Smith: First of all, thank you so much for doing this.

It’s hard to know where to begin, so let me try to begin at the beginning. Everyone, of course, knows about your significant role in the Ford White House. But your relationship with Gerald Ford, obviously, predates his days in the White House. When did you first meet?

Becker: We first met in a very formal atmosphere in the late 1960s. I take you back to the Congressional investigation about ’66, of former Congressman Adam Clayton Powell. You may recall that the House concluded an investigation without any conclusions and sent their work product to the Department of Justice to determine whether or not there were any violations of criminal law by the Congressman. The subject matter of the investigation was kickbacks amongst staff.

The Department of Justice in those days did what the Department of Justice always did, they sent it to the FBI, and the FBI sent dozens or more agents out to investigate, and the agents came back with empty investigative notes. No one would talk to the FBI agents in the congressman’s district in Harlem, and so we empanelled, we, the Department of Justice, empanelled a special grand jury in DC to investigate.

I was a criminal division attorney in the fraud section for the Department of Justice at that time, and I was given, along with two other gentlemen, that assignment to conduct the grand jury investigation and make some recommendation with respect to prosecutive recommendations to General Katzenbach or General Ramsey Clark. And there came a point in time in the course of the investigation that it was obvious to us that we needed certain documents. If we were to proceed with prosecution, these documents were
essential to successful prosecution and these documents would have been the
documents that the congressman himself signed.

For example, Richard, if you worked for Congressman Powell, under the
prosecutive theory, if you worked for Congressman Powell and you would be
required to kickback a $1,000 every month as part of your employment to the
congressman, you and all other employees would have submitted to the
congressman every month by the clerk of the House, a document that says,
“Richard Norton Smith has been employed by me this month, is entitled to
received $4,000.” And it would be signed by the congressman.

That document would be a material false statement, and thus the violation of
the Title 18 statute in the Federal Criminal Code, that the congressman was
making material false statements to an agency of the federal government. And
that would be the technical criminal violation. So, in order to proceed, we
needed those documents, we needed the originals of those documents.
Congressman Powell, at that time, had been suspended – at the time of the
investigation was in the Bahamas, in Bermuda. There was an office manned
by some staff people, but there was virtually no congressional contact.

The grand jury and the Department of Justice subpoenaed the House of
Representatives to produce those documents – not only for one employee, but
for all the employees that were the subject matter of consideration. Those
subpoenas were predictably responded to by the House of Representatives as
being subpoenas that were violative of the principles of separation of powers.
We are, said the House of Representatives, the co-equal Executive branch and
we cannot be subpoenaed by a co-equal branch. Which we expected.

There were precedents in the past, and the precedent that was employed was,
in that case, was for every subpoena we sent, a special committee of the
House was established, a three-person committee, consisting of the Speaker,
John McCormick, the Chairman of the Judiciary Committee, Manny Seller of
New York, and the Minority Leader, a guy from the 5th district of Michigan, a
guy named Jerry Ford.
And so every time we issued a subpoena, I had to go to that committee, or one of my colleagues went to that committee and had to respond to questions about the pending subpoena – why we wanted it, what it was for, the absence of any political nature, in an attempt to persuade the three members to go down to the floor of the House and for them to recommend to the entire floor – all 435 members of the House, that the House – and here’s the operable word – voluntarily comply. And so, that was our role, to try to persuade the three members of that committee to agree to tell the House to voluntarily comply with the subpoenas. And they did. They always did.

And so my first encounter with Congressman Ford was during that time period across the table. A very formal, Congressman this and Mr. Becker that. And I found, quite frankly, and I commented about it then to friends and family, and I’m happy to repeat it in later years, that of the three members, Jerry Ford was always the most prepared, the most succinct questions, very fair, very logical, and that’s how we first encountered one another.

Smith: Did you have a sense he’d made up his mind on Powell himself? Did he convey an attitude about the congressman?

Becker: Let me answer this way, by saying that if you didn’t know, and you simply read the transcripts of those executive session committee meetings, you’d have no way of knowing that Jerry Ford was a Republican and Congressman Powell was a Democrat. He was as balanced and as fair as possible. His questions about separation of power and whether we were overstepping or not overstepping, and even if they volunteered – showed a real good working knowledge of the constitutional principles, and I thought he was very, very fair. I was quite impressed. I really was.

Smith: Let me ask you about a still more controversial part of the story, and one for which he took considerable heat at the time, and even later on. That, of course, is the whole Justice Douglas investigation. People tend to apply labels in this town. It’s a shortcut and gets around thinking sometimes. People just automatically assumed that Ford was, in effect, carrying water for the Nixon White House. That this was part of a larger political effort to remake the court. And, of course, Nixon had had some serious setbacks with the
nominations, both of Judge Haynesworth and Carswell. That’s the traditional way of approaching this. Tell me about how it came about and how you interpret Ford’s role.

Becker: This is one of those classic lawyer stories where the lawyer opens the conversation by saying, “Why didn’t you call me before you did this instead of after you’ve done this?”

Smith: Is that a reference to Ford’s conduct in the…

Becker: No, the speech on the floor of the House, his speech on the floor of the House with respect about Justice Douglas is what blew the whole thing up, and that’s when he called me and said, “Let’s sit down and talk about this.” And my answer was, “Let me see what you said,” and my first response was, “Why didn’t you call me before you said this, because a lot of this is filled with allegations that are unsupported,” at least at that point in time by real merit.

Smith: By the way, before I forget, it’s important to insert because it wasn’t only that Nixon had lost two Supreme Court nominees, but you’d also had the Fortas scandal. And that’s part of the backdrop, isn’t it, to this effort to raise…

Becker: You correct me if I’m incorrect, but my memory is that, this is after the denial of Haynesworth and Carswell.

Smith: Yes, that’s right.

Becker: That was my memory, because all that played into it. I was told by Congressman Ford that following the Haynesworth and Carswell denial of confirmation by the Senate, the Nixon White House was very angry and there were people in the White House who were very angry. John Mitchell was angry at the Justice Department and he had a criminal division assistant AG named Wilson, Will Wilson, who was particularly angry about all of this. And the congressman, who was a minority leader of the House, was contacted by Wilson, as he told me. And Wilson had made certain assertions to him – telephonically, as Ford described it to me – about information retained in the files of the Department of Justice that was at the very least, embarrassing, and possibly even impeachable evidence with respect to Justice Douglas. And as
Congressman Ford then described it to me, that then Wilson made the point that if this were public Bill Douglas could never continue to sit on the bench, and certainly could have not been confirmed with this kind of information public.

Smith: This is hardball.

Becker: And, he, Wilson, would make the records available to Ford.

Smith: This is hardball.

Becker: Yes, this is serious stuff. Now, at this point in time, none of that information, if indeed it existed, which I doubt that it really did, was ever made available to Jerry Ford. But Jerry Ford was, among other things at that point in his life, far and away, and I’ve used the expression in his presence lots of times, a team player. He was a team player. Wilson assured him he would give him this information. Nothing was forthcoming.

Bob Hartmann, who worked on Ford’s congressional staff, wrote a speech based on that conversation as related to Hartmann by Ford, which Ford delivered on the floor of the House. And it didn’t really call for the impeachment of Bill Douglas, the media overstated that – it called for an investigation of his conduct. Richard, as you know, Article Three - judges serve a life tender, including members of the Supreme Court, and that life tender is conditioned constitutionally only by two words in the Constitution, and those two words are, “Good Conduct.” And so, Article Three says you have it for life tenure in good conduct.

So the argument that Ford was making was, “Is this the kind of conduct that falls outside of the constitutional restriction of Article Three judges for good conduct?” Remember, Article Two, executive branch personnel have an entirely different impeachment standard that deals with bribery, treason and high crimes and misdemeanors.

Smith: Let me break that down for a moment, if I may. Long after the fact, sensing that maybe Ford had some regret, or at least embarrassment over his part in all of this…he took pains to make the distinction that you’ve made quite
accurately. He didn’t call for the impeachment, but an investigation. Although in the climate of the day, that was seen as a distinction without a difference. Legally, you are absolutely right. But, again, with everything as politicized as it was…More to the point, he indicated that he had members in his caucus who were gung-ho to get Douglas. To get him off the bench.

**Becker:** Republican members?

**Smith:** Yes. And that Ford as he explained it, was taking the ball from the firebrands. In effect, trying to moderate, to some degree, this effort. Now that may be a little bit of rewriting history, or reinterpreting history. Did he feel regret at any point about all that?

**Becker:** He had a sense of regret about the publicity and the way the media played his speech and his communications to the Judiciary Committee on this subject. And I don’t think there is any question about that – that he felt embarrassed. And I’ll say, too, he was really quite surprised that the media jumped on this so much – that here’s Jerry Ford trying to get rid of an old Roosevelt liberal judge, whose been on the bench for so many years.

**Smith:** Was that in part because it was seemingly so out of character?

**Becker:** Was it out of character for Jerry Ford? It was out of character for him to be leading a charge without supportive evidence. But it was not out of character for him to be responsive to a request from the Republican White House, and a Republican AG. It was all team player stuff. But he did not seek, at any time, an impeachment. He simply wanted some clarification, and it bothered him.

We sat over many conversations, and he would say, “I don’t understand how Haynesworth and Carswell are ineligible to serve on the Supreme Court of the United States, and the Senators won’t confirm them because they did this and this, but members of the Court can do this, this, this, and this and they continue to sit.”

**Smith:** Let me ask you, because that does get us to the heart of the case against Douglas. I don’t want to answer the question before I ask it – but you do wonder, in light of the Fortas resignation, which entailed his receiving a fairly
substantial retainer from the Parvin – no, Douglas, I think, had the Parvin Foundation – but basically, Fortas was being paid…

Becker: By the litigant – he was not being paid indirectly. I think a person who had a pending action before the Supreme Court, paid for, as I recollect, paid the American University Law School a sum of money, and that sum of money was used in the summer for Fortas to teach a course. I think that’s correct. That’s a different story than Douglas.

Smith: Douglas was, I guess, a consultant to the Parvin Foundation?

Becker: A member of the board of the Parvin Dorman Foundation. The Parvin Dorman Foundation had some people associated with it that were highly questionable. Highly questionable. In fact, that’s the only information we ever really got, that we got confirmation of from the Justice Department. And it was an appearance, it was a terrible appearance that he should sit on the board of essentially a furniture company that makes and sells furniture and other equipment, along with other people who have definitely, at least in the Department of Justice, organized crime connections.

Smith: One sensed that, objectionable as that was to Ford, personally, the Justice’s writings, particularly for, I think it was for *Evergreen* magazine, were perhaps more offensive.

Becker: Yes.

Smith: Or seemed more inappropriate. Is that an accurate assertion, or was a big deal to Ford in terms of how he formulated the case against Douglas?

Becker: I couldn’t call it his case against Douglas, I’d say it formulated in a large part his feelings about this man and his continued tenure on the bench.

Smith: Did that have anything to do with his marital record? The fact that…

Becker: No.

Smith: No, nothing at all?
Benton Becker

I can try to be more responsive to you and I will, and that is that, he was deeply troubled. President Ford was deeply troubled by this diversity of standard. You had to be of such a quality to get on the bench, but once you got on the bench there was this good conduct. Good behavior is so vague and every member of the Senate can affix their own definition to it. And it bothered him.

And I can tell you – I’ll jump ahead on this interview – but at one point, I’ll never forget this. I’ll take it to my grave, Richard. At one point in the vice presidential confirmation proceedings, a congressman from California, a man named Jerome Waldie, not a fan of President Ford, was questioning him about Douglas and the same kind of questions about, “Are you offended by the fact that Justice Douglas has been married to young women? Are you offended by the fact that he writes articles in magazines?” Well, I thought I had a pretty good handle on everything that was at that desk where President Ford was speaking, we had notebooks and questions and answers, but I didn’t.

He went into his briefcase and he took out that magazine, that *Evergreen* magazine, and he opens it up – now this is pre-cable TV, opens it up and he’s showing it to the congressman. He says, “This is *Evergreen* magazine, and here’s an article on this page.” And he says, “Let me turn the page Congressman,” and he did this and you could hear a hush in that place. And there was a semi-nude playmate picture. He said, “I just don’t think that it’s appropriate for a justice of the Supreme Court to write and have an article published in magazines of this type.” He says, “If you do, that’s your affair Congressman, not mine.” And so I don’t know if that is responsive to you, but that happened.

Smith: And what does that tell you about Jerry Ford’s values?

Becker: Oh, that this is a Midwestern guy who, although it’s been twenty-some years in Washington, still has the Midwestern values, and that’s the way he was made.

Smith: That wasn’t politics; that was him.
Becker: That had nothing to do with politics; had nothing to do with – it’s even before what we use today so openly, we use the phrase “Liberal and Conservative” to talk about justices. I don’t think we even used those phrases then. If anything, Bill Douglas was being possibly criticized in some quarters for *Griswold vs. Connecticut* and the privacy right decision that he wrote about.

Smith: But Douglas has to be the personification of what today conservatives talk about as judicial activism.

Becker: I suppose.

