Are you saying that President Nixon saw the presidency as almost a co-equal with the Judiciary in terms of interpreting the Constitution?

Chester: Yeah, yeah, yeah.

Q: I think that's an interesting and very—

Chester: Now you know the President—

Q: Revealing, revealing observation.

Chester: You know, the President didn't tell me that. That's just my own interpretation of what I know, what I know about him, what I saw of him. And I think, and this was basically the position he took in refusing to turn over the tapes was that the whole question of executive privilege, it was his right to determine what he could turn over and what he shouldn't. And this was all emphasized particularly by the fact that, national security. I mean, basically we were in a war with Vietnam. And the President was charged with national security. And so that he had the, what he did was in the interest of national security. And he became so obsessed with the leaks, you know, that, the *New York Times* case, what was the guy's name?

Q: Daniel Ellsberg. Ellsberg and the Pentagon Papers.

Chester: Ellsberg's leaking of the papers and all of the spying that he did was, he believed, was all in the interest of national security and that he had a perfect right to do those things. And, unfortunately, when you get into that sort of thing, that sometimes carries over into the political world and that you can do all sorts of dirty tricks too, and which is where he got in trouble. But I think that was due to the, I think, my own opinion is that that was due at least in part to the people he had around him. And most of those people I didn't see because most of them were gone by the time I got there. I used to think I saw Colson in the halls every once in a while that, why he was there or who he talked to I don't know. My office was right next to Fred Buzhardt's office. And there were only two things I ever really saw Fred Buzhardt do. One was he that he always had the earphones on listening to tapes. And to my knowledge he was the only person who listened to the tapes. And the other thing was that he and St. Clair had lunch together all the time. I was never included in those lunches. And Buzhardt never really talked to me much, but he and St. Clair worked together very closely all the time.

Q: Do you agree with the approach that the White House took on the tapes?

Chester: No. I didn't, I didn't at the time. I—

Q: If you had had the President's personal ear and, what would your advice had been to him on how to handle the tapes?

Chester: Well, if, in the first place, the President or people for the President would bad-mouth the Congress and particularly bad-mouth the Judiciary Committee. And my philosophy is when you've got people or a group of people who are going to pass judgment on you don't go around publicly bad-mouthing them. You might bad-mouth them privately, but you don't do it in public or to the press. And you know, I'd c-, it was, it seemed like almost every week I'd come back from Columbus and Connie would get some of the programs over the weekend, or whatever the President had said bad-mouthing the Judiciary Committee or some member of the Judiciary Committee. And I thought that was very poor.

Q: Do you think his fate might have been different if he had been more skillful politically in handling the Judiciary Committee?

Chester: I don't, you know, I don't know whether it would have been different or whether it wouldn't have been. I don't think that the Congress wanted to impeach the President. And I think that the first thing that really set off serious consideration of it was the so-called Saturday Night Massacre. I think the Saturday Night Massacre could have been handled differently than it was handled. At one point I was given the job of reviewing the facts of the Saturday Night Massacre. And I was just really getting into it when I was told to quit. And it was fascinating enough that, my recollection is, and I may even have some notes on this some place, my recollection is with regard to the Saturday Night Massacre that Charles Alan Wright was the principal negotiator between the White House and Elliot Richardson on what to do about Cox and, because the White House obviously wanted Cox out of there 'cause Cox was proving to be too aggressive for the White House. And my recollection is that Wright told me that Elliot

Richardson, that they believed that Elliot Richardson would not resign, would fire Cox and would not resign. And that at the last minute, or that, and that Richardson led Wright to believe that he would not resign for some reason or another. And that the White House relied on that when the whole thing blew up and Richardson resigned rather than firing Cox. And that's about as far as I got with my investigation on that, and I think that if Richardson had made known his views right at the, made known that he would resign if the White House insisted, or more importantly that if he refused to fire Cox, that the White House could fire him, but that he would not resign and it would be up to Nixon to fire him. The chances are Richardson never would have been fired and the whole Saturday Night Massacre would not have taken place. Now that doesn't mean that Cox wouldn't have then continued to pursue the tapes with whatever results that might be. But it wouldn't have set the fires burning in the Congress the way they did. So here was just another misjudgment on the part of the White House in dealing with the Congress.

