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## M. Caldwell Butler Audio Diary with Thomas Mooney re July 24, 1974

M. Caldwell Butler

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THIRD<sup>FOURTH</sup>-SIDE OF TAPE - CONVERSATION WITH THOMAS MOONEY ON  
JULY 31, 1974, WITH REFERENCE TO WHAT TOOK PLACE ON  
JULY 24, 1974

MOONEY - I think what we meant here in striking 4 was  
use the Donohue article as amended.

BUTLER - You mean -

MOONEY - Rather than come up with a new 4, to take the  
Donohue conclusion.

BUTLER - You mean - yeah - in other words, we were satisfied  
with the way this thing wound up?

MOONEY - Yeah. The group would buy what Donohue had  
introduced.

BUTLER - And that's about where we quit on that afternoon,  
and we still hadn't done anything.

MOONEY - You know, it was like 6:30. And there was a  
colloquy about whether or not - Mr. Mann kept bringing  
the group back to this, you know, I've got to tell  
the Chairman something. He wants articles to lay  
before the group - before the Committee. And we're  
fairly satisfied with Article I. I am just giving you  
for the first time Article II.

(Interrupted by telephone call)

BUTLER - We had number 7. What did I do with number 8?

MOONEY - Yeah, number 8 is draft 1.

BUTLER - Here it is - 8 - that's draft 1? So far as I  
know, we just finished that.

MOONEY - We finished that. The last page was stricken  
because I think the group wanted to go with a  
similar version to what Donohue introduced.

BUTLER - About 6:30 was when we wound up. Now, did  
everybody go out and eat supper or did we eat supper  
over at the Capitol Hill Club?

MOONEY - Well, before we left, there was Mann trying to pull the group to make a decision on what to give Rodino, and Flowers had some pretty harsh words as to whether or not we were obligated to give him anything. I don't know - were you there at that point?

BUTLER - Yeah.

MOONEY - And Mr. Mann thought, well, we have a fairly decent Article I that we have got here. Let's give them that. And here's the Article II that I am showing you. We can attach that to it. In the meantime we will come up with our own Article II and our final version of Article I and use them to substitute down the road someplace. As I said, Flowers had some reservations about that.

BUTLER - Flowers' reservations about it - he just didn't want to tip his hand, isn't that basically what he was concerned about?

MOONEY - Well, yeah. I kinda got the impression, too, that he didn't particularly appreciate being pressured in this fashion.

BUTLER - Yeah, I didn't either.

MOONEY - And, you know, I think he even said they hadn't done anything for us. Why the hell should be do anything for them? We are doing them the big favor by putting this thing together to begin with, and do it under the pressures we were under, and have them demanding it at this stage was just a bit unreasonable. Anyway, I think the group decided to go ahead and let them draw up a very rough II and what we had in Article I and lay that before the group.

BUTLER - And that's how the Donohue substitute came to be?

MOONEY - Yes.

BUTLER - Although, what Donohue had still didn't have our corrections of the evening session.

MOONEY - Right.

BUTLER - And that's the way I remember it too. Now, the rough draft of the abuse of power we really hadn't even seen before that evening.

MOONEY - No. We had looked at it that evening - not that evening but at that meeting quickly.

BUTLER - Some time - yeah, that's right. But we all agreed that we don't have time to mess with that.

MOONEY - Yeah. To look at that first draft. I mean, it was so disjointed and all over the lot. You know, to me, looking at it as a draftsman, so to speak, I thought goodness, there's just no way we could ever get this thing tuned in time -

BUTLER - Yeah - but - yeah, that's what I couldn't understand either, cause I felt like it was so inconsistent in style, if nothing else, but that's what they threw out.

MOONEY - That's right. I put that draft to Mr. Mann and that night and the next morning put it - to make it consistent and to flow with Article I -

BUTLER - You are talking about abuse of power?

MOONEY - Yeah. And then we get busy in Article II. Actually, the style of Article II is set by the group, by the coalition.

BUTLER - In Article I?

MOONEY - Well, it was, but also Article II. In other words, they followed each other. But, the actual wording and approach to Article II was set by the coalition because they did at one point - they were very much involved in Article II drafting in its early stages, and then the McClory concept got into play and then Frank Polk got in there and then the group didn't have as much in-put. What finally came out was basically what the group had had anyway.