Smith: He was the face of creative interpretation of the Constitution – I mean, the penumbra of privacy. He was an iconic figure in a lot of ways.

Becker: Those are your words. I wouldn’t use those words to describe *Griswold*. I think *Griswold* has - for those that watch this and don’t understand, this is a case involving the Supreme Court – doesn’t have to but they decide the case on the basis of the discovery of a new Constitutional right in the Constitution that is not actually articulated; and that is the Constitutional right of privacy, which evolves and eventually gives us *Roe v Wade* and a bunch of other cases. And Douglas writes the majority opinion in *Griswold* and his majority opinion does indeed cite the penumbra of the amendments that suggest that there are other rights. But the Ninth and Tenth Amendments do provide a textural basis for a judge, being that judge a liberal or a conservative judge, a textural basis in the Constitution to conclude that there are constitutional rights reserved to the people that are not articulated and identified by name in the Constitution. That’s my position on privacy.

Smith: Ironically, of course, it would fall to President Ford to name Justice Douglas’ replacement. Now there is a scene in, I think, the *Brethren*, the Woodward book about the Court, a rather nasty scene where Douglas is, I believe, at the White House. The president invited him to a dinner at the White House, and they shook hands – which is all a matter of record. But I believe as this scene has it, the president says some sort of tossed off casual remark about, “It’s nice to see you, Mr. Justice Douglas,” or something – some kind of courtesy. And supposedly Douglas responds very sarcastically, “Oh, yeah, we’ll have to
get together again real soon.” Something like that – suggesting a bitterness. Now, of course, he was also ill. You don’t know really if any of it happened. You don’t know if it was…

Becker: I read the book but I don’t remember it, frankly.

Smith: Do you remember any encounter between Ford and Douglas after the fact?

Becker: No. None at all. Not to suggest that he, President Ford, avoided Justice Douglas, but I think the time period you’re describing, Richard, in my memory, is that Justice Douglas was a pretty ill man at that time. And I don’t know that he was wandering around at White House functions, but I could be wrong. I know this, if this is of any consequence to you, somewhat related. During his vice presidency, when things were getting a little bit sticky between him and the Nixon White House and the staff of the Nixon White House, lo and behold, the nation lost Earl Warren. Earl Warren died during that time period – a great, great loss.

President Ford knew that Earl Warren was one of my personal heroes, and I suggested to him as vice president that, “What are you doing this afternoon? The Chief Justice is lying in state. It would be a very nice thing to do.” He thought about that for a second and he made some remark about the Nixon White House would not like that, they would go crazy with that, and that would be all over the paper. And I said, “Well, I was suggesting that it might be…” because the man had had great, great impact on this nation, and the vice president stopping by his lying in state would not be an inappropriate thing. And he said, “Let me think about it.” And I found out that, without any notice to the media or anything, he just grabbed the Secret Service and ran over there. He put a wreath at the site and went back. He told me later, he said Nixon made some remark to him about it.

Smith: Really – disparaging.

Becker: Earl Warren, he said he went to see Earl Warren.

Smith: That’s fascinating – really, that’s fascinating on multiple levels. We’re jumping ahead but this is perfect. This is where I want to go because clearly,
one of the things that we’re picking up in these interviews, people knew that Ford, as vice president, had a very awkward job. Terribly difficult. And the conventional notion is that one way he dealt with it was to get out of town as much as possible. But clearly there is more to it than that. Dorothy Dowton told us how unpleasant, in many ways, the Nixon people were. How they clearly resented Ford’s presence. On one level you can understand it, I suppose. He’s a convenient target as your world is caving in. Why isn’t he out there more vociferously defending us? And so on. Talk about that period and the challenges that Ford faced and how he dealt with them.

Becker: It’s a short period, Richard, for history. It’s December of ’73, December 7th when he took the oath of vice president, through August 9 of ’74. It’s a very short tenure as vice president. Actually, it begins somewhat before that. As you know Jerry Ford is the first person ever to be nominated under the 25th Amendment of the Constitution, which provides, among other things, that when there is a vacancy in the office of vice president, the president can nominate someone for the office of vice president, and that individual will become vice president upon confirmation by both Houses.

So Nixon nominated Ford following Agnew’s resignation as vice president. Up until that point in time in the country, something like 27-28% of the entire history of the country, we had no vice president. Presidents had died, and vice presidents became presidents and there was a vacancy in the office of vice president. We had two vice presidents that resigned and at least one that died, so we had long periods where there is no vice president. This ended with the 25th Amendment. So Ford is going to be confirmed under the 25th Amendment. I was very honored to be able to represent him during those proceedings.

Smith: How did that come about?

Becker: He called me.

Smith: Having been nominated.

Becker: Yes, the night before. “I’m going to be nominated tonight…” one of those kind of telephone conversations. And we put together a team. There were
certain issues that we focused on that we wanted to make certain that we had a clean, clear record on certain of those issues. There was a book, a horrible book out on the bookstands called *Washington Payoff*.

Smith: Let me ask you about that. I’ll tell you why.

Becker: We’re jumping around, and I’m not answering your question from ten minutes ago.

Smith: No, no – this is how it works. We jump around.

Becker: Okay.

Smith: I was reading Nelson Rockefeller’s oral history about the Ford presidency, which has never been published. It was done for a memoir that he never wrote. And I tell people – Lynn Cheney came up to me the other night and asked how the book was going and said, “Well, wasn’t he a little crazy at the end?” And I always say he didn’t age well, and there’s a number of incidents. But anyway, after he left office I think he nurtured some bitterness about all that and how he left office. Anyway, he brought up this, he didn’t have the book title, but he’d got into his head –

Becker: You talking about Rockefeller?

Smith: Rockefeller.


Smith: Yes. And the way he reconstructed history, first of all, I have to tell you, he believed that Rumsfeld was blackmailing Ford.

Becker: Oh my goodness gracious. Rocky thought Rummy was…?

Smith: And the notion that Hartmann had something on him, too. And he went back to the hearings and this notion that, in effect, there was someone who had paid off Ford, and the committee closed ranks and they sort of kept it off the record, and somehow he made some connection, and if that had been public it would have prevented Ford from being confirmed.

Becker: That’s really surprising.
Smith: It is. So that’s the backdrop. I’m glad to have you mention that and explain what it was and how it was addressed.

Becker: It was a paperback book called *Washington Payoff*, and it was written by a man named Robert Winter-Berger, who was a small-time lobbyist I was told, on the Hill. And among other things, that book asserted that at one point in time, he, Winter-Berger, gave the minority leader some cash, $4,000-$5,000 or something of that nature, in return for a vote. Now we were faced with that, knowing that this man is now going to be confirmed by the Senate and then by the House, and to make matters even worse, the committee that he’s going to have to appear before in the House, is the same House committee that is entertaining impeachment resolutions against the guy that appointed Ford.

So, it’s not going to be a very friendly atmosphere. So we wanted to get the air cleared on this Winter-Berger matter once and for all. And, of course, we spoke with him, I spoke with Ford about it at length and there was absolutely no truth to it at all. He couldn’t even describe Winter-Berger to me in terms of what he looked like, and so forth. So I read the book from cover to cover and I met with a wonderful man, a wonderful man, Bob Griffin, who was then the Senator from Michigan, and was a member of the Senate Rules committee that we appeared before. With Senator Griffin and his staff I had provided a whole body of questions to propound to Robert Winter-Berger. I wanted the committee to subpoena Robert Winter-Berger and I wanted the committee to question Winter-Berger. And they did. And it just showed, without a doubt, that it was just absolutely totally fanciful.

He said he met with Ford at times when Ford wasn’t even in the country. He was asked where he got the money that he gave to Ford. He didn’t know, nothing was in his bank account – no withdrawals, it was totally fanciful. In fact, the committee, the Senate committee that interviewed Robert Winter-Berger, took Robert Winter-Berger’s testimony before that committee, and sent it to the Department of Justice for possible perjury prosecution. Winter-Berger was destroyed so badly, was shown to be so frivolous, totally frivolous, the allegation, that, when we got before the House committee, this was after the Senate had voted, and Ford is before the House Judiciary
Committee, quite truthfully in many, many, instances, and many, many, members on that committee, terribly unfriendly group. Really unfriendly group. That group never asked one question of any person, including Jerry Ford who sat there for about seven hours before that group, not one question about Robert Winter-Berger. That’s how much he was destroyed.

Smith: Two different members of the Ford congressional staff reinforce each other indicating that, in fact, Winter-Berger was thrown out of the office. He came once and made everyone feel very uncomfortable. And Ford basically said this guy is bad news and the word was communicated. In fact, I think he tried to come back once and he was literally tossed out of the office.

Becker: That would be consistent with what he told me – that is, I can’t tell you if he’s tall or short, or heavy or thin, I have no idea…and his book drew an entire picture of the great friendship between the two of them. No such thing existed. And let me say on the record that Don Rumsfeld and Bob Hartmann blackmailing – that is wild. Nelson Rockefeller shocks me that he said that.

Smith: There was a streak of paranoia, particularly as he got older, and it runs throughout. I won’t bore you with all the stories, but it’s actually, bizarre as it sounds, it’s consistent with the last few years of his life. He tended to see enemies behind every lamp. No one ever wants to blame the president, so he went to his grave believing that Rumsfeld did him in. That Rumsfeld was responsible for his problems as vice president, for the fact that he wasn’t on the ticket, so forth and so on. And from there I think it just festered and festered, and he couldn’t understand why Ford would have as polarizing a figure as Bob Hartmann around. And so, therefore, there had to be this sort of explanation. A lot of people asked why he kept Hartmann around. You asked if we had talked to Haig, we talked to Haig.

Becker: You ring a bell with me on Rumsfeld. There is another explanation, and that is Donald was unhappy with the appointment of Nelson Rockefeller. Rumsfeld thought that there was another person that would much better serve Jerry Ford and could make a much better vice president in the person of Donald Rumsfeld.
I will tell you a Don Rumsfeld story about – Don would not deny this, I suspect. This is in the early weeks of the Ford presidency, pre any consideration of pardon, I think, and I’m working in my office there and Rumsfeld walks into the office and said, “Hello, how are you?” and we’re chatting, and it was about 6:30 at night. I happened to be involved with some of the considerations for vice president. And he said, “Let’s go have dinner.” So we walked down Pennsylvania Avenue, there was a little Italian restaurant, and we had dinner, the two of us.

We sat across the dinner table and he started a monologue, I would call a monologue, that went on for about ten minutes and it was along the lines, “You know, Benton, government is a strange, strange, thing,” he said. “How much one learns in government. Here, look at me, for example. I started as an aide to a congressman and I learned in that job the work of legislative aides. Then I became a member of Congress. And then Nixon made me chairman of Wage and Price Controls, and then Nixon sent me to the only job that involves military and diplomacy over in NATO.” He said, “I’ve been so many of these things. Government is very strange.”

I was sitting there, having dinner, and I let him finish and I said, “You know, Donald, if we were in a corporate environment, if we were in a large pharmaceutical corporation, or General Motors or something, and you and I were sitting down and you said to me, ‘Benton, I spent two years in advertising and two years in production and two years in this,’ I would say to myself, ‘Look out for that guy, he wants to be president.’” And he understood.

So I don’t think he ever applauded, or supported the Rockefeller nomination and I think history might have been entirely different if Don Rumsfeld had been the nominee, I’m not too sure for the better. The thing that shocks me a little bit about your comment about Nelson Rockefeller is that it was always my observation when, in the presence of both of them together, Ford and Rockefeller, and in a formal environment and in an informal environment, as well, I always thought Rockefeller just got along with him so well, and that Rocky was really a good friend to the president.
Smith: I think he was. Some of the best evidence of that is, even after he was dumped - talk about a good soldier – he produced at a critical moment in those primaries, the New York delegation and was instrumental in turning over Pennsylvania, as well. And that, in the end, provided Ford with his margin of victory. I will tell you a story. It goes to the Rumsfeld/Rockefeller/Ford relationship. Bill Seidman originally told me this, and I think of Bill as a straight shooter.

Becker: Me, too.

Smith: Bill’s not a guy who’s got an agenda. But, Bill, in the White House found himself aligned with Rockefeller in things like: you had the economic issues, Greenspan and Simon, the real free-market types, and Seidman is a different cat. Whether it was New York City, aid to New York, or whatever. Anyway, Seidman told me the story that Rockefeller told him that in advance of the Kansas City convention, at one of their weekly lunches, Rockefeller having delivered New York and Pennsylvania, said there was only one thing he wanted in return. And that was, he didn’t want Don Rumsfeld at the convention.

Becker: He wanted him removed from the convention?

Smith: He did not want him physically at the convention.

Becker: Oh, at the convention.

