

## **ACT I - TERRY GROSS INTERVIEW**

**GROSS:** This is FRESH AIR. If you're just joining us I'm Terry Gross. Today I'm speaking with Hillary Clinton about her new campaign memoir called "What Happened." I want to talk with you about Russia.

**HILLARY:** Hmmm.....Please (laughs).

**GROSS:** So, you told Susan Page at USA Today that you believe that the Trump campaign colluded with the Russians. And Democrats have said that they think there was Russian interference in the election but that they're not challenging the results of the election.

**HILLARY:** Right.

**GROSS:** As more and more information comes out...

**HILLARY:** Right.

**GROSS:** ...About the depth of Russia's interference in the election, do you think at some point that it would be legitimate to challenge the legitimacy of the election?

**HILLARY:** I don't know if there's any legal, constitutional way to do that. I think you can raise questions. In fact I think part of the reason Trump behaves the way he behaves is that he is a walking example of projection. Whatever he's doing and whatever he thinks is happening, he will accuse somebody else of. And there are examples during the campaign when he did just that, like when he called publicly on Russia to hack my personal emails. He knew they were trying to do whatever they could to discredit me with emails, so there's obviously a trail there. But I don't know that in our system we have any means of doing that.

**GROSS:** Would you completely rule out questioning the legitimacy of this election if we learned that the Russian interference in the election is even deeper than we know now?

**HILLARY:** No, I would not. I would say...

**GROSS:** You're not going to rule it out.

**HILLARY:** ...No, I wouldn't rule it out.

**GROSS:** So what are the means, like...

**HILLARY:** Politics!

**GROSS:** This is just totally unprecedented in every way.

**HILLARY:** It is.

**GROSS:** What would be the means to challenge the election if you thought it should be challenged?

**HILLARY:** Basically I don't believe there are. There are scholars, academics who have arguments that it would be. But I don't think they're on strong ground. But people are making those arguments. I just don't think we have a mechanism. You know, the Kenya election was just overturned. And really what's interesting about that - it might be - I hope somebody writes about it, Terry.

**GROSS:** Well, what about the possibility that Trump is impeached?

**HILLARY:** Impeached?

**GROSS:** Yes, what if he were impeached? I mean, you in your recent commencement address at Wellesley you compared Trump to Nixon saying that in 1969, Americans were "furious about the past presidential election, of a man whose presidency would eventually end in disgrace with his impeachment for obstruction of justice, after firing the person running the investigation into him at the department of justice".

**HILLARY:** Well, yes, it's true that I have noted a few.... *similarities* between Trump and Nixon. But even if Trump were impeached, that would just mean that Mike Pence would step in and he would hold the office of the President.

**GROSS:** But if the reason for the impeachment was because of colluding with the Russians, wouldn't that call into question the legitimacy of the entire Administration?

**HILLARY:** Go on.

**GROSS:** And what if Pence knew about Russia's collusion, influence, and interference in our election, but never blew the whistle. If that were the case, then the election would be invalidated. Perhaps there *is* an argument that you should step into that office.

**HILLARY:** You think?

**GROSS:** It's a shot. And if this election has taught us anything, it's that anything is possible.

**HILLARY:** My God, you're right Terry. Maybe I do have a shot.

**GROSS:** And you shouldn't throw that away. You worked hard for that!

**CLINTON:** Holy pantsuit Nation Terry, you're right!

**GROSS:** So what's next for you Hillary Clinton?

**HILLARY:** I'm going to call together a crack legal team to see if there is a basis to impeach that commie traitor while the iron is hot!

**GROSS:** But, uh, where will you find such a group on short notice?

**HILLARY:** Seriously? I'll just call Bill's old team!

**\*SONG\***

*Hillary gets on her phone and assembles team, (I will walk in a circle around the room saying "Get ready – blah-blah, call Bill and tell him to make sure we had hot coffee – NOW BILL!" and then come back to the front of the room and the team will be assembled. Everyone should have a coffee cup and be drinking out of it.*

\*\*\*\*\*

## **ACT 2 – MEETING WITH LEGAL TEAM**

**HILLARY:** Thanks for coming on such short notice.

**JEN:** Oh we figured you'd be calling us.

**ANDREW–** You or Mike Pence.

**MARGIE:** Luckily your husband dropped off this homemade pot of delicious coffee!

**HILLARY:** Good. Well I've been inspired to see if there is anything we can do about this election other than travel throughout the country making millions of dollars off of my analysis of why I lost. I've got big plans! But the first step is to see if we can get the Donald impeached.

**DAN:** Hmmm, maybe.

**HILLARY:** Well how would that work? Most of the time Bill was dealing with that I tried to focus on Chelsea and my fantasies of killing him. So I don't really know how it works.

**JEN:** Well, we should probably first look to what has happened in the past.

**ANDREW:** Yeah, like, what did our founding fathers think?

**MARGIE:** Fathers, huh? No moms? So that's how we got into this mess.

**[ALL ATTORNEYS AND HILLARY START TO ACT A LITTLE WOOLY]**

**DAN:** I am NOT reading the Federalist Papers again!

**JEN:** Anyway, they're subject to interpretation, like anything else.

**ANDREW:** If only we could magically reach back in time and have them explain it to us.

**HILLARY:** Does anyone else feel weird?

**ATTYS:** Yes/Yeah/Me too

[TRANSITION - ALL HEADS FALL ON THE TABLE]

[FRANKLIN FRANKLIN MAGICALLY APPEARS]

**FRANKLIN:** Wake up sleepy heads! [*All groggily wake up*]

**HILLARY:** [**Screams**] Ah! Who are you? What are you doing here!

**FRANKLIN:** I am FRANKLINjamin Franklin, Dr. Franklin if you're nasty. I'm here from the past to help you with this thorny problem you have.