BUTLER - Originally?

MOONEY - Originally, yes.

BUTLER - Now let me think now. When we got through this thing - Article I I am talking about - on Tuesday - Wednesday evening before we went into the meeting, you went back to make one more draft with the corrections we worked out before supper.

MOONEY - I didn't have any supper. I went back and shaved and cleaned up and got out there just in time for the opening statement. I never - let's see, the next meeting is the next morning at 8:00 in Mann's office. For the first time they moved away from Railsback's office over to Mann's office. I am not sure you made that meeting.

BUTLER - I was there late, but I made it. Did we go into session that morning at 10:00?

MOONEY - Oh yeah. The meeting was 8:00. Frank Polk was there. John Doar and Mr. Mann.

BUTLER - No, I wasn't there. Because I don't remember sitting down with John Doar a single time.

MOONEY - Right. OK. And we met for an hour and made some fine changes -

BUTLER - Up to the present time.

MOONEY - That's when we - yeah. Draft II, the changes on Draft II - this was done in Mr. Mann's office.

BUTLER - I'm going to number this number 9 for my files.

MOONEY - See, Doar put an illegal entry in - I mean, the changes weren't that really big.

BUTLER - Yeah. We got into illegal entry.

MOONEY - This is the first time illegal entry comes into our draft. It eventually goes out, but it comes in at this point.

BUTLER - What you have done, in Draft II - Draft II is Draft I corrected without even being retyped.

MOONEY - Oh, that's right. We didn't have time - that's what I did, I went back - no, no, I'm sorry, this - Friday night, after the meeting, - no Friday, after dinner, we polished off Article I. Mr. Mann asked me to go back and get it ready for the Sarbanes' substitute. This was 8:00. He said I'll meet you Shaddock's (?) office at quarter after 8:00.

BUTLER - Tomorrow morning?

MOONEY - No, no, this was that same night. We were coming back at 8:15. 8:30 or something.

BUTLER - Oh, this was Friday - yeah.

MOONEY - Yeah, so I didn't have time.

BUTLER - No, wait a minute, I have lost a day. We had - Wednesday night - now look at this - Wednesday night at 7:30, that's when we just folded up at 6:30 and - I can't remember about dinner. I can't remember if we ate dinner or what.

MOONEY - That's when we finished Draft I - your number 9.

BUTLER - We completed corrections to Draft I.

MOONEY - All right, then it was Donohue.

BUTLER - The Donohue substitute was offered. Now, the next morning you all had a meeting? I don't think I was there.

MOONEY - Let me see now. Wednesday. So we didn't have anything for dinner on Wednesday.

BUTLER - We ate some supper. What I can't remember -

MOONEY - In other words, we started at 7:30 or thereabouts and went right straight through, didn't we. We didn't break that session at all.

BUTLER - All right. I have a note here, incidentally, that Jim Mann said, at that afternoon meeting - it must have been toward the end of the afternoon - that after two drafts he still had real reservations as to whether we have a full case for abuse of power or not. And then that's when Railsback said well, my gosh, you got electronic surveillance and IRS and that's enough. And Sarbanes had suggested, apparently, can't Jim Mann come back with the law - that's when we stuck in "one more of the following". That was the note I had. So, all of that took place on Tuesday afternoon.

MOONEY - All right, there was a meeting - all right.

BUTLER - Yeah. Wednesday evening, July 24, we finally got started at 7:45. And that's when we had all the statements and everything.

MOONEY - That's right. OK, the group must have got together on Thursday afternoon.

BUTLER - And we adjourned to come in again the next morning at 10:00 A.M. So I have no notation that I attended any meeting that morning, but I do remember there was supposed to be such a meeting and I never got there.

MOONEY - I think - yeah - we had a meeting. Let's see, was it - this is Thursday -

BUTLER - OK - now wait just a minute - here's what happened. All the things we have been talking about that took place on Thursday - the reason - the corrections we made - you talked about having made on Wednesday afternoon didn't show up in the Donohue substitute is because all those corrections were made at the dinner at the Capitol Hill Club on Thursday evening. Hogan, Froehlich, Frank Polk - and I have a notation here Hogan, Froehlich and Frank Polk were new blood - Railsback, Butler, Mann and Mooney, and that's when we completed the draft of Article I.