Smith: Because I think he convinced himself that Rumsfeld wanted to be vice president and Rockefeller wanted to prevent that. Now, the story is, and here’s where it get really interesting because Rumsfeld, as he told the story, was not at the convention until the last day, but put out the word that he’d gone into the hospital for some elective surgery. Fine. Now, when we interviewed Rumsfeld six weeks ago – boy, he’s still good, he’s very good – because I didn’t want like Hansel and Gretel to leave bread crumbs leading up to something obvious, so we were jumping around and out of the blue I said, “Now were you at the ’76 convention?” And without pausing, he said, he sort of laughed to himself, he said, “Oh, that’s another one of Nelson’s stories.”
He’s very good, and I don’t know what the truth is, but I regard Seidman as a pretty good source. At least let me put it this way: I’m sure Nelson told Bill what Bill reports, and from Don’s own words, he, in fact, went into the hospital for elective surgery and missed all but the last day. I think on the last day the whole Cabinet was there. So that whole relationship – and I think that it does not diminish, I think you’re absolutely right - I think Rockefeller had great respect for the president and I think real affection for him. But I also think you could imagine a situation after the fact – he’s talking to his communications director who did these oral histories, and this stuff just kind of spins out and it’s directed less at Ford than it is at his perceived enemies in the administration led by Rumsfeld and with Cheney as number two. The funny thing is, more than one person has told us, Rockefeller was not above walking by the door to Rumsfeld’s office early in the morning, opening the door, poking his head in, saying, “Rummy, you’re never going to be vice president.”

Becker: I could see that happening.

Smith: Things like – Rumsfeld, for example, wouldn’t give his staff parking places. That kind of tit for tat, back and forth. And I assume Ford didn’t know about that, but one of the things that really drove Ford up a wall was internal squabbling.

Becker: Yes, he didn’t care for that.

Smith: Now, was it easier to control when you’re just dealing with a congressional staff, and it was much harder to control because, first of all, it’s not all his staff. The Nixon holdovers – how much of a problem was it meshing a staff that was basically Richard Nixon’s staff with his own people.

Becker: Well, when he moves into all this, of course he’s only given like a 24 hour transition period, and he inherits all of the Nixon staff, including Al Haig as his chief of staff. The events of the first four, five, six weeks of the Ford presidency, demonstrate clearly that much of that staff – this is the Ford White House staff – but that staff is not really serving Gerald Ford, they are serving Richard Nixon. Remember, there is a conflict between what Richard
Nixon in California wants and what Gerald Ford in Washington wants. The staff is pushing Ford to go to what Nixon wants. So that was a problem.

My perception has always been that in terms of White House staff, traditionally White House staffs are difficult animals to live with. I thought that that White House got along fairly well with one another. I thought they got along better when Dick became chief of staff than when Don was chief of staff. We all knew Don was not going to stay there long. We all knew that somebody was going to go, and Don was going to take that Cabinet post.

Smith: Because clearly the Ford/Schlesinger relationship was never good. Just a matter of personal chemistry. Jim Schlesinger and President Ford just very different…

Becker: Totally different kind of animals, and Jim Schlesinger was kind of a by the book, and I don’t want to go into any details, but I was present at some session where it struck me that Defense Secretary Schlesinger was speaking down, as if he were speaking to a Congressman Ford instead of President Ford.

Smith: Well, Ford said to people, he thinks I’m a dummy. And of course, Ford had spent all those years on the Defense Appropriations Committee. He knew his stuff.

Becker: He knew that backwards and forwards. In fact, when Jerry Ford used to say to me that - when we were talking about the budget and so forth - he would say, “Jim Lynn is good, but I know this stuff backwards and forwards.” And he really did know it. Jim Lynn was an OMB person in the administration.

Smith: Let me go back to the vice presidency and the friction between the Nixon White House and the vice president’s people, or the vice president himself, or both. Where were you during this period?

Becker: During this period – I was in the vice president’s office at least once a week for a two-hour conversation with him. That was our agreement and he had given me, after the confirmation proceedings, a corporate box with arrows leading to it at the very top the vice president – a box leading here and this
one – and he showed this and he said, “Do you want to see this box? This is General Counsel.” I noticed there is a straight arrow directly from General Counsel in the vice president’s office, my vice president’s office, to me. He said, “That’s what I’d like you to be, Benton.” I said, “You know, it may come as a shock to you, but the vice president doesn’t do very much and the counsel of the vice president does less.” And I said, “When and if the time comes and you elevate yourself, you take a step up the ladder (I didn’t use that expression), that’s a different story.” But in the meantime, I had so many obligations to the law firm and to the clients that I wanted to wrap them up. But I did want to see him. I wanted to see him weekly because I was concerned that the Nixon staff would take advantage of him.

Smith: What led you to that concern?

Becker: There were certain people on the staff that I didn’t care for. And, typically, Al Haig and I had one very serious confrontation before Ford became vice president.

Smith: Before Ford became vice president?

Becker: Before. And what happened, Richard, this was about two weeks, three weeks before our first hearing before the Senate, post-nomination, before the Senate Rules committee. I came to then Congressman Ford’s office, it was late in the day, and we were talking about how to handle this question, how to handle that question, there were a series of books on how to handle different questions. Votes and campaigns and other matters, and the secretary came into his office and said, “General Haig is on the line.” “Okay, I’ll take it.” So there was a desk between us, and he gave me a minute kind of a sign and picked up the phone and said, “Hello, General, how are you,” and so forth. And then I’m hearing just one side of the conversation. And I’ve got two weeks - in two weeks we’re going before the Senate committee.

I hear him say, I hear Congressman Ford say things like, “Oh my goodness gracious, I haven’t thought about him in thirty years or forty years. They found him? Where in the world did they find him? They’re looking for her? Oh my goodness.” And I hear him say, “The Bureau’s got nothing better to
do?” And it is very obvious to me that Al Haig was getting reports from the Bureau on the background checks that the Bureau was making on the nominee, which background checks and reports were going to be given to the committee chairman only, and not to the nominee.

I got up and walked around the desk. Bill Cramer was with me. Got up and walked around the desk and I said - he was talking on the phone - I said, “Give me the phone, give me the phone.” He saw me gesture that I wanted the phone and he handed me the phone and there was Al Haig was talking, thought he was still talking to Jerry Ford. And I said, “General, General, General.” He finally realized it wasn’t Ford, and I said, “Let me give you my name. My name is Benton Becker, and I’m representing him before the House and the Senate, and before we’re finished before these committees, I can tell you, I guarantee you, he will be asked and re-asked the question, did the White House feed in any information about the FBI reports - the White House prepare him improperly - because the members were not getting the reports, just the committee chairman?”

And I said, “When that question is asked, General, the answer is going to be a truthful answer, and the answer is no. We don’t need or want you to do this anymore. He’s in good hands, he will be confirmed well and it will be fine.” And, Richard, the deadliest silence on the other end of the line continued for about eight to ten seconds, followed by, “May I have your name one more time, please.” That was my first encounter with Al Haig. They never called him again, and, of course, Ford was asked that question several times.

Smith: Was there anything during that period – aside from the typical kind of political jabs – were there any real serious issues in the course of the confirmation hearings? Did anything come up that presented any kind of real threat to his confirmation?

Becker: Well, there were some votes, procedural votes on the ’64 civil rights act, as I recollect. There was absolutely nothing that came up from a standpoint of campaign financing. Nothing at all. With Bill Seidman’s passing last week, we were talking about it, and I remembered Bill Seidman during the confirmation coming in from Grand Rapids to appear before, and spend hours
and hours and hours at a House committee on taxation reviewing Congressman Ford for the past five years, and going back to Grand Rapids. And then when we moved to the Senate, the Senate said we’re going to have a joint committee of the House and Senate go over his finances for the past five years tax. Bill Seidman came in again and went through that again, and we thanked him and he left. And then the House committee decided after two such, they’re going to have a House committee investigation, and they went through that again for five years.

And what they found was always a subject matter of some humor with Betty and the president. It was that in ’72, these confirmation hearings were in ’73, in ’72 the Minority Leader, Congressman Ford was the chairman of the national convention and Betty had made it clear to him, you’re going to go buy some new suits for national television. So he bought two or three new suits and wrote them off as a business expense. That’s the only thing that came of that. So he ended up paying for that and that was the whole thing.

Smith: I want to ask you a couple more things about the hearings because you mentioned Mrs. Ford. And in light of what we subsequently know about her state of mind at that point, that she’s written about herself, did any of that come up in, not necessarily the hearings, but was it investigated? Because they investigate everything else. Did they know, for example, that she’d been to a psychiatrist?

Becker: You’re asking about Betty? Betty’s alcoholic problem was not made public. I was aware of that.

Smith: That early?

Becker: Yeah. I don’t know if it was described as a disease, but she had a bit of a problem, and the psychiatric material, I don’t recollect anything at all about Betty with the psychiatric material information at the House and Senate. There was a little sojourn that dealt with some shrink in New York that had been Nixon’s psychiatrist – tell me if I’m off base here – and that Nixon at one time had recommended him to Jerry Ford, and Jerry Ford once spent an hour with him or words to that effect.
Smith: That sounds right.

Becker: Something like that, but that’s the only thing I remember.

Smith: It’s hard to imagine anyone less a candidate for psychoanalysis than Gerald Ford. You could see Mrs. Ford.

Becker: Very well adjusted.

Smith: Let me ask you, did you have any discussion with Ford at that point in the context of preparing him, or describing the investigation, or whatever, about Mrs. Ford?

Becker: I have given my records to the library, and all my papers and records are in the library. There is a body of records that remain sealed for a period of time. I don’t generally discuss those kinds of things. I understand we are doing this for historical purposes, but I’m not comfortable discussing my private conversations with Congressman Ford about his family in anticipation of the committee hearings, except to say that we tried to be prepared and to be candid and frank and answer all questions. We recognized the American people, in general, did not know him, and that this was their way of being introduced to him. We wanted them to see the open candor of this man.

Smith: Let me try this a different way. The standard way the story is told now is that Mrs. Ford was having some problems by the way, characteristic of a whole lot of women of her generation. She is almost a metaphor for women, sort of middle-aged, who – and she has written, herself – at this juncture in their life where their husbands are doing fascinating things, their kids are growing up, and in some ways they are left on the side. And under those circumstances all sorts of things are possible. Ford was out on the road all the time, perhaps not as aware of some of this as, for example, Susan became. Is that your sense, broadly speaking, that it was not an unusual immersion in his own advancement with all the demands, travel and everything else that were imposed upon him as he rose up the ladder. And it was almost a benign neglect, not seeing some things that perhaps he might have been sensitized to later on.
Becker: I do subscribe to what you said, but not only that, I would make the point to you that as minority leader, when the minority party is in the White House, he was every night, literally every night - and I was amazed during the confirmation proceedings, when we were preparing for the confirmation proceedings and I spent a lot of time in his congressional office during that time - that every night there was some cocktail party here or some function here, or some group – you never bought dinner, that’s where you went every night. I said, my goodness gracious, I could never keep up with this kind of a lifestyle. As minority leader [it was] even more so than as a congressman. He attended a lot of those things and it was not uncommon in those days for this kind of thing to happen. He was, himself, President Ford himself, I would consider a moderate drinker, a very moderate drinker. Before dinner sometimes we would sit and have a cocktail. I might have a glass of wine with the meal, and he would pass on that.


Becker: Yeah, very much so. Oh my goodness, if he would put on a little weight, he would notice it and he had to do this and he had to do that. “I swim every day, you should swim every day. I find time to do it, you should find time to do it.” Oh, God, the Midwestern ethic – I’m a little Jewish boy from Washington, give me a break.

Smith: Did he ever talk about his parents?

Becker: His parents? He talked about his brother and his young years. He talked about Michigan a lot. He talked about the school and his football years and the football games. A little bit about the military. I got to know about his military background. Of course, I didn’t know everything about him.

Smith: Did he tell you about Willis Ward, his black teammate at Ann Arbor?

Becker: The story about how they wouldn’t serve him or feed him? I always thought that was such a poignant story and then, when you go before the House committee, members would go out of their way to try to make something out of a procedural vote on the ’64 Civil Rights Act as though he were against it. He was very much in support of the ’64 act. In fact, Jerry Ford voted in the – I
believe it’s the ’52 act that Jack Kennedy voted against and Richard Nixon voted for – or ’50. I think Jerry Ford – if he would have been a Democrat, they would have probably called him a moderate Democrat.

Smith: But he was certainly a fiscal conservative.

Becker: Oh, very much so. He was quite conservative.

Smith: And that carried over into his personal life.

Becker: We’d have a $2 bet or something, and “pay up, pay up.” We’d play gin on the airplane coming in. I remember going to Tampa with him on Air Force One. We sat and played gin for an hour on the flight down – four bucks, five bucks, or something like that, and we landed and – this is the President of the United States - said to me something like, “I’m going to be pretty busy. I’ve got really a busy schedule here, once I get on the ground. I’ve got a busy schedule. Have to be here and there and we’ve got to be over here and we’re leaving. Why don’t you pay up your debt before…” I said, “I’m going to be here, for God’s sake! Here’s your lousy four bucks.” That’s what he was like.

Smith: Let me ask you, I only heard him speak disparagingly of two people. And I mention that because - and I’ll tell you who they were - but I’m sure there were others. But my sense was that he really made an effort to see the good in everyone. Beyond that, something unusual for a politician - at least when I was around him, I noticed pretty quickly, he would be pretty deft in steering the conversation away from what you and I would call personal gossip. Most pols love gossip. Not just political gossip, but they love to get the dirt. But my sense was that Ford was almost offended by that.