**DAN:** Are we dreaming?

**JEN:** Is this real?

**MARGIE:** How could this happen?

**FRANKLIN:** Did you drink any "SPECIAL" coffee prepared by former President Clinton?

**ALL:** Yes.

**FRANKLIN:** Yeah, well, that wasn't for you. He was on his way to drop it off for a bunch of new female interns at the foundation when he got a call about you guys having to work all night. Guess he didn't have time to make any more.

**DAN:** Well, can you tell us anything about impeachment?

**FRANKLIN:** Of course. Impeachment was a hot topic at the Constitutional Convention!

I knew we had to be mindful of potential tyrannical office holders and develop a peaceful way to remove a president who was *abusing their power*.

Personally, I thought a lot about Ceaser and Charles I when planning this check on presidential power— both were undeniable historical examples of tyrants who subverted their countries governments in ways that undermined republican liberty, and both inspired bloody civil wars in the process.

So on July 20<sup>th</sup> 1787 we had a LENGTHY and spirited debate over whether the President ought to be subject to impeachment. The highlight was clearly when I made what has been reported as a *remarkable argument* in support of the impeachability of the president I told em':

"History furnishes one example only of a first Magistrate being formally brought to public Justice. **Everybody cried out against this as unconstitutional.** What was the practice before this in cases where the chief Magistrate rendered himself *obnoxious*? What recourse was had to assassination in which he was not only deprived of his life but of the opportunity of vindicating his character. It would be the best way therefore to provide in the Constitution for the regular punishment of

the Executive when his misconduct should deserve it, and for his honorable acquittal when he should be unjustly accused.”

**JEN:** Fancy words. What does that actually mean?

**FRANKLIN:** First, we were thinking that the president should only be impeachable “for treason or bribery” but George Mason complained that Treason and Bribery both have a strict constitutional definition and wouldn’t reach many great and dangerous offences!

Georgie suggested adding “maladministration” to the list but Jimmy Madison, shot that down (he was a real downer) arguing that because that term is so vague if we use that it will be equivalent to a tenure at the pleasure of the Senate.

So instead of “Maladministration” they decided on “other high crimes & misdemeanors”. That way impeachment would be governed by *legal standards* and not by *congressional whim*.

Everybody was cool with that so we accepted the proposal.

**ANDREW:** Well, what would the legal standards be?

**MARGIE:** And how would the process work?

**FRANKLIN:** Most of the conventioners understood High Crimes and Misdemeanors to encompass *distinctly political offences*. As this term of art was lifted (as so much of the law) from the law we were rebelling against! English Law. But because the English king is LITERALLY unimpeachable American impeachment wouldn’t be relying on any precedent from the Brits, we would create a process and standard.

Ultimately, we determined that we needed a standard that would limit the urge of the president to *abuse presidential power while in office* and limit the *urge to use any means necessary to get elected or reelected*. We decided that the prez wouldn’t be impeachable for crimes that occurred *prior* to office holding with one important exception, we figured if the President *stole* the election THAT would be considered an impeachable high crime.

**DAN:** Whoever thought that up was prescient!

**FRANKLIN:** In my mind, impeachable offences were to be similar to *assassinable* offenses. If you hear about something the President did and think – that asshole should be SHOT – think impeachment!

When a President has rendered him (or her) self *too obnoxious to be allowed to continue to rule*, the American impeachment process for the president will be a kinder, gentler way to regime change sans violence. AKA we were going to be better than the Brits AGAIN.

So we built what we considered to be a political death – a president who is impeached and convicted is deprived of his continued existence as a political officeholder.

Look at (Art. I section 3, cl.7 of the constitution) Judgment in Cases of Impeachment shall not extend further than to removal from Office, and disqualification to hold and enjoy any Office of honor, Trust or Profit under the United States: but the Party convicted shall nevertheless be liable and subject to Indictment, Trial, Judgment and Punishment, according to Law.

I mean, I guess they could still hold state office and be elected to congress... but no more top tier offices!

**HILLARY:** Well, how does it WORK?

**FRANKLIN:** So in the end, the House votes to impeach, but the Senate holds the impeachment trial.

**HILLARY:** And has it worked?

**FRANKLIN:** For that we need the Ghosts of Impeachment past! Let me call them upon us so you might learn what you can to stop the Orange Menace. We'll start with Andrew Johnson. Andrew! Get over here!

### **[ANDREW JOHNSON ENTERS]**

**JEN:** Hey look, Andrew Johnson! He was the first president to be impeached!

**JOHNSON:** Hello. Oh ho! I see someone's been hitting Coffee a la Clinton

**FRANKLIN:** President Johnson, tell us about your presidency and ultimate impeachment.

**JOHNSON:** Well I was the unintended consequence of Lincoln's southern unity strategy. Lincoln picked me to be his Vice president because I was the governor of Tennessee, a southern state, which was loyal to the Union.

People began to be concerned when I gave what was described as a "rambling" speech at the swearing in. After that, I secluded myself to avoid public ridicule.

Six weeks after being sworn in as Veep, I was sworn in as President after Lincoln was (oh so tragically) assassinated.

**ANDREW:** What did you do to piss off Congress so much?

**JOHNSON:** Rather than continue Lincoln's reconstruction plan, which was fully supported by the majority republicans in Congress, I decided to do my own form of reconstruction by Presidential Proclamation.

Basically it allowed southern states to hold their own elections in order to reform their civil governments the way they see fit.

Remember, I'm from Tennessee, a slave holding state. I assure you, there were some "very fine people" on both sides of that conflict. And I didn't see why they couldn't go back in power in the Southern states.