MOONEY - Right.

BUTLER - Now Thursday evening.

MOONEY - Thursday evening, because it had to be laying on the table Friday morning because they were -

BUTLER - We were going to have the Sarbanes' substitute kicked around some time on Friday we thought.

MOONEY - 11:00 Friday.

BUTLER - No, no - yes, yes. We expected to finish all speeches on Thursday evening. Everytime we quit, we were going to finish general debate on Thursday and we had to be ready - that's right. So that's when we completed the draft of Article I. That's when we changed "burglary" to "illegal entry." Struck out "up to the present time".

MOONEY - This is Thursday night.

BUTLER - Thursday night at dinner.

MOONEY - I pencilled these changes in because we didn't have time to draft them up, because Mann had to take them back to Doar that evening.

BUTLER - That's right. And I have a notation here "inserted one or more" and that was Sarbanes' idea. And I have a notation somewhere that we had a hangup on Ellsberg and then I had - paragraph number 9 was a hangup on Magruder. Now, that's - Then, at 9:55 that night, incidentally, we got McClory's letter circulating a draft of the "take care" Article I called it.

MOONEY - That's right. Because I met with Frank Polk at 11:00 or so that night.

BUTLER - That's the spirit. Now we're talking.

MOONEY - And Frank Polk and I worked until midnight or so on Article II, and we were incorporating what we had done to date on Article II or rather what McClory had -

BUTLER - And you were also finishing up on Article I in shape to put it together for the Sarbanes' substitute the next morning.

MOONEY - Meeting Friday morning in Mann's office at 8:00. And that's when we would get up this final draft -

BUTLER - Yeah, that's right. Meeting in Mann's office. That's the spirit. And that's on Friday morning.

MOONEY - Yeah, and we are presented with what is called the final draft, and Doar is there early. You come late. You and Railsback come late. In the meantime, Doar comes and sits down and says here's the changes I have made. And Mann looks them over and discusses them and Mann says, OK, I think they are all right. And we talked about a couple of things.



BUTLER - All right, here's what I've got there. There had been a meeting in Mann's office, and he had been meeting with Frank Polk, representing us evidently, and the Democratic steering committee of Mezvinsky, Conyers, Brooks, I think Edwards, and I have a note here - Sarbanes - that is the group. But present at this time were only Railsback, Butler, Mooney and Mann. No, Mann wasn't even here, because he had left us. We were in Mann's office waiting for him.

MOONEY - He finally came back for about 3 minutes.

BUTLER - That's right. But he brought back in the new Article I. He said there were no - he said there were a few minor changes - no substantial changes in the phrasing of Article II on abuse of power, but his - that's where we left that. But that's -

MOONEY - That is what Mann carries to Doar Thursday night.

BUTLER - Right.

MOONEY - Draft - this Draft II.

BUTLER - That's my number 9.

MOONEY - Yeah. And then, what he presents to the group on Friday morning and what you will mark as 10, which I marked "final draft" - that's what Mann presented Thursday morning at 8:00 as final draft of Article I. Doar there - and that is what I took down to become the Sarbanes' substitute which somehow got messed up and something a little bit different was introduced.

BUTLER - I see. The Sarbanes' substitute got mixed up because of minor things which we were able to clean up with the Hogan amendments and Railsback amendments. I think policy was one of the things that we had to clean up.

MOONEY - Yeah. The Railsback amendment was more or less a result of debate - so final draft becomes your number 10 and Sarbanes' becomes 11 -

BUTLER - Do you have a Sarbanes' substitute? Do you have a copy of that for me?

MOONEY - You have one down there.

BUTLER - Where now?

MOONEY - Sarbanes' substitute - right here. That will become 11.

BUTLER - OK, now the notations on it are the Railsback substitutes -

MOONEY - Yeah. There's the unlawful hold amendment - you see the Hogan amendment at the bottom of page 1.

BUTLER - And the Danielson amendment-

MOONEY - The Danielson amendment -

BUTLER - Now, how did the Congress - congressional investigation get out of there? Oh, I see - no, he put it in there - yeah, Hogan - Danielson had the Patman committee - he was hung up on that. That was his amendment, wasn't it?