Becker: I think that’s true. He didn’t have a lot time or patience for that sort of thing. But he had a wonderful sense of humor. I’m trying to remember – you can help me, Richard – the wonderful columnist who died a couple of years ago of cancer, a humorist, columnist…

Smith: Art Buchwald.

Becker: Art Buchwald came to some of our dinners. And Art Buchwald would always tell a Jerry Ford story about being tight with a buck. And Ford would laugh
his head off. He told a story, I remember, and I heard Ford repeat it. It was a story about two lawyers in Washington who went on a yacht trip and the yacht crashed and the two of them swam to an island, a deserted island all by themselves and never to be found again. One day the two lawyers are sitting there on the island all by themselves, “One lawyer said to the other, ‘My God the sunlight was terrible and I was just getting to be successful in Washington, and I had this and I had this and I had this, in fact, I recently had lunch with Minority Leader Jerry Ford. I had no money. But I paid for lunch. I borrowed $30.00 from Minority Leader Ford to pay for lunch. I told him I would repay me this week.’ And the other lawyer says, ‘Oh my God, we’re saved. If you owe Jerry Ford $30, Jerry Ford will find us.’” It was very funny. He loved that story, an old Art Buchwald story.

Smith: But there were some grounds for that. You know, the best humor is grounded in reality. He was austere in his approach.

Becker: This is a man who raised four children on a congressional salary, maintained a home back in his own district, and it was tough to do in those days. It was really tough to do. So he really had to watch a buck, and he was honest. He had no side deals, no special deals, he had no radio stations or TV stations or anything like that. Just, what you saw is what you got.

Smith: Do you sense what his relationship really was with LBJ?

Becker: No, no I don’t know. But I do know that he had high regard for Jack Kennedy, and he spoke to me lovingly of those early days when they were both young congressmen, both single, both good looking guys, and how fond he was of him. I think that fondness carried on to the whole family, with respect to Ted and Caroline when they awarded him the Profiles in Courage Award. He was really touched by that.

Smith: During the vice presidency, he obviously – again, he’s in this impossible position – cannot give the slightest public hint that he might, in fact, become president for obvious reasons. Behind the scenes – Tom DeFrank, of course, made a lot out of a slip of the tongue, and actually I’d like to get your view of that.
Becker: During the vice presidency?

Smith: Yeah. But in a larger sense, did he ever say anything?

Becker: Well, we spoke about his relationship with the Nixon staff and with Nixon. And he complained early in his vice presidency to me about how they would book him for speeches without clearing it and they, the staff, the Nixon staff, would write the speech and he wouldn’t see the speech until very late in the game. Sometimes he’d be on the airplane and he still hadn’t seen the speech. There was a conscious attempt, it was pretty clear, to turn him into a Spiro Agnew #2 – a blind defender of Richard Nixon.

This is pre-smoking gun, pre a lot of the tape disclosures, and once the tapes are disclosed, I think we are talking about roughly March of ’74, the smoking gun tapes and some of the other tapes come forward when they were produced, the vice president just cut back altogether. He said, “I’m not going to do these speeches,” and, in fact, at a Cabinet meeting the vice president of the United States, off the agenda, and Nixon’s Cabinet’s were strict agenda, off the agenda, announced to the president and to the Cabinet members that he would no longer publicly defend the president.

Smith: You’re right. That’s at the end, after the smoking gun tape came out, which was, of course, at the end of July, or whatever.

Becker: After the evidence is out, yeah.

Smith: But earlier, at least, say spring of ’74 – depends how you look at it – there always was a Boy Scout quality to Gerald Ford, and I don’t say that condescendingly. Eagle Scout is a real part of his character and he said, more than once, and I think not just as boilerplate, that he literally tried to be honest with everyone, and he assumed that everyone was being honest with him.

Now, again, you can look at that with a certain degree of naïveté, or you could say that that’s a very admirable character trait. Was he, in fact, as surprised/appalled that Nixon lied to him as one might be led to believe? Was he really surprised that Nixon turned out to be as involved in the cover up as it became clear?
Becker: Well, you know, there’s not one moment in time when all the evidence is made public. What I thought, Richard, was this: it kind of comes out slowly and you get it piecemeal. We all lived through that period, we make judgments, we see what’s going on in Sirica’s courtroom, and we see what McCord is saying and we see what John Dean is saying, and begin to, who do you believe or don’t you believe, and so forth. And there becomes this documented form of evidence in the form of the White House tapes, and then you get edited portions of that first. Then you get….

Smith: Let me ask you about the tapes, because when the transcripts appeared, one senses that he was, in fact, appalled by the language as much as any revelations. For a lot of people, that was a Dick Nixon that they’d not heard before.

Becker: The final transcripts, you’re talking about? Yes, I agree.

Smith: Was that your sense? That it was as much the style of Nixon’s conversations, plus the fact that he was taping people. Did that offend Ford? That people were being taped without their knowledge?

Becker: Did it offend him? The only way I can answer is saying that one of the first White House orders that he issued was that there would be no taping. No taping whatsoever during his administration. I’ll tell you an interesting story about that. I think he was more disappointed than surprised. I think at one point in time, probably going to ’68-’69, somewhere in that time, that he had great expectations for that presidency. And there was a great disappointment for him that Nixon would use this kind of language and would speak this way of ethnicities and races and genders, and they would even consider using the CIA to cover up this or to cover that, and we’ll claim this and claim the privilege.

We talked about that, yes. And it was rather surprising. We talked about it in the context when that finally came about though, in the context that this is a dynamic system. This is not a stagnant system. This is not going to remain the same. Richard Nixon is going to have to stand trial for impeachment and that is going to happen, or he is going to resign. And then when Hugh Scott and
Barry Goldwater, if you remember, Richard, walked up to the White House and had a conversation with President Nixon and Goldwater told Richard Nixon that he did not have the support of the Republican senators for the two-thirds vote in impeachment, and then told the world, it was pretty clear that he was going to lose that office one way or another. And at that point in time, we began to think in terms of how do you prepare this man for that next move, and how do you avoid any appearance of a coup, or over anxiousness, and how do we communicate the honesty and the fresh candor of this man to the American public so that they know what the quality of the new president is?

Smith: That is, again, post smoking gun tape. Before that he had, obviously, old friends on both sides of the aisle. Were there people advising him in the expectation that this was an increasing likelihood? You stop and think, every single day, how many opportunities he had to put out a foot wrong, and by and large he didn’t. But it must have been – talk about self-discipline – it must have been an incredible amount of caution, watchfulness, dexterity, to go through this period. Be out in front as much as he was, have as much interaction with the public as he was, and yet thread the needle in terms of never saying anything that could be turned against Nixon - knowing that the Nixon loyalists, were dissatisfied with what he said. What was his mood during that period? That must have exacted a certain amount of strain.

Becker: I would answer you by saying that I wouldn’t characterize him at that point in time as a loyalist. A loyalist to me would have been someone who turned a blind eye to any evidence. Just don’t want to see or understand it. But, Jerry Ford, I think, during that time period would better be described as someone who was: A) a team player; he’s the minority leader of the Republican Party, the Republican Party is in the White House and his boss, the head of that party is in the White House, and B) a guy who is a lawyer, who is prepared at all times to give someone the benefit of the doubt until the evidence comes forward. The disclosure of the existence of tape, as you remember, Alexander Butterfield I think was his name, long precedes the actual disclosure of the contents of the tapes. And so he took a position of I’d like to see what was said on those tapes. I’d like to hear those tapes; I’d like to hear them myself.
Smith: Do you know if he ever advised Nixon on what to do with the tapes?

Becker: Not that I know of. I read that Laird had some advice on that score to Nixon. Later we had conversations, not late in his presidency, after his conclusion of his presidency, about why didn’t Nixon destroy the tapes before they were subpoenaed, and maybe he should have listened to Mel Laird, words to that effect. No, I wouldn’t call him a blind loyalist at all. That’s what I would call an Agnew type person.

Smith: No, my point was actually, the real Nixon loyalists would never be satisfied with what he, as vice president, said in defense of Nixon. But he is, literally, suspended in this terribly awkward position.

Becker: I will tell you this, too, listening to this conversation we’re having here brings back some memories. I remember – I don’t know if this is relevant to this point – but I remember him saying to me quite often that he, as minority leader, had greater access to the Oval Office during Lyndon Johnson’s presidency than Richard Nixon’s. He didn’t blame that on Richard Nixon. He blamed that on Erlichman and Bob Haldeman. And so he wasn’t a big fan of the way they ran that White House.

Smith: By the way, this is an appropriate time to say that the only two people I heard him really disparage, and the worse he could say was, “He’s a bad man.”

Becker: Which one?

Smith: One was John Dean and the other was Gordon Liddy.

Becker: Well, I’ll go halfway with you. I don’t think Gordon Liddy was a bad man. I number Gordon among my friends. John Dean is a different story altogether. John Dean, I think, was concerned with his own neck very early in the game, and did what he could to preserve his own neck and sometimes, in my view, concealed his true role in the break in and so forth. There are books – the *Silent Coup* makes a very strong case of John Dean had pre-break in knowledge of the Watergate break in, and there is considerable evidence to support that.
Smith: Did you ever have a conversation you recall where the issue – not the stupidity of the break in, everyone says they knew right away – but the responsibility for it? For example, did John Mitchell take secrets with him to the grave?

Becker: I don’t think John Mitchell is a secret at all. Ford would agree, I think, and I recollect that’s how the conversation on the subject, that what was in the public domain with respect to the so-called explanation for the break in of the DNC, made no sense whatsoever. Because there is nothing there of any value at the DNC that could be helpful to Gordon Liddy and Howard Hunt and that group of people. They didn’t have a nominee yet, the Democrats didn’t have a nominee yet and the records of contributions were not there. It made no sense at all. There had to be a different explanation or some frolic of others.

You might remember some years later, I don’t know, fifteen years after his presidency was over, I appeared with Richard Nixon’s lawyer and some others at Fordham, a symposium on Watergate. But the original press secretary Jerry terHorst was there and Jerry terHorst made – fifteen years later said what he’d said fifteen years earlier – he said, “I left the Ford White House because I couldn’t live with the fact that the guy who was responsible for the break in got a pardon, and the others went to jail,” – talking about Nixon.

The fact of the matter is, I have never seen anything to suggest that Richard Nixon had any prior knowledge of the break in. None at all. So this business of Nixon being the mastermind has never made much sense at to me. There are other explanations, and they are in the books out there for the break in, by that group. Liddy knew what he was doing, knew he was breaking in to DNC, but I don’t think Liddy knew the real mission at all when they went in.

Smith: There is this theory about Larry O’Brien and the old loan to Nixon’s brother and somehow that may have been what they were looking for. The other problem, of course, was…

Becker: Castro and all those crazy things.

Smith: Yeah, the other problem was they had too much money and…
Becker: That’s exactly right.

Smith: And there is a theory that Nixon you know, Nixon would pop off – and Haldeman, for the most part, knew when to take it seriously and when to forget about it. But, the Magruders of the world, lacking that sophistication, heard the old man say something and took it as gospel. And before you know it, Mitchell sort of signs off without really thinking about it, and the rest is history.

Is there something we don’t know still about Watergate?

Becker: Yes. Sure.

Smith: Including who authorized the break in?

Becker: I think the public does not know the real reason for the break in. You know, there were two break ins. There was one two weeks earlier, before the one where the arrest occurred. They don’t know about telephones being tapped in the DNC. Why the telephones were tapped. They don’t know about two weeks of, following the first break in, of listening to those taps from the Howard Johnson’s. They don’t know the full story of the principles involved. In fact, Richard, did you know that there is an unprosecuted DNC break in conspirator who later became an assistant state attorney in Rhode Island? And they don’t know, the public, I don’t think, really knows who ordered it, who’s idea it was, and what was the ultimate purpose of it. What were they trying to gain?

My view is, I think there were certain people that were trying to gain some blackmail information against Democrats, and use that to their own political advantage. But that said, there were cutouts. I’m confident, I’m personally very confident the Central Intelligence Agency had nothing to do with this break in. That’s craziness. The FBI had nothing to do with it. It’s that group – that group of Plumbers that went out to California and got into Dr. Fielding’s office and broke in there. But will they ever know? I don’t know. I’m not sure there is an interest anymore. For a long time we had a cottage industry in this country of Watergate, didn’t we?
Smith: Sure. And Deep Throat. It’s almost as if, once the identity of Deep Throat was revealed, some of the air went out of the balloon. Let me tell you something – it’s interesting – we have done about seventy interviews so far. One of the most interesting was with Jerry Jones, who told us, among other things, that in the spring of ’73, Haldeman was still on the White House staff. Jerry Jones, at that point, was finishing up reorganizing the personnel office for Haldeman. He got a call from Haldeman wanting to know how many people reported directly to the vice president. And Jones did some quick thinking and said about fifty. And Haldeman said, “Fine. I want undated letters of resignation from everyone of them.”