So, within six weeks of taking office, I had offered proclamations of general amnesty for most former Confederates

**MARGIE:** Is that all?

**JOHNSON:** All? Of course not!

I also vetoed legislation that extended civil rights and financial support for the former slaves.

**DAN:** What did Congress do?

**JOHNSON:** Congress started objecting to my actions, so I decided to go on a National anti-congress publicity tour. I thought it went well, but the liars in the "fake news" press said that it destroyed my reputation and reported of undisciplined, vitriolic speeches and ill-advised confrontations with hecklers.

After that the Republicans secured a veto-proof majority in the Congress during the mid-term elections.

But I was still commander in chief and in control of the military. So I figured I would fire that rat bastard Secretary of War Edwin Stanton and install my own candidate who supported my reconstruction efforts.

In response, Congress passed the [Tenure of Office Act](#) in 1867 over my veto. The act required the President to seek the Senate's advice and consent before relieving or dismissing any member of his Cabinet or, indeed, any federal official whose initial appointment had previously required its advice and consent.

Well forget Congress! I was the decider! Long story, short, I defied Congress and on February 21, 1868, I appointed Lorenzo Thomas Secretary of War and ordered the removal of Stanton from office.

**JEN:** What did Congress do?

**JOHNSON:** One week later, the House adopted eleven [articles of impeachment](#) against me.

- Essentially the articles charged me with: Dismissing [Edwin Stanton](#) from office after the Senate formally disagreed, and ordered him reinstated,

- Appointing Thomas [Secretary of War](#) without the required [advice and consent](#) of the Senate.
- Conspiracy to unlawfully prevent Stanton from continuing in office and unlawfully curtailing faithful execution of the [Tenure of Office Act](#).
- Conspiring to "seize, take, and possess the property of the United States in the [Department of War](#)
- And of all things, making [three speeches](#) with intent to show disrespect for the Congress among the citizens of the United States.

**ANDREW:** Well that sounds good. So what happened after the Articles were drawn up?

**FRANKLIN:** Well, the Senate then had fifty-four members representing the twenty-seven states whose legislatures could then elect Senators; of these, thirty-six "guilty" votes were required to remove Johnson from office.

**JOHNSON:** They held 3 votes. On all three occasions, 35 Senators voted "guilty" and 19 "not guilty." As the Constitution requires a two-thirds majority for conviction in impeachment trials, I was acquitted and remained as President.

**HILLARY:** That's no help. Who else do you have for us?

**FRANKLIN:** This one should turn that frown upside down Hillary. What about your favorite President to compare the Donald to? Old Dick Nixon!

### **[RICHARD NIXON ENTERS]**

**NIXON:** My fellow Americans – it's good to be back.

**FRANKLIN:** Dick, tell these fine folks about what happened to you.

**NIXON:** Well in June of 1972, -- five months before the general election - five burglars broke into the Democratic National Committee headquarters at the Watergate office complex in Washington, D.C.

These burglars - members of my Committee to Re-Elect the President – also known as – “CREEP” - broke in and stole copies of **top-secret** documents and bugged the office's **phones**.

In May, 1973, my Attorney General appointed [Archibald Cox](#) to the position of [special prosecutor](#), charged with investigating the break-in. – and investigating [my](#)



Administration's attempted cover-up of -- MY administration's involvement -- in the burglary --- and -- in the cover-up.

**ANDREW:** Hm. That sounds familiar.

**NIXON:** Listen to me sonny, this was the greatest witch hunt in political history, so I ordered my Attorney General to fire Cox. My A.G. refused - and resigned in protest. I then ordered the Deputy A.G. to fire Cox. He also refused -- and resigned in protest.

I then ordered the Solicitor General of the United States, Robert Bork, acting head of the Justice Department, to fire Cox. Which he did.

However, public outrage forced me to appoint a new special prosecutor, Leon Jaworski.

**JOHNSON:** [HAND MOTION] Jowarski!

**NIXON:** Exactly! Jowarski was my undoing.

So that was a SENATE select committee in 1973, investigating the 1972 Watergate break-in.

Then in February '74, the **House of Representatives** passed House Resolution 803, giving the House Judiciary Committee authority to investigate whether grounds to impeach me were present.

The Judiciary committee issued a subpoena, and in April of '74 we -- my administration -- my good and loyal people - released EDITED transcripts of many Watergate-related conversations. But not all.

The Judiciary Committee pressed for full tapes, and tapes of additional conversations. I refused. Nevertheless, they persisted.

On July 24, '74, the U.S. Supreme Court ruled against me. That day - July 24<sup>th</sup>, 1974 -- was my Waterloo.

Just days later, on July 27<sup>th</sup>, 29<sup>th</sup>, and 30<sup>th</sup>, the Judiciary Committee approved three articles of impeachment:

- Obstruction of justice
- abuse of power, and
- contempt of Congress

... and reported those articles of impeachment to the House of Representatives.

Before the House could vote on the impeachment resolutions, I made public one of the additional taped conversations -- that tape my enemies came to call the "Smoking Gun Tape". It was from June 23rd, 1972, six days after the Watergate break-in.

On that tape, I – Richard Milhouse Nixon - agreed that my staff should approach the CIA Director – and the CIA Deputy Director, and ask THEM to request the Acting Director of the [FBI](#), to halt the FBI's investigation into the Watergate break-in

--- my staff should ask the CIA to ask the FBI to halt the Watergate investigation. ... On the grounds that it was a national security matter.

**MARGIE:** Um, also sounds familiar.

**NIXON:** Don't interrupt missy! Now, returning to 1974, Special Prosecutor Jowarski felt that I – in using the CIA to influence the FBI -- on an investigation that focused on my administration, had entered into a criminal conspiracy - the goal of which was [obstruction of justice](#).