MOONEY - Yeah. That's a weak case. I think the case that -

BUTLER - I would have preferred not to keep it in there.

MOONEY - The case you have to make on that, I guess, is the Watergate - the select Watergate Committee in the Senate -

BUTLER - Yeah, I know it - but that's not what he had in mind.

MOONEY - No, it's not. We have to kinda hang the argument on the stronger case.

BUTLER - And that's what happened - that's why - the Hogan amendments were made necessary to the Sarbanes' substitute because we didn't get the word.

MOONEY - Right.

BUTLER - The reason we didn't get the word is because you went over to the drafting office - what do you call it?

MOONEY - That's Counsel -

BUTLER - Office of Legislative Counsel to have it drafted.

MOONEY - Yeah, because they had the equipment over there to put the machines on it. I can get good drafts, lined and everything. And I did get them - 50 of them - but by the time I got over there, another draft had already been distributed.

BUTLER And somebody over there had loused it up because they had called over there.

MOONEY - Yeah. I think Frank Polk called Doug Bellows and Doug Bellows said you know, did the Mooney thing fall through? And Frank didn't know what the heck that meant.

BUTLER - And he panicked, didn't he?

MOONEY - And, yeah - but anyway, that's really Article I.

BUTLER - That's Article I. And that's - that really is the history of Article I, isn't it?

MOONEY - In toto, yeah. Don't you think, though, that the Donohue thing should be a draft of some sort with a number of some sort?

BUTLER - Yeah, I sure do. Let's go back. Here's the Donohue substitute - I mean this is the Donohue amendment - no this is Donohue Article I. That's not what I want, is it?

MOONEY - Yeah. That - in other words, remember, that was introduced - that was - our draft - one of our drafts but not with our changes on it.

BUTLER - Oh, I see. This is Article I as it appears in Donohue resolution, right?

MOONEY - Uh hum. It's the work product of the group.

BUTLER - You know, that's the strangest thing in the world when you think about it. The critical thing - the resolution that's before the Congress of the United States has never been voted on by the Committee.

MOONEY - Right - the whole thing.

BUTLER - Yeah. I mean the preamble - it's whatever - I mean anybody could have introduced that darn resolution.

MOONEY - That's right.

BUTLER - That's just how messed up we were.

MOONEY - We were indeed. I should have caught that in our rule, but I didn't.

BUTLER - Yeah. Frank's the same way. Let's give this - in the terms of times, it ought to be just before Draft No. - just before Final Draft - should be about 8A shouldn't it be? Between Draft No. 1 and draft - this is Draft No. 2, isn't it, without the corrections?

MOONEY - I think it is - I think it comes right after 8 - maybe it is 8A.

BUTLER - Let's call this 8A, then. All right, fine.

GAYLE - What is 8?

MOONEY - Draft 1.

BUTLER - Call it Draft 1. That's the thing we have been talking about most of the time. Now, there isn't any use in getting into what took place once we got on the Floor, or is it?

MOONEY - Well - there is a little history in the Railsback amendment.

BUTLER - Yeah - you mean because the debate was so violent about the policy.

MOONEY - However, in its actual drafting, Railsback had me draft an amendment to Article - the Sarbanes' substitute which I had prepared, which struck the word "policy", and I don't recall the language as such - I might have a copy of it somewhere - so, Railsback was prepared to take up policy and had already prepared an amendment to do so, and somewhere language floats over to Railsback which was pretty much like what he finally offered as an amendment except - oh, I know what happened. It was at one of our meetings in Railsback's office. Davis or somebody sent over language - it was a two-liner which I remember Railsback didn't particularly like and scratched half a line out of and I cleaned it up and prepared for Railsback to offer, and then another version of that came over to Railsback which Railsback liked and it talked in terms of course of conduct, and Railsback was pleased with that kind of language, and then Jenner or somebody wanted to insert the word "planned" and there was some

hesitation on Railsback's part. He wasn't willing to do that at first. But Fish, and Cohen and Butler and a couple of others agreed that "plan" would fit in there all right, so the language was then amended to read "in a course of conduct or plan". I quickly redrafted that and made copies and that's what became the Railsback amendment.