Becker: This was Vice President Agnew?

Smith: From Agnew, exactly. Now, there are two theories that have been advanced to explain that. One, which I think it is safe to say Jones subscribes to, is that they knew long before the Wall Street Journal published its first story that Agnew had problems. And they wanted to be prepared.

Becker: Quite plausible.

Smith: And the other, more general theory is, well, Agnew wasn’t held in very high regard, and it would not be atypical of Nixon one day to sort of say, just out of the blue, being angry at Agnew. That kind of thing. But Jones believed that it was grounded in the fact that they knew, before the public knew, that Agnew had some pending legal problems. And they wanted to be prepared in case of…

Becker: That, I think, is quite plausible because, as I recollect, Agnew himself, through counsel, very early in the investigation made it clear to the Department of Justice if they wanted to deal exclusively with Elliott Richardson, and they didn’t want it to lead to lower levels, and they didn’t want to deal with some assistant U.S. attorney or USA, they wanted to deal with the AG. And so the AG is brought into this thing. I could see that happening and that’s exactly what happened - Elliott Richardson negotiated the terms of the Agnew disposition.
Smith: We’ve heard varying accounts of Richardson’s initial response to the order to fire Cox. There is something of a debate between – maybe they heard what they wanted to hear, but clearly, there were people in the Nixon White House who believed that Richardson was prepared to carry out that order, and subsequently, obviously, the opposite turned out to be the case.

Becker: Well, the obvious question is, if the order was direct to Richardson, why didn’t he do it? Why did he resign? I’ve never heard that story. But anyway, I would assume that if the AG gets involved in the negotiations involving a criminal matter involving the vice president, I see nothing inappropriate with the attorney general informing the president of this ongoing matter.

Smith: Another source, who probably should at this point remain nameless - the day the Supreme Court handed down its ruling about the tapes, the call was placed to San Clemente and Ron Ziegler, speaking for the president, the initial reaction was, “Can we defy the Court?”

Becker: Can we divide?

Smith: Defy. Nixon’s initial, immediate response was, is this something that we can get away with? And it was made very clear that it was not an option. And you could see, that’s really the beginning of the end of the Nixon presidency. But it’s interesting that Nixon’s initial response…

Becker: Well, what’s interesting about that is that, to me, that option would have been considered while the matter was pending, for goodness sakes. It wouldn’t come out of nowhere – oh my gosh, we lost, we never expected to lose – no, no, not at all. It was an 8-0 decision, I believe, with Rehnquist not participating. No, I can understand, and I can envision Ron Ziegler saying, “Screw them, we’ll do what we want to do…” because that was Ron Ziegler’s makeup.

Smith: Is it possible that Ziegler said that on his own without talking to his boss?

Becker: Sure. His boss would have considered, long in advance, if the court does this, we’ll do this, if the court does this, we’ll do this. He wouldn’t have waited. That’s the way Richard Nixon was.
Smith: One other thing that we found surprising because it’s the portal to the whole pardon story. We talked to Haig. I’ve always assumed, I imagine I’ve read it more than once, but for whatever reason, I’ve always assumed that Haig, at the very least, listened to the smoking gun tape. He denied ever having heard the smoking gun tape. One thing we’ve learned in this is how many roads lead back to Fred Buzhardt. I’ll back up just a minute. Because when we talked to Mel Laird, who had come into the White House staff somewhat reluctantly to lend a hand, Buzhardt had been his counsel at the Pentagon. And according to Laird, he’d been on the job about a month when Buzhardt called him and said, “I’ve been listening to the tapes. Nixon’s in it up to his neck. Be careful.” Laird also acknowledged, somewhat reluctantly, later in the conversation, that Buzhardt also tipped him off to Agnew’s pending problem. So he’d known about that.

You remember, Laird has a conversation with Ford where he says, “If you think things are bad now, wait – they’re about to get a whole lot worse.” In any event, Buzhardt is his source for both of those stories. Haig says, “Buzhardt gave me some very good advice. Namely, don’t ever be alone in a room with a tape.” Now, whether that is a comment on the famous eighteen and a half minute gap story, or what, I don’t know. But I always assumed that Haig, at the very least, as I say, listened to the smoking gun tape. He claims he didn’t. He also claims, by the way, that the whole initiative of the pardon was not his idea; that it originated with Buzhardt, that it was Fred Buzhardt that drew up this list of options. That it was Fred Buzhardt who, he said, gave me (Haig) credit for being intelligent enough to realize what a questionable position that would put me in, etc., etc. That he basically is passing on Fred Buzhardt’s handiwork. What’s your reaction? Is there a little bit historical rewriting going on here?

Becker: Yes, indeed, indeed, indeed. First of all, if you listen to all the tapes during the Nixon presidency, you’re going to hear Al Haig’s voice almost as much as Richard Nixon’s. Al Haig is a frequent participant in those conversations. I find it very difficult to believe that, given that fact, and given the fact that the tapes were such a critical piece of evidence on the question of the loss of the Nixon presidency, that Al Haig wouldn’t want to hear what he said, to remind
himself of what he had said at that time. If he said anything that is arguably obstructionist behavior under the Obstruction of Justice statute. I find that very, very difficult to believe.

Smith: Is there a middle course? Is it possible he would have seen transcripts and been content to see transcripts?

Becker: No, I don’t think that’s bad advice. Don’t find yourself in a room alone with the tapes. But the chief of staff of the White House can avoid that by having three other people present with him at all times while he’s listening to these tapes. And you don’t listen to originals, Richard, you always listen to dups. You never touch the original, so there are ways of avoiding that. That’s standard behavior. Local police departments are going to operate that way.

My impression always was, in an indirectly related matter, that Al Haig would have been most happy if, most happy if, Jerry Ford did what Bill Saxbe told him to do as AG, and that is to send the tapes to Nixon in San Clemente. Al Haig would have been most happy if all those tapes were out of the White House in the hands of Richard Nixon, presumably for some big bonfire out there in San Clemente. Because, in my view, Al Haig demonstrated, at least to me, in my view, that that’s really what he wanted. Now that, of course, was not in any way in the best service of Gerald Ford or the Ford presidency.

Smith: And presumably that included as well Nixon’s papers which were in storage?

Becker: Yes, sir. Well, all the records, papers, and tapes.

Smith: And I believe they were stored at the Old Executive Office Building?

Becker: They were boxes about two feet by two feet. They were in the Executive Office Building across the street from the White House, across the walkway from the White House. And they were on the third floor and the Secret Service was concerned because there were so many boxes. It was almost five years of records, papers, and tapes – they were concerned about the floor of the EOB. And, of course, that became, within one week, a major issue in the Ford presidency.

Smith: Since we’re there, let’s explore that. You mentioned Attorney General Saxbe.
Becker: Yes, sir.

Smith: How did the issue first come up and how was the decision made to get an opinion from the attorney general?

Becker: Very simple. Without exaggeration, within 24 hours after landing in San Clemente – within 24 hours being the ex-president of the United States – the ex-president of the United States picked up the phone and called Al Haig, his former chief of staff, and said, “You know those boxes up in EOB? Ship them out here. Send everything out here. I want all my records, all my papers and all my tapes.”

Smith: Because – let me interject – historically, papers, in fact, have belonged to the outgoing president. That had been the tradition.

Becker: You are using the right terms, Richard. You are using the right terms. Using the term tradition, and you’re using the term historically, but your sentence did not use the word by law. By custom, by practice and tradition, that was historically correct. Jerry Ford agreed to, at the very least, initially – he was president a very short period of time – make a determination of who owns these records. Who owns them? Does Richard Nixon own them? Does the government own them? And so forth. And so what he did, he asked the Department of Justice to give him an opinion on ownership. In the meantime, nothing leaves the White House.

Smith: There is this – I don’t know where it came from – notion out there that Ford immediately is inclined to let Nixon have his papers and tapes.

Becker: If you were to take a new position in an office, and you had 85 people working for you in that office that had worked for your predecessor, and an issue came to you in the first 24 hours of your new position in that office, and you staffed it out to these 85 people, what do you think I should do? And all 85 of them said, “Oh you should do this Richard,” and they all said the same thing, you might be inclined to go along with that. And that’s what happened with Jerry Ford. Jerry Ford inherited the Richard Nixon staff and within days the issue came up, what do I do with these records, papers, and tapes? And at
the very least, and it took a little doing, at the very least we got him to at least get the legal opinion from Justice.

Smith: Now, what led him to that? Describe that process.

Becker: My gut reaction to that was immediately negative. Strongly negative. Hostile negative. You cannot do that. Jaworski is going to want these, the special prosecutor is going to want these, there are litigants that are going to want these, you can’t part with those. How do you know that they are not the property of the U.S. government? I don’t know – I’m not expert on papers and records. At the very least, let’s get an opinion.

Smith: Were there other people either echoing what you were saying or taking issue? Was there a debate going on?

Becker: There was one other person. That was Bob Hartmann, bless his soul. Bob felt very strongly the same way I did. Saxbe, who was Nixon’s, I believe, fifth AG, had the legal department prepare the memo. Do you know who prepared the memo? A young lawyer in the Department of Justice named Anton Scalia, and it was a wonderful memo. I don’t have any problems with it substantively in terms from a legal standpoint. He’s right, he walks though different presidents over the years. This one had an auction of his papers and tapes. Grant actually had an auction of his papers and tapes. And Lyndon Johnson cleaned out the White House. You couldn’t get a pencil in the White House. By custom and tradition, many, but not all presidents claimed and took their presidential records when they departed the White House. Several presidents simply left their records to the government. What happened with the Department of Justice memo was an interesting set of facts. We’re now about ten days into the Ford presidency, maybe a little less. Bill Saxbe meets with the president. Al Haig is there, as I recollect, Bob Hartmann was there, and I was there, and the formal delivery of the memo was given to the president.

Smith: From the Justice Department?

Becker: Yes, by Bill Saxbe.

Smith: The attorney general.
Becker: Yes, but, Bob Hartmann had learned before the meeting, from a member of the media, that the media had received a copy of the memo before the president.

Smith: Really?

Becker: Justice had given a copy of the memo to the Washington press corps before it was given to the president. I always believed this to be a maneuver to lock the president into the position urged in the memo. Specifically, to send the records and tapes to Nixon in California. It became a very antagonistic meeting in the Oval Office. Not the president. The president was quiet during it. You must send it, you must send it, you must send this stuff. You’re going to get sued, you have no standing, no reason to withhold it. It’s not yours.

Smith: That being, presumably, Haig’s viewpoint or Saxbe’s?

Becker: Saxbe’s making a point and Haig is strongly supportive of it. All I can tell you is that I felt very, very strongly about it; very strongly about it. I wanted to verbally hit President Ford in his gut, someplace that he would really feel it. And my view is that presidents really feel it when you talk about how history looks at their presidency. Once you’re president, that’s the only thing, theoretically, you’re concerned about. And I said to him, “If you send that to Nixon, if you send those records, papers and tapes, to Richard Nixon, there will be a hell of a bonfire in San Clemente – and whatever happens in the remaining two and a half years (meaning the remainder of Ford’s presidency), is unimportant. Historians will write about the Ford presidency and this is what they will say, ‘Jerry Ford committed the final act of the Watergate cover up when he sent those records and papers and tapes to Nixon in California.’”

And, Richard, you know the personality. You could see from the neck up, literally see the color change. I really angered him with that statement, and I meant to anger him. I wanted to shake him – you can’t do that! Red through his neck…Saxbe jumped in and said something like, “I’m the attorney general. You should listen to my advice.” And it was a senator talking to a congressman again. That’s what it was. That’s what I saw. I didn’t see the Oval Office, I saw a senator talking down to a congressman. And that was a
mistake. Ford said, “Those damn things are not leaving here. They belong to the American people, they are going to stay here. They are not leaving.” And of course, I had made the argument that by custom, tradition and practice, outgoing presidents had claimed ownership of their records. But the nation never had a criminal proceeding against a president, we never had White House tape system and so forth. It was a whole different set of distinguishing arguments.

Smith: Here’s where it gets confusing, because subsequently, a deal was arranged to send the stuff.

Becker: Not too quickly.

Smith: But which then had to be, in effect, superseded by a congressional act. How did you get from this very dramatic confrontation to the sequel?

Becker: Okay, there was a decision made, I’m not going to voluntarily send them to Richard Nixon. I’m not going to do that. Let’s find a disposition, let’s find a happy disposition. I considered going to Sirica, saying, “Judge, would you take them?” That was out of the question, he wouldn’t do it.

Smith: Now, wait, you didn’t go – but that idea was floated?

Becker: It was floated.

Smith: By the way, was Phil Buchen in on this meeting?

Becker: Phil was not in that meeting, but in subsequent meetings. At that point in time, concurrently, while all this was going on, Phil and I are meeting with Jack Miller, who is Nixon’s lawyer. And he is talking about, when are the records going to be there? When are the tapes going to be there? Ultimately, we tell Jack Miller that it’s not going to happen. They are not going to go out to be sent to California voluntarily. We’re not going to do this.