But it wasn't a crime. Because as everyone knows- When the President does it, that means that it's not illegal.

Once the "smoking gun" tape was made public on August 5, 1974, my political support vanished. The ten Republicans on the House Judiciary Committee who had voted against impeachment - in committee - announced that they would now vote FOR [impeachment](#) once the matter reached the House floor.

### ***AGITATED***

I was betrayed in the Senate as well. It was estimated that no more than 15 Senators were willing to even consider acquittal.

During this trying time in American history, both the House and Senate were under Democratic control.

Facing certain impeachment in the House and equally certain conviction in the Senate, I resigned before my enemies could STAB ME ON THE FLOORS OF CONGRESS.

I brought myself down. I impeached myself by resigning.

### **JOHNSON START TO APPROACH AND PUT HANDS ON HIS SHOULDERS**

No, they would not have Richard Nixon to kick around any more!

**JOHNSON:** Get ahold of yourself Dick! (Slap)

**FRANKLIN:** Well, thanks for that Dick. Andrew, get him some coffee and see if it calms him down.

**[AJ – help RN to a chair and get him some coffee – RN – mutter to yourself]**

### **[BILL CLINTON ENTERS]**

**BILL:** Did someone say they wanted more coffee!

**HILLARY:** We'll talk about that later Bill. For now we need you to explain how things worked when they impeached you.

**BILL:** Well as you know, I was the 42nd president of the United States of America. Nixon was lucky. He resigned while impeachment proceedings were pending, so technically he was never impeached. I wasn't so lucky, or was I.

At that time, the house and the senate were both Republican; the economy was doing very well; and I had relatively high approval ratings.

**DAN:** So, what happened?

**CLINTON:** It goes back to 1994 when Ken Starr was appointed by a three Judge panel to investigate a failed real estate deal back in Arkansas that involved a potential illegal loan to a partner back in 1992.

**CLINTON:** Meanwhile, after three years in the White House, I begin an affair with a beautiful young lady named Monica Lewinsky. Over the course of about a year and a half, I had nearly a dozen sexual relations, uh, I mean encounters with Miss Lewinsky in the White House. In April 1996 Ms. Lewinsky was transferred to the Pentagon, where she met Linda Tripp and began to talk about the details of our affair.

**JOHNSON AND NIXON:** Tripp! (Like Newman on Seinfeld)

**CLINTON:** Well Linda had taped some of those conversations. At that same time, I was being sued by Paula Jones, a former Arkansas government employee, for sexual-harassment. Somehow the lawyers for Paula Jones found out about Ms. Lewinsky and subpoenaed her to testify. In January 1998, it is alleged that I recommended to Miss Lewinsky that she file an affidavit in which she denied the sexual relationship. A few days later, Linda Tripp contacted Ken Starr and told him about Ms. Lewinsky and provided him with tapes of their conversations. When the story broke a few days later, I went on national television and famously said that I did not have sexual relations with that woman Miss Lewinsky. Lewinsky was given immunity and testified before a grand jury about the affair. I then testified about the affair. Unfortunately, my testimony was contrary to testimony I had previously given in the Paula Jones case. In the testimony, I am accused of questioning the proceedings use of the word "is". My statement that there is nothing going on between us was truthful because of the time there was nothing going on. The prosecutor had a different definition. His definition of "is" was, is and never has been. Now that's just plain stupid. That's like saying it "is" dark outside at noon because is "was" dark outside at some time.

**JEN:** Stupid is as stupid does.

**CLINTON:** Exactly! (Pause, look at her, and say) "May I offer you some coffee miss?"

**HILLARY:** BILL! HEEL!

**CLINTON:** Sorry dear. Anyway, less than a month later, Kenneth Starr submitted his report and 18 boxes of supporting documents to the House of Representatives. It was released to the public two days later and outlined a case for impeaching me on 11 grounds, including perjury, obstruction of justice, witness tampering, and abuse of power. It also provided explicit details of the sexual relationship between me and Miss Lewinsky.

On December 11 the House Judiciary Committee approved three articles of impeachment.

Eight days later the House voted to impeach me on two of those articles: perjury, obstruction of justice

Five weeks later, after a trial consisting of no live witnesses and only excerpts from the grand jury testimony, the Senate voted on whether to remove me from Office. I was acquitted of both articles of impeachment.

**ANDREW:** So you weren't impeached?

**CLINTON:** I was impeached, I just wasn't convicted! The prosecution needed 2/3 majority to convict me but failed to achieve even a bare majority. Rejecting the first charge of perjury, 45 Democrats and 10 Republicans voted not guilty. As to the obstruction of justice charge, the Senate was split 50-50.

**MARGIE:** Be that put a damper on the rest of your term.

**CLINTON:** Actually little lady, what happened next is somewhat interesting. My approval ratings, went to their highest levels during my presidency.

What happened to some of the Prosecutors in the House and Senate, who are also called managers, is also very interesting. Representative Bob Livingston, chosen by the Republican Party conference to replace Newt Gingrich as speaker, announced the end of his candidacy for speaker and his resignation from Congress from the floor of the house -- after his own marital infidelity came to light.

Many other prominent Republican members of Congress including Dan Burton, Helen Chenoweth and Henry Hyde, a chief house manager of the trial in the Senate, had his own infidelity exposed about the same time all of them voted for impeachment. Publisher Larry Flynt offered a reward for such information and many of my supporters accused Republicans of hypocrisy.

Of the 13 members of the house who managed the trial in the Senate, one lost to a Democrat in his 2000 election bid, one retired from Congress, one ran unsuccessfully for U.S. Senate, and one left the Congress after being appointed as head of the DEA.

In 2002, two of the house managers lost their seats after redistricting, one lost their seat in a Republican primary, and one lost to a Democrat.