BUTLER - Right. I remember that myself. But first he had "plan or course of conduct" and then we turned it around to "course of conduct or plan". I remember that very well. And I really think that strengthened it as much as any single amendment that we made.

MOONEY - Yeah.

BUTLER - Well, that's one of those situations where Wiggins probably outsmarted himself. Because I think he had a point that we would have to prove the policy. And you know, that's the thing about it. When they advanced that argument on the Floor, I said to myself: How did that creep in here? And you look back at it and the word "policy" is in every single one of the drafts up until the very last minute.

MOONEY - But it came - but remember it didn't come from our side. I think it did go back to - like our first draft - you will not see the word "policy". For instance, you don't see that in here.

BUTLER - Yeah, that's right - Course of conduct was in - good for you - see, that was in the first draft.

MOONEY - Yeah, see No. 2.

BUTLER - Well, I feel better.

MOONEY - And it never came from our side. That was a Doar insert.

BUTLER - It was.

MOONEY - Which we just never addressed properly.

BUTLER - Yeah - I see. All of your drafts, 1, 2, 3 4 -

MOONEY - We never had policy. That was a brainchild of John Doar or that group. Our group, under the pressures, just never caught it in time to argue it out.

BUTLER - Yeah. Policy crept in here in -

MOONEY - In Mann's -

BUTLER - You think that was John Doar that brought that in.

MOONEY - I don't know, but I suspect that's where it came from.

BUTLER - Uh hum. All right.

MOONEY - That was none of our - actually, the Railsback amendment gets back closer to what we had originally.

BUTLER - Uh hum. OK. Then we had all that argument about specificity. Then we had that evening - well, have you got some more time?

MOONEY - Sure.

BUTLER - You sure, now?

MOONEY - I have no plans.

BUTLER - Well, I don't either, but I like to eat and sleep and things like that. Do you plan to go home?

MOONEY - I do, at the conclusion of this.

BUTLER - You do? Well, why don't you go on - well, I'll tell you. Let's see. Well, it really isn't - And Gayle, I haven't even asked Gayle about her social life here.

GAYLE - I'm fine. I'm going out for just a minute but I'll be right back.

MOONEY - I think we've put it together pretty good, don't you?

BUTLER - Yeah. I just - while we are at it, I think the one thing I want to do - Oh, I know, why don't we stop here and go back to Article II tomorrow?

MOONEY - Yeah. I'm not prepared on Article II.

BUTLER - I'm not either.

MOONEY - But I do think, if we look at this closely, you will see that the group had substantial impact on Article II. Well, not that the group (unintelligible) it to go forward, but I mean, it's actual drafting. I think the group was more involved with the drafting of that Article than they realize.

BUTLER - OK. Has she got that thing still running?

MOONEY - I think she does. I don't know.

BUTLER - OK, here's what - yeah, it's still running. Well, here's what I got down here. I had dinner with Cohen, Railsback, Froehlich, Mann, and Flowers, Mooney, Hogan and Polk and Jimmy Butler and Railsback's children.

MOONEY - No, no - Cohen's children.

BUTLER - Cohen's children.

MOONEY - And Mrs. Cohen.

BUTLER - Mrs. Cohen, right. Cohen was trying to write a specific reply to paragraph No. 1 to get Froehlich's vote.

MOONEY - Uh hum.

BUTLER - And I cautioned against this because - I cautioned against this because I felt like that we were - we would mess it up - mess up the pleadings when we got overly specific. And I do remember that later Jenner made the argument that he worries about strangulation from over-specificity, which I thought was a great way to phrase it. But I do remember that we had a general - there was a sense of almost panic over the working over that Sandman was giving us for not being specific in the pleading.

MOONEY - No doubt about it. I think we came dangerously close - that Doar did - to losing the whole thing at that stage. I think the coalition was very upset and very shaken by the thing. Had we chosen -

(BUZZER SOUNDS)

BUTLER - I'm gonna just miss it. It's just a quorum call. I'll miss it.

MOONEY - Had the group chosen at that time to go a different direction and abandon their original course of action, I think nothing but chaos, confusion and - would have resulted and we probably would have eventually backed off at some point and thinking this couldn't help.

BUTLER - Gayle, we are going to finish our discussion of what we did at dinner that evening and then quit. So we will be through in about 10 minutes. I hate to mess up your day like this.