But coinciding with all of that, if you can follow all of this at one time, while all of this is pending, these meetings are going on, Phil and the president and I have a conversation about the Constitution and what his powers are under the Constitution, with respect to pardon. He had a series of questions that he
wasn’t certain about the answer to. He hadn’t made up his mind on pardons, but he wanted to know the range of his authority. Wanted to know, for example, wanted confirmation that pardons could be issued pre-indictment, pre-conviction. That pardons could be issued across the board without specification of the statute for which you are being pardoned. That a pardon could be, once issued by the president, could have effect on a similar or concurrent state criminal statute – that the state couldn’t proceed, or what was the status of that? That a pardon would have no possible effect on any residue action that the Senate might pursue against Richard Nixon. Because even though Richard Nixon had resigned, he could still be subject to impeachment because the impeachment clause provides for a loss of office, but also loss of honors and privileges and profits, and so forth. So the Senate could have proceeded, and the President wanted to know if a pardon was affected by a residue impeachment action. And then finally wanted to know if a pardon could be refused. It was pretty clear what we were talking about.

Smith: Do you have any sense of how far into the administration is this conversation?

Becker: Within two weeks, and the President is very clear. He says, “I don’t want you to work on this here. I don’t want anybody seeing this. Go someplace…” “I understand.” So I went to my old law firm’s library and used that. I’d keep books out and I’d mark the page. If it was on page 412, there was a case I was looking at, I would mark it 537 and have a separate code to myself in case some curious little law clerk was curious about what Becker is looking at. I went to the Supreme Court library and I wanted to see some of the original briefs on some of the pardon cases.

And so, ultimately, I came to have what was the answer to all of his questions, and they are, of course, that pardons can be issued pre-indictment and pre-conviction, that a pardon does not have to specify with particularity the statute involved. It can be across the board, and if he was considering, as he was considering pardoning, for any and all federal offenses that would not be a prohibition. All states enjoy sovereignty where they are technically not required to honor a presidential pardon ranted for a federal offense to apply equally against a state criminal offense. Principles of comity and one
sovereign being respectful to another sovereign had come into play in some of the cases coming out of New York. New York had voluntarily granted comity to a presidential pardon.

Break taken.

Smith: Well, we’re obviously mid-narrative in terms of the disposition of the Nixon papers.

Becker: Let me finish those five questions, if I may, so if they become relevant - I think I’ve gone through three of them and the fourth question dealt with Congress. The pardons are specifically excluded in the impeachment clause. One may not pardon an individual for the individual’s impeachment. The pardons had no effect on impeachment trials. But the question that really was a fascinating question was this business of whether a pardon could be refused. If President Ford was considering giving a pardon to Nixon, certainly he didn’t want the embarrassment of granting it and having it thrown back in his face.

And so when I looked at much of the case law on this subject, Article 2 of the Constitution that deals with the presidency identifies the powers of the president to give something called reprieves and pardons. Now, reprieve, we don’t use that word today, we use the word commutation. Commutation is what Scooter Libby got, what Jimmy Hoffa got, it is an executive branch reduction of a judicial branch criminal sentence. That’s what a commutation is. A pardon is altogether different. A pardon is a forgiveness, an executive forgiveness of the criminal act, which certain implications attached thereto.

So, if you follow this logically, it is very simple. Commutation cannot be given until there has been an adjudication and a sentence and a reduction of the sentence by the executive. Since no one has a Constitutional right to be a resident of a federal prison, “I choose to stay here, I want to stay here in this federal prison” – no one has that kind of Constitutional right. A commutation cannot be refused. Commutations, once issued, are effective and can be conditioned, and they still cannot be refused. Jimmy Hoffa, for example. Jimmy Hoffa’s commutation issued by Richard Nixon said thou shalt not run
for union office for, I think, ten years. And Hoffa didn’t like that part of it, and tried to litigate it.

Now, on the other hand, a pardon is an act of forgiveness by the president. Judicially forgiving the crime, as I say, can be given pre-indictment, post-indictment, and so forth. But acceptance of a pardon is an acknowledgement of guilt.

Smith: Is that a legally established point?

Becker: Yes. Let me try to give you that a little more clearly. A pardon can be accepted or rejected. Individuals who are offered pardons have the authority to accept or reject pardons. A rejection of a pardon renders the offered pardon as void and without effect, but once one accepts a pardon, it’s an acknowledgement of the complicity in the act for which you were pardoned.

In 1914 a journalist in New York named Burdick wrote a series of articles on immigration in the ports of New York, and wrote about bribery occurring in those ports, and identified immigration officials that were accepting bribes. His name was Burdick and he was brought before a federal grand jury in New York. The U.S. attorney made it very clear we have no interest in you, Mr. Burdick, no prosecutorial interest in you, we just want to know your sources and your evidence. Tell us your sources.

Burdick said, “No, I will give you no sources. I invoke my privileges under the Fifth Amendment,” and refused to answer any questions. He simply wouldn’t tell, and this was long before there was any kind of statutory shield or legislation that reporters could invoke. Burdick, a month later, was subpoenaed for the same grand jury and was asked the same questions by the same U.S. attorneys, same grand jurors, and he gave the same answer. Where upon the U.S. attorney, the opinion tells us, went into his pocket and pulled out a piece of paper, put it in Mr. Burdick’s hands and Mr. Burdick read it. And it was a pardon signed by Woodrow Wilson, pardoning Mr. Burdick for everything that he’d done from the moment of birth up until that moment in time. It is what we prosecutors used to call a complete bath. And he said,
“Now Mr. Burdick, you have no Fifth Amendment privilege because your answer can’t incriminate you in any way, you must answer.”

Burdick refused to answer, they took him to a federal judge, the judge ordered him to answer, he refused to answer, he was found in contempt, and the case went to the Supreme Court in 1915. United States v Burdick. US v Burdick, the court said Mr. Burdick is right, he should not be held in contempt, he should be immediately freed from jail because Mr. Burdick has every right in the world to refuse this pardon from Woodrow Wilson, because acceptance of a pardon is an acknowledgement of guilt. Still the law. That US v Burdick is a case that I had the privilege of going through in much, much more detail with the President of the United States, in Washington, D.C., Jerry Ford and subsequently, the former president in California.

When I was sent to California by President Ford, one of the three tasks that he assigned to me was: I want to be certain that Richard Nixon understands Burdick. Richard Nixon understands that he can refuse this pardon, and there I cannot force him to accept it. And that Richard Nixon, if he does accept the pardon, the Ford White House’s position - with respect to his acceptance, will be that Mr. Nixon’s acceptance was an acknowledgement of guilt. It was one of the three tasks.

That was difficult out in San Clemente to quiet this man down who had a lot of anxiety at the moment, didn’t like talking about himself being pardoned, didn’t like that at all, interrupted a half a dozen times in the narrative of the case. Said things like, “How are the Redskins going to do this year?” Wanted to talk about anything other than… you really have to understand this, you really have to understand. I really wanted to be able to say to Jerry Ford, in truth and in candor, that I explained Burdick to Nixon and he really did understand it. And I feel that way today, that Nixon understood that he didn’t have to accept that pardon. If Jerry Ford is going to give you a pardon, and it will be across the board for everything that happened during your presidency, during that time period, you have an absolute right to refuse it. Your lawyer is right outside, he’ll tell you the same thing. Jack Miller will tell you the same thing. But if you do accept it, Jack will tell you what the implications of
accepting that are, that it’s a bar against any federal prosecution during the period covered by the pardon, and that your acceptance is an acknowledgement of guilt.

Smith: But from Nixon’s standpoint that’s a blanket acknowledgement of guilt. You don’t even know what you’re, in effect, pleading to. At that stage of the game, particularly if you’re in Nixon’s shoes, because so often it’s seen from the other viewpoint. But if you’re in Nixon’s shoes with all of the emotional strain and trauma that you describe, from his standpoint, he is, in effect, surrendering any realistic claim he could make subsequently that, “I didn’t do it.” Because you don’t even really know what you are being charged with. It’s a kind of blanket acknowledgement, isn’t it?

Becker: I hear what you are saying. Let me change your question a little bit, because you are usually exactly right on line, but consider this from Jerry Ford’s view. At the very least, Richard Nixon knows what he did every morning that he was president of the United States and every day. And at the very least, he knows when and if he violated the law, but we don’t know that. Consider the darkness Jerry Ford is operating in. Is there something out there that the special prosecutor has never even touched?

Smith: That’s what makes this so fascinating in ways that I don’t think have been explored before. Because the fact of the matter is, you have two people, not only on different planets, [but] in different universes, each groping their way in the dark in some ways. That’s what makes this, to me, so fascinating and you’re the bridge.

Becker: Thank you, but you’re right. And at times, before I left Washington and went to San Clemente to discuss this matter, Ford and I talked about maybe should we restrict this to the articles of impeachment that were voted on by committee in the House. Or should we go broader, and if we go broader, what are we buying into? What don’t we know?

Smith: Which is presumably why it became all the more important to get as explicit an acknowledgement of guilt and remorse, for lack of a better word.

Becker: Yes, contrition.
Smith: From Nixon. Contrition. But at the same time, in some ways, it’s the worst possible moment to be asking Nixon to rationally weigh his own conduct. You’re right – it’s one thing to say he knew every morning what he did, but you know better than anyone that people have all sorts of rationalizations or convenient lapses of memory – he didn’t know what else was on those tapes. You know what I mean? Plus, the ingrained refusal to acknowledge what seemed to everyone obvious, up until the end. And presumably he takes that mindset with him to San Clemente and now it’s reinforced, because he’s sitting there in a cloister, stewing with Ron Ziegler telling him, “Mr. President, either you didn’t do anything wrong or…” The traditional way that people look at this is in a sort of almost antiseptic kind of…

People look at things from the outside and through their own interests and fail to immerse themselves in the very uncertainties, the murkiness, the motives, the fluidity of this situation on both sides.

Becker: Indeed. And it’s not altogether black and white in that there are tapes, and there are statutes, and I was recently taken back somewhat. I saw that Nixon-Frost movie and I didn’t remember Frost being as aggressive as the film made him. But what I did remember, though, is my conversation with Richard Nixon on this, to the point of confrontation at certain levels. And I had transcripts of the tapes there with me during my meetings with Nixon. I said, “When you said this about the CIA, that you were going to use the CIA, that’s an act of obstruction of justice. Let me read the Obstruction statute. Anything that frustrates the smooth or the clear administration of justice, these are criminal acts. These are chargeable, criminal acts.”

Smith: So you had to argue with him.

Becker: Confront him with his own words on the tape transcripts.

Smith: By, in effect, legal necessity, for lack of a better word, or justification for getting an explicit statement acknowledging his responsibility. It wasn’t just politics.

Becker: Oh, no.
Smith: It was the legal rationale.

Becker: You’re absolutely right. The conversation I just described would have been under the umbrella of getting the statement of acceptance. “Because what should Nixon say? What can Nixon say? Nixon initially wanted to talk about the staff didn’t do their job…” I said, “Mr. President, we’re not talking about that. We’re talking about your acts, you need to acknowledge your acts that are on these tape transcripts. If no other, acts that are on these tape transcripts that show that you considered, took steps, were prepared to proceed with frustrating the administration of justice in this.”

Smith: Is it possible that he was simply, at that stage - and you know better than I what his mental state was, his emotional state - that he was simply in massive denial?

Becker: I’ve described him in the past as being an individual who had a deep sense of depression. He struck me as being deeply, deeply depressed. The elevation from the presidency to his then resigned status occurred so quickly. Jack Miller, who was a talented lawyer, represented Nixon, understood this very well. Jack Miller made it clear to me and told me that he made it clear to his client that this was a wise and proper thing for him to do. To accept the pardon and the legal implications of it as well.

Smith: What was the price of the pardon? It’s one thing to go out there and have your lawyer say you should do this. Was there ever, in fact, a quid pro quo, that unless you do X, there will be no pardon? Was that implied?

Becker: That was more than implied. The first two days in San Clemente, nothing was accomplished at all. The Nixon staff wanted to talk about a pardon, I don’t want to talk about the pardon, I want to talk about the deed of gift that he’s going to sign over to GSA, which we’re using as a holding device, until Congress can act.

Smith: By that time there had been some decision reached, at least internally, about the papers and tapes. Was that part of the larger deal?
Becker: The internal decision was: The Ford White House was not going to send to California, or give to Richard Nixon any of the original record papers, and tapes accumulated during the Nixon presidency. And I had with me a Ford White House prepared deed of gift from Richard Nixon to Art Sampson, a GSA administrator, containing Nixon’s waiver of all ownership interest in the property, reserving Nixon’s rights to write memoirs with copies of the property. This deed of trust is viewed by President Ford, Phil Buchen and I as a little more than the holding device until we can get Congress acts on presidential papers. President Ford told me that he quietly spoke to Tip O’Neill, he’s spoken to this one about it, and we’re going to get an act and it’s going to be retroactive to Richard Nixon.

Smith: Providing for the disposition of the Nixon papers and tapes.

Becker: Providing for governmental disposition.