And, another misjudgment on the part of the White House, I think, and this again I got from, in part in my examination of, my looking into it with Wright was that the, when they lost in the Court of Appeals the first tape case, on the eight tapes, Wright, and then they went to the Court of Appeals and they lost in the Court of Appeals. And Wright wanted to appeal it to the Supreme Court. Wright's opinion was at that time, and I tend to agree with him, that if they gone to the Supreme Court, that it might have been an entirely different result than you got in *US vs. Nixon*. And my reasoning is fairly simple. It wasn't until Jaworski returned the indictment against the President—it wasn't an indictment against the President—named the President as an unindicted co-conspirator that really provided the basis for the Court's opinion in *US vs. Nixon*. In other words, that it made it a criminal, the production of the tapes became a criminal matter. And the Court placed the basis of the criminal matter above executive privilege. So those are just, and you know, then you can go on to the production of the transcript of the tapes with all the "expletive deleted" in them, I think that if I had had a chance to read the transcripts of the tapes before they were published, I might have counseled against it as language that was certainly unbecoming for the President of the United States. And, you know, who knows? But in event, I just, you asked me if I agreed with they did, and I didn't. And I was, but I was particularly, I, everything that I have read about Nixon indicates that Nixon did not like the Congress, and had no use for the Congress right from the beginning, and this certainly displayed itself through the impeachment process and it's unfortunate that someone couldn't have taken that situation in hand and have realized it.

I had, the guy that got to be congressman when I wanted to be congressman was Sam Devine. And Sam Devine was a long-time congressman from Columbus. And I used to have lunch with him fairly or, not lunch, but I used to, he had a group of congressmen he'd go out to dinner with maybe every couple of weeks and they'd invite me to join them, and I did, and but Sam on one occasion told me that he had been invited to go out on the *Sequoia*, the President's yacht. And he told me, he said, "I sat right across the table from the President," and he says, "the President looked me right straight in the eye, and he said 'Sam, I'm innocent. I didn't do any of these things that they're accusing me of.'" And Sam said, "I believe him." And the aftermath was, after the President resigned, Sam came down to the White House for a prayer breakfast one day and I ran into him out in the street, you know, between the EOB, Executive Office Building, and the White House, and Sam said to me, he said, "Jack, you know, that man just plain lied to me," or says, "he did to everybody."

Q: You mentioned having witnessed his final speech. Did you have any other interaction with the President in your time there?

Chester: No. I had, he met with the staff a couple of times, primarily for picture taking. I remember the first time I was in the barbershop. The barber told me that his next customer was the President. I couldn't wait to get the hell out of there. I was, I didn't know what I'd say to him.

Q: Well, we can wrap this up at any point you'd like to. We could discuss, if you would want to, briefly, you mentioned *US vs. Nixon*, did you want to mention your involvement in any other cases? *US vs. Ehrlichman*? *US vs. Mitchell*?

Chester: Well, my involvement in this, particularly after Fred Buzhardt had his heart attack, I got so that they were sending me down with documents and one thing or another to Judge Sirica's court in connection with the, I think, what did he have – the Mitchell case or the Ehrlichman case? One or the other. I'd take a lot of documents down there. I got to know Judge Sirica pretty well. And I liked him, I thought. I know one time I had to get a continuance on something, the Special Prosecutor cried out that we shouldn't have a continuance. I talked Judge Sirica into giving us a continuance, and I just, I remember after he'd done it, he turned to me and he says, he says, "You know, we are all reasonable men." And he was reasonable. I found him to be reasonable, all my dealings with him.

We took a lot of stuff down to Judge Gesell for the Ehrlichman case. One of my more interesting experiences was with Henry Kissinger. Kissinger had been subpoenaed in the Ehrlichman case. He, the President, he and the President had gone, I think, to the Middle East. Then, the President had come back. They were subpoenaed just as they were leaving, those subpoenas were served on them, and when the President. And, during that time, the question came up as to interrogatories that were submitted to the President, and I was handling the interrogatories. And I read over the interrogatories, and I thought they were, you know, relatively innocuous and if the President answered them I couldn't see that it would do any harm to the presidency. The general attitude was, always is, don't do it, don't do anything, don't give it to them. Well, I went against the, what the staff feeling was, St. Clair's feeling, and I recommended that the President answer them, let's be done with it. And the President did answer them, submitted them, it was all over and done with. There was no fuss raised again about the President stonewalling.