The only senator to run successfully after that was Lindsey Graham. The other five survived in the house well into the 2000's and two are still members today.

**DAN:** So what came of all that?

**CLINTON:** As a result of all of this, I stipulated to a five year suspension of my law license in Arkansas and was fined \$90,000 by the Judge in the Jones case.

**HILLARY:** Well, what a wonderful trip down memory lane. If we're going to make this happen we need Congress to make it happen. Team, let's go, I know just who to see!

[CLINTON AND TEAM WALK AROUND THE ROOM. HILLARY CALLS CHUCK AND NANCY ON THE PHONE]

\*\*\*\*\*

### **ACT III – HILLARY, CHUCK & NANCY MEET WITH THE LEGAL TEAM**

**HILLARY:** Thank you both for meeting with me. Look, I think we all know that I should be the one in the White House, and I'm not going to sit by for another three years while this clown destroys everything we built in the last Administration. We really need to find a way to impeach Trump. I've pulled together Bill's legal team, but we need to know how the efforts are going in the House and Senate to get this guy FIRED! [cackles]

**CHUCK:** Well, Nancy and I have been working together on those efforts and Trump has certainly been helping us with his tweets. We've come up with four possible bases that could be a basis for impeachment: (1) Trump's "grab 'em by the pussy" comments on the Access Hollywood tapes; (2) Trump's recent efforts to influence the NFL to fire athletes who take a knee during the Star Spangled Banner; (3) Trump's firing of FBI Director James Comey; and (4) Trump's link to Russian involvement in influencing the 2016 presidential election.

**NANCY:** We just haven't been able to figure out which charges are the strongest and most likely to lead to impeachment.

### **[DISCUSSION OF ACCESS HOLLYWOOD/SEXUAL ASSAULT]**

**HILLARY:** Well, that's where Bill's legal team can help. Let's jump right in to the juicy stuff, how about the Access Hollywood tape?

**DAN:** It's pretty repugnant and politically salacious. It arguably admits criminal conduct in a boasting manner.

**ANDREW:** I know right. If you read the transcript it's even crazier, "I don't even wait. And when you're a star, they let you do it, you can do anything . . . Grab 'em by the pussy. You can do anything."

**MARGIE:** Crazy. Then he went on to describe unwelcome sexual advances on Nancy Odell, saying that he had tried to "move on her."

**JEN:** But is that really a good basis for impeachment?

**ANDREW:** Well the statements themselves are easy to prove. Trump made the statements, they were recorded and easily authenticated. Billy Bush has talked about witnessing the incident. Trump admitted he made the statements, but...

**DAN:** I don't think this is a good basis for an impeachment case. Trump made some unbelievably disgusting statements, but he does similar things every day. The statements themselves aren't a crime. It occurred well before he was in office in his Howard Stern phase, and it really doesn't involve misconduct while in office.

**ANDREW:** Plus the tapes were out before the election and Trump won anyway. At some point we have to consider the political angle with impeachment and Trump won the presidency despite wide public knowledge that he had said these things. It would be tough to impeach based on something that was public knowledge at the time of the election.

**JEN:** But what if he actually did the things he was talking about? He is bragging about actions that would likely be sexual assault. Surely that's a crime -- at least a misdemeanor in the conventional sense.

**MARGIE:** There has been pretty extensive reporting about Trump allegedly committing actual sexual assaults or other sexual offenses. The Washington Post reported one alleged victim's story. There have been multiple allegations against Trump in the past as well.

**DAN:** I think that might be a stronger case. It would be an actual crime. But we don't have conclusive proof on this yet, and there doesn't seem to be much of an interest in investigating those allegations.

**JEN:** Again this information was largely known before the election, assuming nothing new drops. Also, the crimes don't really have much to do with the office of the Presidency -- there's no bribery or abuse of the office here. These actions don't implicate other concerns with the ability to carry out the office.

**CHUCK:** Hold on. Wait a minute. It sounds like you're saying that Trump's behavior on the Access Hollywood tapes and the possible sexual assaults aren't going to pan out. But, that conduct sounds an awful lot like the basis of Clinton's impeachment vis a vis Paula Jones and Monica Lewinsky. I mean, it could really have legs, if you know what I mean . . .

**DAN:** The problem is, Trump isn't denying any of it. In fact, he's boasting about it. And the American public seemed to endorse his position that it was all just "locker room talk." What got Clinton in trouble is the fact that he tried to suborn perjury from Monica Lewinsky in attempting to convince her to lie in an affidavit and then his own denial about the affair while under oath in a deposition in the Jones case.

**CHUCK:** So, what I'm hearing you say is, that because Trump is an openly contemptible human being, with no respect for women, and odious morals, he could very well get away with sexual harassment and possibly sexual assault.

Side Conversation:

**BILL (to Hillary looking for approval):** *At least my sexual exploits were consensual .*

**HILLARY:** *Too soon, Bill, too soon . . . [shaking her head in disgust and turning her back on Clinton]*

**NANCY:** Well, I think we both know that if sexual harassment alone actually got politicians kicked out of office in Washington, women would have the majority in both houses of Congress by now. That's just not going to do it. We would need Trump to obstruct the judicial process to get us there.

**DAN:** Yeah, I am not thinking this is our best option, despite how disgusting Trump is on that tape. Even with Clinton it wasn't the darker allegations of his sexual behavior that nearly brought him down.

**MARGIE:** Unfortunately, Trump may get a pass on this one.

**DAN:** Just don't let your relatives, friends, acquaintances, coworkers, or enemies of the non-mortal category into grabbing distance of El Caudillo Del Mar-a-Lago.