Smith: You said, the first two days, that’s what they wanted to talk about.

Becker: The first two days nothing was accomplished.

Smith: Did you see him?

Becker: I saw him briefly the first two days. And what I’m getting are drafts of two paragraphs, statements of acceptance. The drafts were just nonsense.

Smith: Did you have a sense of who was writing these?

Becker: Ziegler was writing.

Smith: Was Ziegler the gatekeeper?

Becker: Ziegler was finagling into everything. My impression is that he was not getting along well with Miller and Miller is kind of not happy with having Ziegler’s sort of biting at his cuff every time. But the early statements said things to the effect of “the White House staff made serious mistakes,” or “the White House,” or “we,” and there is nothing of an acknowledgement by Mr. Nixon of his improper acts. And I would say, “This is not a statement of acceptance. This is a political statement issued by a politician about the people that worked for him.” But more important than that, I wasn’t getting
anywhere on the tapes and the records. Ziegler (and I assume Nixon’s) position was “We still want the records. We’d like to have the pardon, we’ll give you this statement, but forget this deed of trust. We want our records and tapes. We know by custom and tradition it’s ours.”

The property was valuable as well, Richard. Some of that had an archival value of millions of dollars in terms of correspondence with heads of state and other unique historical reference. The tapes alone had an enormous value.

Smith: Were you reporting back to the president?

Becker: Yes. Night two I went back to a secure phone and called President Ford and reported to him. I said there is no interest whatsoever in waiving ownership on the records and tapes. And they are adamant and I’m getting that from Ziegler and Ziegler is repeating Nixon. I’m not getting it from Miller. I’m getting it from Ziegler, which says something.

Smith: Well, it can be off the record, because, by the way, we’ll give you a transcript and you can extrapolate.

Becker: I wanted you to know that twenty, twenty-five years later, in litigation, John Dean and Maureen Dean sue *St. Martin’s Press* for the publication of *Silent Coup*. A section of the book subscribes a far more detailed role of John Dean in the Watergate break in then is generally accepted by the public.

Smith: The break in, not the cover up?

Becker: The break in. Which litigation Dean never won, it was settled. But during that period, when I was representing the authors and *St. Martin’s Press* was involved as a co-defendant – Gordon Liddy was a co-defendant because he had promoted the book as well on his radio show – we deposed a lot of people. One of the people we interviewed was Ron Ziegler, and I asked Ron Ziegler questions about the book and words that were attributed to him in the book and so forth. And during the course of a Zeigler interview, he volunteered the following: that when I was boarding a plane at Andrews going to California, Al Haig was on the phone with Ron Ziegler. “Benton Becker is coming out there. He wants a statement of acceptance, he’s, in
effect, got a pardon in his hand – that Ford would issue a pardon if Ford got a letter of acceptance, and Becker’s got a deed of trust whereby Nixon waives ownership interest. Tell President Nixon he does not have to sign that deed of trust. Ford will give a pardon without it.”

And Richard, I’m telling you, for two days, of course I didn’t know this then, I didn’t know about these conversations. Ron Ziegler described three such conversations. And Ziegler said, “I thought it was perfectly appropriate. I am the chief of staff to the former President…” Incidentally, I was present when Jerry Ford was told about that and he was really very angry about that.

Smith: When was he told about that?

Becker: During that same period, twenty-five years later.

Smith: Long afterward. He didn’t know, obviously, until then.

Becker: No, no, many years. So, the second night I called and said, “Nothing is happening. Nothing is happening here. They are just adamant, they are not moving one inch on the papers and tapes.” And Ford would say something very forcefully, “He’s a son of a gun,” or something like that or more so. President Ford said, “What do you think?” I said, “I’d like to really lay into them tomorrow and tell them I’m leaving and the hell with it all.” He said, “Do it. Do it, give them everything you’ve got.”

Smith: Do you think – and I realize that maybe this just calls for supposition – do you think Ford was prepared, in fact, to walk away from the pardon?

Becker: Yes. Yes. The next day I went back to the negotiations and nothing is happening. I said, “I tell you what, fellas, give the Air Force colonel on the phone that’s involved with the plane that we came out here on – the White House plane.” I said, “I’m going home at two o’clock today and the hell with this. I’m not sitting here another minute. I’m going back and I can tell you this,” and I turned to Jack Miller. I said, “Jack, I can tell you this. There will be no more conversations, none at all about pardons. Forget it. It’s off the table, it’s done, it’s over. I’m leaving. You guys don’t want to talk about records, papers and tapes going to the American people, and they own it and
Richard Nixon waiving ownership. It’s over and done with. I’m leaving and I’ll leave this afternoon at two o’clock.” I said, “I’m not going to sit here anymore. And I want you to know, I spoke to the President last night and I’m doing this with his authority, and you can tell President Nixon that.” And I was really serious.

Miller reacted to it as if – he struck me as a very bright guy - struck me as, “I was waiting for this to happen, I knew it was going to happen, I was wondering when it was going to happen, how much patience you had, Benton.” And Ziegler had exactly the opposite reaction – “Oh, go to hell…get a plane, what do we care.” I said, “Goodbye.” Miller said, “I’m going to talk to the president,” meaning Nixon. “Go have some lunch, go take a walk or do something,” and came back 30 minutes later and he said, “We’re prepared to talk about the deed of trust. We had a couple of things we didn’t like here,” and they wanted to tinker with it. And we tinkered with that for a day or two. Nixon wanted to have executive privilege to be able to prohibit journalists from taking some of the tapes that he, the former president, could assert some executive privilege to prevent the journalists from getting them. This is out of the question. Executive privilege can only be asserted by the occupant of the White House. But, again, they never knew what we knew secretly in Washington, and that is, this is an important document and we want this, we want this controversy over where the tapes are going to be. And we want the American people to know that Jerry Ford was concerned enough to protect the papers and records of Richard Nixon for posterity. But nobody really knew, except that we were trying to accomplish this goal and the deed of trust, would serve as the government’s right to retain and own the Nixon’s records and tapes while the legislative process proceeded legislatively.

Smith: Why do you think to this day, that, I’m not sure this message really ever got out.

Becker: Why do you think they gave in on it?

Smith: Well, no. I’ll tell you, to the layman, when I think about Nixon’s tapes and all that, for some reason I just think that Ford was prepared at one point to send them to San Clemente.
Becker: Oh, no, it was a gut reaction – I’m president, I’ll get staff…everybody on staff says I should do it, maybe that’s the right thing to do. Oh, then somebody else gives him another thought.

Smith: His initial reaction, then you and others, in effect, talked him out of it and he takes the position that you described. Let’s just clear up because, then what was the business about the trucks appearing?

Becker: Okay – let me make this very clear – I thought you were asking me this question and I want to answer this on the record. If I had gone home, and that would have been the end of it, would Richard Nixon have gotten the pardon? I don’t think so. As a matter of fact, I’m pretty confident that he wouldn’t have, based on the telephone conversation that night. “You do it. The hell with this.”

Smith: Could the story have leaked?

Becker: There was no leak. When Miller and I arrived and we had a cup of coffee at a bar somewhere, a breakfast bar, and some reporter came over, he recognized Jack. He came over to Jack, “Oh, Jack, what are you doing out here?” And I just walked away. There were no leaks that I know of, nothing I ever saw in print, ever, on it. It was a well-kept secret. I didn’t tell my law partners, I didn’t tell my wife. I told her, “I’m going to San Clemente, I’ve got some important matters that deal with President Nixon.” I just didn’t talk about it.

Smith: We’ll continue on this. Before we finish I want to discuss the trucks, because it’s the third chapter of this.

Becker: After President Ford had made the decision not to send the records and tapes to Nixon, after the Saxbe meeting and before I traveled to San Clemente to so-called “truck incident” occurred. We sought various approaches that would result in government ownership and government retention of the Nixon records and tapes. (Legislation, judicial, etc.). In the mind of Jerry Ford the issue of the Nixon records and tapes became linked with the issue of pardon. The linkage of the records, papers and tapes resolution and the pardon. That was the linkage that he foresaw. Even though he called the pardon publicly,
an unconditional pardon. He referred to it that way, in my opinion, it was not unconditional. All parties involved recognized this.

Smith: Would he have been politically better advised to have called it a conditional pardon.

Becker: Oh, I think one can make really a good case that there were a lot of things he could have done politically before, during selective prior notice, trial balloons, all kinds of ways. Politics is not my bag. Probably the answer is probably yes.

About a week after the presidential meeting, wherein, it was ordered that no records or tapes would be sent to Nixon, none of the 900+ boxes in the EOB were to leave the White House, I was walking from the White House across the little short parking lot that separates the White House from the EOB for some purpose, and there was a truck being loaded by enlisted men under the command of a colonel. It was an open truck – it had sides on it, but it was not totally enclosed – and I could see what was being placed in it. I couldn’t help noticing the truck, it was directly in that parking area. The enlisted men were placing the EOB boxes of Nixon’s records and tapes on that truck. The boxes with the records and tapes were immediately recognizable to me because I had observed them previously in storage in the EOB. I approached the Colonel supervising the packing of the truck. At closer inspection, there was no question, whatsoever in my mind that the boxes being packed in the truck were the EOB Nixon records and tapes boxes. I said, “Colonel, are these the boxes from the third floor of the EOB containing the Nixon administration records and tapes.” He said, “Yes, sir. They are.” I said, “Well, what are you doing?” He said, “We’re taking them to Andrews Air Force Base. We’re shipping them out today.” I said, “Someone gave you that instruction?” He said, “Yes, General Haig gave me that instruction.” I said, “Are you aware that President Ford has issued instruction that these boxes shall not leave the White House?” He said, “Sir, I take my orders from General Haig.” I said, “Very well.”

So I recognized two Secret Service agents at the gate at the White House and I went over to them. They knew who I was and we chatted for a while. Without giving them a reason, I said, “Do you see that truck?” I said, “I’m going in to
see the President of the United States, I’m going to talk to him about that truck. That truck cannot, under any circumstances, leave these White House grounds. And I’m leaving it up to you to see to it that that truck does not leave here.” I said, “I don’t care if you have to shoot the tires out, that truck does not leave here.” He said, “Yes, sir. You may be assured of that.”

I turned around and went back into the White House, went upstairs to the Oval Office. The president was alone and I walked in, I was allowed to walk in immediately. “I’m sorry to interrupt you, but…” and I told him what I just observed and my conversation with the colonel. And before I was finished – I mean, he had a telephone in his hand and his face was as red as a beet – “Get Haig in here,” – get Haig in here. He directed telephonically Haig came in. President Ford said to me, “Tell Al what you just told me.” The calmest, coolest Al Haig you ever saw, feigning surprise, said, “Yeah, the damn colonels, they just don’t know anything. They’re so stupid. I’ll take care of that colonel.” Haig quickly, immediately, put all the blame on the colonel. Haig said, “Of course, I never ordered that.” But as sure as I’m alive, those records would have left the White House. President Ford knew it was an act, that no colonel would undertake such a task without orders from a higher authority and that Haig apparently had personal reasons (beyond service to Nixon) to relocate the records and tapes in California with the former Nixon.

And it wasn’t too long after that, that the decision was made – we’ve got to find someplace for Al Haig that’s far away from the White House, that doesn’t require Senate confirmation. There weren’t a lot a places, but we found NATO.

The story I was going to tell you about, the one with Henry Kissinger, was a couple of months later. You can see this in some of the early photographs and later photographs in the Oval Office. A couple of months later I was having lunch with the chief of the Secret Service, his name was Knight, and just intellectually, I was asking him about how the Nixon White House taping system worked. He almost knocked me off the chair when he said, “Mr. Becker, I don’t have to tell you about it. I can show it to you.” I said, “Show it to me?” He said, “Sure, it’s all still there. It’s all in place.” I said, “What!!?”
And we got up and took me my downstairs to a room below the Oval Office and there it was. There was a room with all the Nixon taping system in it.

He said, “Of course, we’ve turned all this off since President Ford took office.” I said, “Are you kidding?” And he said, “It can go back on again.” And then, rather innocently, he said, “You know, those Nixon microphones are still in the Oval Office.” I said, “Where?” He said, “Well, there’s a couple in the walls, and there are two in the president’s desk.” I said, “Come with me, come with me.” And as we walked out of that room, I saw and grabbed a screwdriver. I knocked on the Oval Office door and Henry was seated on the side of the president’s desk. I said, “Excuse me for interrupting you – but – I’m with Mr. Knight of the Secret Service who has just told me that the Nixon microphones that were installed in the Oval Office are still here.” Richard, you never saw Henry Kissinger move so fast in your life, shroom – he was out. Mr. Knight and I entered. President Ford was mad as hell about that, and I said, “There’s two microphones in your desk.” If you look at an early picture of the Ford Administration Oval Office (first 3 months), on both sides of the fireplace you will observe brass light fixtures.

Smith: Sconces?