Another time, we got a subpoena for the secretaries, who were secretaries of the legal staff, including my secretary. So we had a staff meeting. St. Clair says, "Well, we're going to fight this. We're not going to answer these subpoenas." I said, well, I said to St. Clair, I said, "You do what you want to about the rest of them, but," I said, "I'm taking my secretary up there to appear before the grand jury. Because," I said, "she doesn't know anything that's going to hurt anybody. Why shouldn't we go and get it over with rather than make a stink and have it appear in the papers again that the President was stonewalling again." Whereupon St. Clair gave in and I took all the secretaries, took all the secretaries before the grand jury, and it was all over, over and done with, nothing ever, you know, nothing ever came of it.

Another time, we were at a staff meeting, they wanted to interview one of the lawyers who had represented somebody who had been involved in, you know, some staff, some White House member, staff member, I don't remember the lawyer's name. They were debating, what were they going to do about this lawyer? So I finally stood up and I said, "Well, why don't we call him up? Maybe, maybe we can go talk to him." So, they finally agreed to call him up and go talk to him. I said, "I'll go talk to him." I called him up and he said, "Sure, I'll talk to you." Whereupon when St. Clair found out that I was going to go talk to him and he sent one of his young guys with me to make sure I did all right, I guess. That was just sort of the attitude, everything was paranoia, you know. And lot of things seemed to lack a lot of common sense.

I felt that if I had any criticism at all of the legal staff and the way it was run was that there was no, there was really no sense, no good feeling about the politics of the situation, what was the politically right thing to do and the politically most effective thing to do. I don't think St. Clair had ever had any political experience, and that's the one thing that I did have to contribute but I don't think was ever listened to much except on isolated occasions and fairly innocuous occasions. Saxbe at one time, Haig was looking for an assistant at one time, Saxbe tried to get him to hire me, but he hired another military guy instead.

Q: What was your career like after leaving the Nixon White House?

Chester: Back to practicing law. I've always been sort of a, you know, I've had all kinds of legal practice. We did a lot of, right after that, when I went back in the 70's and the 80's we did a lot of takeover work. There were a lot of major takeover cases in Ohio. Generally working with New York counsel on that kind of stuff, you know. Just sort of the, run of the mill legal cases, trials and so forth. The last major trial I had was two or three years ago. I tried an antitrust case up in Akron for a client of mine. That's the last big trial I've done. Ever since then I pass those kind of cases on to the younger guys. I told this story about, I told this story about Bill Saxbe on the tape, I don't know whether you've listened to that or not.

Q: The Ohio Historical Society?

Chester: The Ohio Historical Society. I was over at Bill's one night for Sunday night, for dinner. Haig called up. The President had been telling Bill to fire, it was over the Agnew thing. You know, when they got Agnew to resign they had, he'd pleaded guilty to an income tax case I think, but to get him to do that among other things they promised him, give him an office and a secretary and a car and a chauffeur. So it was, I think it was in February or March or April, some place in the spring of '74, when the General Accounting Office came out and said this is illegal, Agnew's no longer, no longer Vice President, no longer has the position. So the President wanted Saxbe to have the Justice Department overrule the Accounting Office and say it was legal and that Agnew was entitled to all these things. But obviously, you know, it was just so bad that Saxbe said, "I'm just not going to do it. If you don't like it you can fire me." And he said that Haig had called him three times telling him to issue the ruling, that the President, these were the President's orders, they were down in Florida. Haig called while I was there that Sunday night for dinner and said, "We give in." It was all over.

Q: Is there else you'd like to ask?

Q: I think this is exactly what we were looking for, a good overall discussion of your time there.

Q: Thank you very much, Mr. Chester. We certainly appreciate your time this morning.

Chester: Okay. I'm sort of a historian myself. I was on the board of the Ohio Historical Society for about ten years and president of it for a couple of years. So I'm very sensitive to the need to preserve records and that sort of thing. I have my own little archives down in my basement that I've been trying to get straightened out. I have a young woman from the Ohio Historical Society who comes over and catalogs my papers for one thing or another. And I've given some stuff to the Historical Society, stuff that. I tried a case, had clients and tried a case back in 1970 that involved some state, involved the state treasurer's office in a scandal type thing. I got my clients off being convicted, but it brought down the Republican party in the state for twenty years. I gave all those papers to the Historical Society.

Q: It was always one of my favorite places to go when I lived in Columbus, going to the Ohio Historical Society.

Chester: Was it? So, I appreciate what you're doing.

Q: Thank you. Thank you very much.