**ANDREW:** Maybe that's why the Administration is incapable of hiring women to work for it...

**DAN:** And why the women in his family all seem to have that same stance when he's around

## SLIDE

### [DISCUSSION OF NFL TWEETS]

**JEN:** Let's think through a few more ideas that might better support Articles of Impeachment against Trump.

**DAN:** What about Trump's NFL tweets?

*[tweets appear on screen – DO NOT READ ALOUD:]*

- *"If NFL fans refuse to go to games until players stop disrespecting our Flag & Country, you will see change take place fast. Fire or suspend!"*
- *"...NFL attendance and ratings are WAY DOWN. Boring games yes, but many stay away because they love our country. League should back U.S."*

**ANDREW:** Yes! Trump is basically telling fans they should boycott the NFL and that team owners should fire players who protest during the national anthem.

**JEN:** Isn't that illegal? I heard he may have violated some federal law by sending those tweets.

**MARGIE:** Yes, the statute that people claim he violated is 18 U.S.C. 227, which makes it a crime for a public official to wrongfully seek to influence an employment decision or practice by any private entity.

**JEN:** This fits, doesn't it?

**MARGIE:** Actually, no, it doesn't. I looked into this, and while the statute clearly applies to the president, there are two reasons why Trump's tweets likely do not violate this statute. First, the statute requires that the public official act "solely on the basis of partisan political affiliation." Here, Trump's tweets are designed more to fire up his base about the flag and general patriotism than to strike out against NFL owners or players based on their political ties to one party or the other.

**DAN:** I see what you mean. Clearly partisan affiliation was not Trump's sole motivation in sending these tweets. That would be hard to prove.

**JEN:** What's the second reason the statute doesn't apply?

**MARGIE:** The second reason is that the statute applies only if the official seeks to influence private employment decisions by taking or threatening an "official act" or influencing another to do so. In *McDonnell v. United States*, the 2016 decision involving former Virginia governor Bob McDonnell, the US Supreme Court held that the phrase "official act" has a very narrow and specific meaning. Specifically, it must be a decision or action on a "question, matter, cause, suit, proceeding or controversy," and that question or matter must involve a formal exercise of governmental power, and must also be something specific and focused that is "pending" or "may by law be brought" before a public official. None of that applies to Trump and the NFL.

**ANDREW:** Well, shoot! I can't believe nothing will happen to him over this.

**MARGIE:** Well, even though I don't think this statute applies, the Democratic Coalition, an anti-Trump political group, filed a complaint against Trump with the Office of Government Ethics on September 24, 2017. That group, which filed a similar grievance against Press Secretary Sarah Huckabee Sanders last month, cited the same federal law, claiming Trump "crossed the line when he called for the firing of any NFL player who kneels during the national anthem." While I think it is unlikely, it is possible that the Office of Government Ethics will pursue this.



**DAN:** Well, even if Trump's NFL speeches and tweets get him into hot water ethically, I don't think this is enough to support articles of impeachment. What else do we have?

### **[DISCUSSION OF FIRING COMEY]**

**CHUCK:** Well, we've also considered Trump's firing of Comey. Firing an FBI director in order to obstruct an ongoing investigation sure seems like an impeachable offense!

**NANCY:** Remember, the impetus for both Johnson's and Nixon's impeachment was their involvement in firing top government officials. With Johnson, he fired the Secretary of War to replace him with someone else who was more supportive of Johnson's reconstruction agenda. And with Nixon, the link seems even closer. Nixon asked his staff to fire the FBI director to stop the investigation into the Watergate break-in. That sounds exactly like Trump's efforts to fire Comey to stop the investigation into the links between the Russians and the election results.

**DAN:** But do we have proof that Trump fired FBI to obstruct justice? Maybe he really did just suddenly decide that Comey's handling of the Clinton emails was really unforgiveable.

**ANDREW:** We'd need to see sworn testimony or hard evidence. There is a lot of anonymously sourced journalism out there, but that won't cut it.

**JEN:** Well there is a lot of evidence already. I mean, The New York Times reported that days before he was fired, Comey asked the Justice Department for a significant increase in money and personnel for the bureau's investigation into Russia's interference in the presidential election.

**DAN:** Right, and the Times also reported that Sessions "had been working to come up with reasons" to fire Comey.

**MARGIE:** And don't forget, Trump himself contradicted the stated reasons for the firing on NBC with Lester Holt when he said Comey wasn't "doing a good job" running the FBI.

**ANDREW:** And also, there is that Politico report that Trump "had grown enraged by the Russia investigation and his inability to control the mushrooming narrative around Russia."

**DAN:** Remember, obstruction of justice featured heavily in the articles of impeachment that drove Nixon from office, and also in the articles of impeachment that passed the House only to see Bill Clinton narrowly acquitted in the Senate. In short, it lies firmly in the American political tradition to regard possible obstruction of justice as a serious issue worthy of investigation in an impeachment context.

**MARGIE:** Right – Texas Representative Joaquin Castro recently said as much. Apparently, Robert Mueller has unconvered a draft of a letter that Trump and adviser Stephen Miller Wrote before termination Comey in May. The draft apparently included mentions of conversations between Trump and Comey in which the FBI director, after prompting by the president, assured Trump he wasn't being investigated for potential contacts with the Kremlin.

**ANDREW:** And don't forget, Trump reportedly told Russian Foreign Minister Sergey Lavrov and Ambassador to the U.S. Sergey Kislyak he fired Comey after facing "great pressure because of Russia," and noting, "I'm not under investigation."

**DAN:** Right – that was amazing, what did he say??? Oh yeah, "I just fired the head of the F.B.I. He was crazy, a real nut job. I faced great pressure because of Russia. That's taken off."