Becker: Built-in to the wall – light fixtures built-in to the wall. And Knight informed us, “There’s a microphone behind each one of those brass lamps.” Ford said, “I’m going to get a haircut. You get those things out of here,” or harsh words to that effect. I pulled it free from the wall and put my hand in and said, “You sure there’s a microphone in here?” Knight put his hand in and pulled out a microphone and did the same thing with the second lamp. We inspected one of the brass lamps. The microphones in the president’s desk were retrieved after the President returned to the Oval Office. But I left a hole about the size of a tennis ball in the wall on both sides of the fireplace in the Oval Office. What do you when you have a hole in the wall in your office? You get a big picture and you cover it. And that’s what they did. So if you look at the year two of the Ford presidency, you’ll see over the fireplace there are pictures from the National Gallery of Art and where earlier, the brass lamps were there. But we digress, right?
Smith: No, no, wonderful stories. It’s interesting, when you talk about – I realize politics wasn’t your thing – but for years and years, of course, there were people, even when people came around to saying “he did the right thing, but there must have been a more adroit way of doing it.” People talk about a trial balloon. Mel Laird said he had a plan.

Becker: Mel Laird said that?

Smith: Oh, yeah. Mel Laird is saying he claimed he talked to Ford right before the pardon and said, “Don’t do anything, Jerry, until I get back in town.” His plan: he was going to get a delegation, bipartisan delegation from both Houses of Congress to come down to the White House and ask the president to pardon Nixon.

Becker: Oh, I understand now. Never heard that.

Smith: Now, the problem with that…

Becker: But that’s part of that big package, the pardon decision could have been done more politically.

Smith: But, the thing is, I was much younger then, we were all much younger then, but, if you put yourself back in the supercharged atmosphere of that day, including that first press conference where Ford got so angry because all the questions were about Nixon. I find it hard to imagine how realistically you could have had a trial balloon that would not have been shot down before it got above the trees. People say he could have prepared the country. Well, how could you prepare the country? If you talked about the possibility of a pardon, you would have drawn all of this – you might have made it so radioactive. It’s almost as if you could only do it…maybe there was a more adroit way to do it, but, for example, we’ve been told that Jaworski was indicating that it would be two years till…

Becker: That’s right. That was Leon long before the pardon, and he made it very clear. He said two things: one) grand jury is prepared to indict Nixon for obstruction, prepare to do it; and two) that if they do, it will be at least two years before Leon would walk into a courtroom to prosecute this man. And
Jaworski was talking about pre-trial publicity and, of course you remember, the television coverage of the House Judiciary Committee hearings during the impeachment hearings, where witness after witness, and night after night. That’s what he was talking about. I think what you just said is exactly what Jerry Ford said, because I believe, I’ve heard that comment you made in his presence before, namely that, “You could have done it more politically intelligently,” and so forth. And his answer has always been, “What could I have done? Whatever I would have done would have polarized and polarized and polarized.”

Smith: Were there debates in the Oval Office before the pardon? Were there discussions with a Buchen, or ….

Becker: Yes.

Smith: Were you present for…

Becker: Yes, I was present. I wouldn’t characterize them as debates at the stage where I was listening to them. But this was before I went to San Clemente. And the position that was espoused to me, before I went to San Clemente, was, “I’m not prepared to sign a pardon. I will give favorable consideration to a pardon, if the deed of trust is signed happens.” It was always presented to me that way.

Smith: Okay.

Becker: But I do recall being at one of those meetings with Al Haig and Bob Hartmann, and Phil, and Bob Hartmann said, very clearly, he said - this is the end of August, early September – “We have a congressional election coming up in two months,” (the ’74 congressional election). He said, “Pardoning Nixon is not going to be helpful on a congressional election. It’s going to hurt, hurt us at the House.” There are some key Senate races that he mentioned. He said, “If you are going to do this, if you are thinking about doing this, for political reasons, you ought to put it off until after the November elections.”

Up until that point in time, as I said, I know I had satisfied him legally on his presidential authority and powers to issue a pardon, but he’d always been, in
my conversations, had always been, “I will give favorable consideration toward.” No guarantee of it. And what he said to Hartmann at that meeting is something that has resonated with me, and I remember him saying it very clearly. He said, almost verbatim, as if to look at this room, he said, “For the past five years, too many, far too many decisions have been made in this room based on politics. This has nothing to do with politics. If I decide to give a pardon, it will be because it’s the right thing to do.”

That’s exactly what he said, and, you know, you can’t argue with that. It’s hard to argue with that. “I don’t want to hear about politics. I don’t want to...I’m going to do if it’s the right thing to do.” I remember that. I remember that Ford gesture, because I got a Nixon gesture in California when I was departing. When Nixon and I finished our lengthy conversation, Nixon had signed the deed of trust, we’d agreed on language and the letter of acceptance, and…actually I had left. It was over. I had the deed of trust in my briefcase. Al Haig’s parting words four days earlier to me in Washington were, “You will never get Richard Nixon to sign that deed of trust.” Of course, I didn’t know Haig would be telephoning Ron Ziegler – that he was going to backdoor me.

But I had left – I walked out of that facility – it was single story – walked out of that facility. It was a long walkway from the front door to the car that was going to take me to El Toro, the airport that we flew into. And Miller was with me, was flying with me, and we walked out and I felt really good about this for President Ford. And literally I had my hand on the door of the car to get in the car, when Ziegler opened the front door, maybe back twenty or thirty feet on the walkway, and hollered to me, “Mr. Becker, Mr. Becker, don’t leave. The president wants to see you again.”

I had just been in the office with Nixon for an hour, an hour and a half or something like that. My initial reaction was, Nixon has changed his mind. I walked back in and I made some gesture like, are you coming in too, Mr. Ziegler? “No, no, he just wants to see you.” So, I went in – that’s the way it had been before Nixon was standing behind the desk, and of course he had a coat and tie on, and he said, “I asked Mr. Ziegler to ask you to come back
before you left.” He said words to the effect of, “You’ve been a gentleman. You haven’t been a bully…been a lot of bullies lately,” or words to that effect. And I said to myself, what’s going on here? He said, “I wanted to give you something, a remembrance.” I said, “That’s not necessary, Mr. President.” I just, frankly, wanted to get the hell out of there. That’s what I really wanted. And he reached down in his desk drawer, and he opened the drawer and he took out a little two by four box, and he looked at the box, a white box, and he said, “I want you to have this. There aren’t any more. This is the last one. In fact, Pat had to find this for me in my jewelry box.” He said, “I don’t have any more, I don’t have any more.” And he was standing and he gave this kind of sweeping gesture, as if to say, look at this office. It wasn’t a very large room, as if to say that. And the walls were not adorned, the way you might expect a former president’s decor. There was a flag behind the desk. He said, referring to the small box, “This is the last one. They took it all away from me. They took it all away from me.”

I could feel my heart pound with that, and I said something like, “What we’ve done here today is a good thing for the American people. It’s good for history and our children, and our children’s children will know more about your presidency. It’s a good thing that you’ve done, and you should be very proud of that Mr. President.” Shook hands, and left.

Flew back, directly flew back and went straight to the White House, somewhere about eight o’clock at night, it was a Saturday night, I think – maybe about seven o’clock at night. Went up to the residence and one of the first things I did, I still had the small box containing the Nixon presidential cufflinks and the Nixon signed deed of trust. The cufflinks were a presidential seal with his name on the back. I gave them to President Ford and I said, “This is for the Ford museum, someday there will be a Ford museum.” He said, “You hang on to them.”

President Ford and I went through the entire San Clemente story, what happened in the last three days. He called Jerry terHorst in and told terHorst to notify the media, he’s going to have an announcement at twelve noon the next day. He told terHorst what the announcement would be, but he said,
“Don’t tell the media. I’m going to announce a pardon to Nixon.” He said, “Benton, come in early and take care of the coordination of the statement of acceptance?” I said, “Yes, sir.” I called Ziegler and told him it was scheduled for twelve noon tomorrow – I told him I would call him in the morning to confirm all questions. Bill Casselman, who was a lawyer in the staff, good, very bright guy, was formally the GSA, general counsel. I asked Bill to have Art Sampson at the White House at eight o’clock in the morning so Sampson could be the second signatory on the deed of trust. And with that, I caught up with my wife who was at a friend’s house for dinner that night.

Got up real early the next morning and went in, was in the White House by 7:30-7:45, and called Ziegler very early. Ziegler said, “I’m glad you got me so early, we’ve got some changes in the Nixon statement of acceptance.” I said, “What do you mean, you’ve got some changes?” And we were back to the word “I” in the statement of acceptance. “I” was deleted again, and we were back to “the staff.” Typical, typical – I said, “This damn thing at twelve o’clock will be cancelled in a minute.” I said, “I’m going to call you in one hour, I want to see the original statement of acceptance wired to me. Otherwise, Jerry Ford is going to cancel this damn thing. I guarantee you.” And so, it came back the way it was, the language we’d agreed to. And the big firestorm followed the announcement.

Smith: Worse that he expected?

Becker: I think much worse than he expected. Much worse that all of us expected.

Smith: There is a story – there were congressmen who were calling that day telling him he did the right thing, and then going out and telling the cameras that he did the wrong thing.

Becker: Is that right?

Smith: Yeah.

Becker: Well, you know about that Kennedy speech on the floor. Ted Kennedy gives him hell, gives him real hell on the floor of the Senate. Ted Kennedy, to his credit, twenty years later, gave the Profile in Courage award to President
Ford. At that ceremony Kennedy stood and announced the award to President Ford. Kennedy read from his speech on the floor, delivered twenty years earlier and announced publicly “I want everybody in this room to know I was wrong about the Nixon pardon. Jerry Ford did the right thing and I was wrong.”

Smith: It was an extraordinary moment.

Becker: Yes, it really is.

Smith: And isn’t it fortunate that the president lived long enough to participate in it.

Becker: Wonderful.

Smith: I assume these events must have forever after colored any relationship he had with Nixon.

Becker: I’m not sure I understand your question.

Smith: His relationship – President Ford’s relationship with Nixon must never have been the same after this.

Becker: He did go out to California. He was in California and he visited when the phlebitis had hospitalized Nixon.

Smith: Which, again, his political advisors begged him not to do.

Becker: Right. But I think you’re right. I haven’t thought about that, Richard, over the years. But I cannot envision them in any social environment other than a funeral, a presidential funeral, from that moment on. That’s an interesting point you’re making. I have a picture of presidential funerals with multiple presidents standing there altogether, but…

Smith: I think towards the end of his life, he would say, “Nixon never thanked me.” So it existed on both sides. You could understand Nixon – first of all, resenting the fact that he didn’t get his tapes and papers right away, in his own head saying, “I made this guy. I made him president.” Stu Spencer had a fascinating twist on this.
But the other thing was, I thought. Try to put yourself in the position of Richard Nixon, and what would bother you and what would not bother you, and so forth. I think what would bother me, I’d been vice president for eight years and president for five years, Senator and House member, and devoted my life to all of it, I’d be kind of embarrassed, the world can see the way I talk like a sailor, or I talk like a men’s locker room, particularly with Erlichman or Haldeman. And the things they say about women, and the things they say about African-Americans, it’s just shocking. That, I think, was something in the back of his mind – I’ve always thought that was in the back of Nixon’s mind and made the papers, records, and tapes much more difficult for the transcript for the government. Nixon wanted to be able to object. If somebody wanted to study the papers or tapes, Nixon wanted to be able to prevent it.

Do you remember the last time you saw President Ford?

Let’s see. Well the last time I saw him at a board function was at the last dinner we had out in California. Do you recall that?

Right.

But, we would frequently speak.

That’s the one where Phelps announced that he was Deep Throat.

Yes, yes. The President was quite thin then. I think he passed on within six to eight months after that. I can’t think of her name, I should think of her name, the woman who was the final chief of staff.

Penny Circle.

Penny. Penny called me a couple of times and told me to try to find the time to come out to California. And I didn’t quite get the message, I didn’t quite get it, what she was really saying, and so I didn’t see him privately. But we did have telephone conversations.

What do you think about the Tom DeFrank book? There’s an argument; there are people who believe that Ford knew exactly what he was doing and that
this was part of his legacy, that he was getting all this on the record and understood that it would be out there, be part of the record, including some of his criticisms of the current administration, etc., etc. And there are other people who believe that, well, he was a little naïve and that he couldn’t have foreseen that some of these conversations would quite find their way into the record.

Becker: I think the public perception of him in many ways is erroneous. He was a lot brighter than a lot of the media and the historians give him credit for. And certainly knowledgeable of the federal government and how the federal government operated. But if the suggestion there is that there was any kind of deal with Nixon at all…

Smith: No, I mean on the Tom DeFrank book. Was he, in effect, taken advantage of, or was he actually the one who wanted to get this out on the record?

Becker: Oh, I think the openness of Jerry Ford is to get it on the record, by all means. I don’t think he was taken advantage of at all. I remember once during his vice presidency, pointing out to him that something he already knew and that is, you were the only person in the executive branch in these two buildings that Richard Nixon can’t fire. So you really don’t have to do these speeches, you don’t have to do them. This was totally swimming against the stream of the team player. And President Ford said, “Yeah, you’re right. I hadn’t thought about that.”

Smith: Perfect.
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