**CHUCK:** Yes, but after hearing all of this, I don't believe these actions rise to the same level as Nixon. Trump fired Comey, sure. But he had at least one supposedly legitimate reason for doing so - the public statement about returning to the investigation of Clinton's emails that Comey made the week before the general election. In other words, bad judgment by Comey.

**NANCY:** And a GENERAL justification was Comey's focus on Russian interference - which Trump portrayed as a witch hunt and waste of time, supposedly undermining the legitimacy of this presidency - that is, if you assume the election wasn't hacked or severely tampered with.

**CHUCK:** But - if Trump KNEW that he - or one of his henchmen - I mean lieutenants - WAS under investigation, then it could be said that he was knowingly trying to interfere with a criminal investigation.

**NANCY:** I agree. Notice how release of the "smoking gun tape" completely changed events. Suddenly having the President - on tape - agreeing with his staff to use the CIA to get the FBI to end an investigation, on the false basis that the FBI's investigation was getting into national security matters - that COMPLETELY changed the political climate.

After that - after HEARING the President completely involved in specific acts to end the criminal investigation - even Republican Congressmen vocally broke with him.

**CHUCK:** Until we have our own "smoking gun" evidence come to light, this Comey firing just doesn't get us there.

### **[DISCUSSION OF RUSSIAN INVOLVEMENT IN THE ELECTION]**

**HILLARY:** Seriously?! You people can't come up with *anything* to use to impeach this guy? There's got to be something. The man has worse judgment than all of the Kardashians combined!

**DAN:** What about the whole Russian thing?

**JEN:** What Russian thing? What are you talking about?

**ANDREW:** Well, multiple United States intelligence agencies have already concluded that the Russian government deliberately interfered with the 2016 presidential election with the goal of increasing Trump's chances of getting elected.

**MARGIE:** How the hell did they pull that off?

**ANDREW:** That's still under investigation by both a special prosecutor—Robert Mueller—and the Senate. But what we know so far is that Russian operatives influenced the election by disseminating false news reports and by hacking DNC computer servers and forwarding their contents to WikiLeaks.

**JEN:** Yes!!! That's got to be the way to impeach Lord Cheeto. He must have worked with the Russians to make that happen, right?

**ANDREW:** Well, that's sort of the big unanswered question. Many suspect that either Trump himself or top advisors in his campaign were involved in the Russian interference. However, many would argue that there is still no definitive proof.

**DAN:** What evidence *do* we have?

**MARGIE:** Over the last several months since the election, we've learned that various members of the Trump administration met with Russian officials during the election campaign and, later, were less than candid about those meetings.

**JEN:** Ah, that's right. And wasn't there some weird meeting with a Russian lawyer?

**DAN:** Yes, there was. A few months ago, reports emerged that several top advisors in the Trump campaign met with a lawyer with ties to the Russian government during the election campaign. The lawyer had promised the Trump campaign that she could deliver damaging information about Hillary Clinton. It still isn't clear if the lawyer truly had anything of importance.

**ANDREW:** Yeah, I remember that. That meeting was like a clown car—we kept finding out about more and more people who were in the meeting. And the people at the meeting weren't exactly straightforward about it.

**MARGIE:** So is that enough for impeachment?

**ANDREW:** Without more evidence, I don't think so. We need something to connect Trump himself to the interference. Something that shows that he authorized it, encouraged it, or at least knew about it and let it happen.

**DAN:** Even if we can prove that, would it constitute impeachable conduct? Not if his conduct occurred before he was president, right?

**ANDREW:** It could *possibly* be impeachable conduct even if it occurred before Trump took office. When the founders discussed impeachment, election fraud was expressly mentioned as a potential basis for impeachment even if it happened before the official who defrauded the voters did so before taking office.

**JEN:** Colluding with a foreign power to interfere with a presidential election seems like it would be a classic example of a “high crime.” It encompasses an abuse of office, unfitness to be president, and a direct threat to our political process.

**MARGIE:** Hmmm . . . As much as I passionately hate the man, it *does* seem like we need more evidence before we can run with this.

**ANDREW:** I agree. I suspect that a better bet will be to prove that Trump, at some point, knew about his campaign’s connection with the Russian interference and actively took steps to cover it up.

**DAN:** Like firing Comey!

**MARGIE:** Yes, possibly. Something like that. That’d also be a good example of a “high crime” for the same reasons.

**JEN:** Mmmhmm! It’s the cover-up that always gets you.

**NIXON:** DAMNright!

**DAN:** That might end up being easiest to prove.

**ANDREW:** But I still think that we need more evidence. Hopefully, the Senate and special-prosecutor investigations will turn up something.

### **[DISCUSSION OF POLITICAL IMPACT]**

**HILLARY:** I have no idea what to think. Well, what do you think?

**CHUCK:** Well, I’m convinced there is something there, but it may take years to uncover the amount of evidence that would be required for the House to move forward with impeachment. And Hillary, we’re not getting any younger.

**NANCY:** And even if we had that evidence tomorrow, we don’t have enough support in the House to impeach. We currently have 194 Democrats to 240 Republicans. Impeachment in the House requires only a simple majority; but that still means that we’d have to get 218 votes to impeach. We’d need 24 Republicans to vote for impeachment. I just don’t see that happening unless they get political pressure in their districts, but Trump supporters don’t seem phased by any of this.

**CHUCK:** How are the 2018 mid-terms looking for the House, Nancy? Could we spend the next year putting together a case and make it the first move for a Democratic House majority?

**NANCY:** You know, that's always hard to say this early in the game. Midterm elections are historically terrible for the president's party. In 18 of the last 20 midterm elections, the president's party has lost seats. In those 18 elections, the average seat loss is 33. Those numbers are even more daunting for presidents with under 50% job approval -- as Donald Trump is right now. Since 1946, the average seat loss in the House in that situation is 36 seats.

But, Republicans redrew the redistricting lines in 2010, which will have a huge impact on this midterm election. Even if Democrats were to win every single election for seats representing places that Hillary Clinton won or that Trump won by less than 3 percentage points — a pretty good midterm by historical standards — we could still fall short of the House majority.

And, even if we could get the majority, we'd still have to get every Democrat to vote to impeach a sitting president, which isn't an easy task. But let's say we can get there. Could you get impeachment through the Senate?

**CHUCK:** Well, the current makeup of the Senate is 52 Republicans, 46 Democrats, and 2 Independents caucusing with us, so essentially 52 to 48. We would need a 2/3 majority to impeach in the Senate, which means we would need 19 Republicans to vote to impeach.

**NANCY:** Where do you think you'll be in 2018?

**CHUCK:** Well, we don't have the redistricting issue impacting the House seats, but Democrats won six Republican seats in the 2006 election and two more Republican seats in 2012. That means that in 2018 there are a whopping 25 Democratic seats up as compared to a meager eight for Republicans. In other words, 52% of all the seats Democrats control are up in 2018 while just 15% of Republicans' seats are up. AND 10 of the 25 are in states Trump won in 2016. By contrast, only one Republican up for reelection represents a state that Clinton won last November. I just don't envision getting a 2/3 majority for impeachment unless Trump starts to fall like a House of Cards.

**NANCY:** Gosh, even if we had evidence that Trump was poisoning Congressmen or throwing journalists in front of the subway like Frank Underwood, I still don't know if we could get these right-wing fanatics to stop showing up at his rallies.

**CHUCK:** You know, Nancy, maybe you're onto something. We just need to keep poking at him. He's bound to crack with all of his insecurities.

**NANCY:** Or we could just shoot him.

[ALL LAUGH]

**CHUCK:** Well, that's assassination. Isn't that exactly what the framers of the constitution were trying to avoid by implementing the articles of impeachment in the first place?

**HILLARY:** Not if he volunteers. Everyone, with me!

**[TRANSITION – EVERYONE GETS UP AND WALKS AROUND THE ROOM AS THE TWEET EXCHANGE GOES ON BETWEEN HILLARY AND TRUMP]**

**HILLARY AT THE BACK OF THE ROOM TWEETS TRUMP WHILE TRUMP IS AT THE FRONT. READ ALOUD OUT VARIOUS TWEETS.**

**HILLARY:** Your ratings are in the toilet. You have no friends. Your wife hates you. You are a joke!

**TRUMP:** Shut up, loser! You lost! Millions of illegal votes and they were all cast for you. I won. NA-NA-NA-NA-NAAAAANA!

**HILLARY:** Hey Donald. Why don't you act like a #realman? Let's settle this once and for all.

**TRUMP:** If you weren't a woman I'd show you. Wait. Look at those pants. With flats no less. I'd be happy to show you! #Melanias pumps are hot!

**HILLARY:** Put your support of the Second Amendment where your moth is. Meet me for a duel on the steps of the Capitol.

**TRUMP:** 1:05 pm on Sunday. I'll give Americans something to watch other than traitor athletes. The ratings will be YUGE!

\*\*\*\*\*

## **ACT IV – DUEL**

**[ALL ARE AT THE FRONT OF THE ROOM WHERE TRUMP AWAITS THEM]**

**HILLARY:** Hello Donald.

**TRUMP:** Hello, Crooked Hillary. Nice suit.

**HILLARY:** Wish I could say the same about your tie.

**TRUMP:** I've got a country to run. Are you ready to get this thing going?

**HILLARY:** Certainly. Are you familiar with the rules of dueling Donald?

**TRUMP:** Rules, I don't need no stinkin' rules. I make the rules. I'm the President, if you haven't noticed.

**HILLARY:** Well, I have Ms. Pelosi here to back me up. Do you at least have a second?

**TRUMP:** I've got all day dearie, I don't need a second.

**NANCY:** Oh my God, he's so incredibly stupid, PLEASE LET ME DO THIS FOR YOU!  
[TRYING TO ATTACK TRUMP AND BEING HELD BACK BY OTHERS]

**HILLARY:** No, Nancy. I need you to be ready in case something happens to me.  
Someone will need to wear the pants around here.

**HILLARY** (To Trump): OK, let's get this started!

**TRUMP:** Not so fast, I need to show our patriotism to all:

**[STAR SPANGLED BANNER PLAYS – FAST VERSION – Trump looks like he's going to put his hand on his heart, pulls out a hand mirror and looks at himself, fixes his hair, LEGAL TEAM TAKES A KNEE]**

**AFTER 40 SECONDS**

**TRUMP:** Ok, ok, enough. I've got to get home and catch Family Feud. I love that Steve Harvey.

**NANCY:** Please stand with your backs to one another.

**STAND BACK TO BACK – TRUMP GOES TO GRAB HILLARY'S ASS**

**HILLARY:** [Turns quickly catches his hand, twists his wrist and he is on his knees.]

You don't think I learned anything being married to Bill Clinton for 40 years?

**TRUMP:** OK, ok, ok!

**HILLARY:** God someone give me the gun already!

**NIXON HANDS GUNS – Big Gun to Trump**

**TRUMP:** Um, Hillary, help a guy out here.

**HILLARY:** Certainly Donald. Let me lend you a BIGGER hand.

**NANCY:** Please stand at attention. When I say go take 10 paces, then turn. Ready?  
GO!

**DUEL –10 Steps, Turn, shoot, FREEZE FRAME!**

**NANCY:** Did Hillary get her dream job?

**CHUCK:** Will the Trump Administration be stopped?

**FRANKLIN FRANKLIN POPS UP:** Tune in next tweet for more of the adventures of Hillary and Friends!