GAYLE - I kept this part open. I figured we would be working late.

BUTLER - Well, it's interesting, don't you think?

GAYLE - Yeah.

BUTLER - There goes the phone. Are you the only person here?

GAYLE - No. Sue's out there.

BUTLER - All right, you are right. We came dangerously - now, you say Doar was going to mess it up? What do you mean by that?

MOONEY - Well, I think the reason the group - the coalition was so busy in the last three or four days in drafting those Articles - in the last couple of days - in drafting the Articles, that they had no time for anything else. No time to prepare speeches, no time to review the evidence, no time to pull out the specifics. And so we walked in there having just drafted Article I an hour before. And then Wiggins and Sandman proceeded to lay it out cold and, you know, our troop was there with their hands in their pockets wondering where the facts were. Doar had no facts, really.

BUTLER - And Doar was supposed to have the facts. And the thing that he handed us - that's it - you remember. We sent Jim Mann - you remember when he sent that message? You remember when Jimmy Butler took the things over to (unintelligible)?

MOONEY - We need the facts.

BUTLER - That's right. Give us the back up. That was the reason we sent them.



MOONEY - The back up. Remember Railsback said we have got to have it and Mann would say settle down.

BUTLER - Yeah, it's coming.

MOONEY - It's coming.

BUTLER - That's right. Now, I remember that. And the thing - I wish - oh, I've got that somewhere - but that memorandum wasn't even related to the facts.

MOONEY - And I made a point Friday morning, when you were there, but I had it out and showed you what Doar had given as his first hand-out. Not only was it not directed to Presidential action - I mean, it talked about Ehrlichman and Dean and everybody but the President - Some of the facts in there were inaccurate. I mean, they would have "improper" when they mean "proper" and vice versa. And you and Railsback saw that and you went right through the ceiling and -

BUTLER - Flowers too, don't you remember? That's what we said at dinner. Why can't we go back and make speeches about these specifics? And we all agreed that our staff was just incompetent and we couldn't use anything they had given us.

MOONEY - That's right.

BUTLER - And that was what the panic was really. Not so much that Sandman was worrying us, but it was what it was doing to our image. I wasn't worried about the effect of our pleading against how we were responding, and we weren't responding because we didn't have the facts.

MOONEY - But everyone agreed that we were taking a beating on national TV. It was clear that we had lost the momentum - that Sandman and Wiggins had gained the offensive, and we were on the defensive, and we had lost the momentum. But, I think in retrospect, that probably did more to the group - I mean, it really kicked the group in the pants and they realized that they were in for a tough battle.

BUTLER - Right. It woke up Doar.

MOONEY - Woke up Doar. And by the next morning we had regrouped and we had the information and we had, by Noon, regained the momentum, which was just a fantastic turn of events.

BUTLER - One of the things, I think, that happened is that, between - when we came back after supper, Railsback asked Jenner some questions - I believe it was Railsback - in which he did make the statement that both Doar and Jenner insisted that the Articles were - you know, reaffirmed their view of the procedural (unintelligible)

MOONEY - Wasn't it the purpose to pacify Froehlich and Flowers in getting a commitment on the record?

BUTLER - Yeah

MOONEY - And (Unintelligible because of telephone ringing)

(INTERRUPTED BY TELEPHONE CALL)

MOONEY - In other words, they wanted to be sure that they are preparing a Bill of Particulars and that the members would have access - an in-put into the report.

BUTLER - Yeah, that's right. That's exactly right. I think one other thing - well, I'm glad that you agree with me that we came - because I really do think we about - we were ready to give up and redraft and throw all that stuff in there and it would have been terrible in the long haul.

MOONEY - Mechanically, we couldn't have done it - a good job. We would have messed ourselves up, as you suggest. We would have really (unintelligible) on the pleading. But, I don't think we would have regained the momentum, you know, maybe never.

BUTLER - OK - the one - now, you know, I have a note here that generally we agreed after the discussion, though, at dinner that we just couldn't do that. You know, we just couldn't change it.

MOONEY - That was because of you and Mann. I think you really did have a very calming effect on that group because you all were - I mean, Cohen stated to sit down and rattle off these facts, 1, 2, 3 on subheading, to-wit, - and looked over to me and said Mooney, are you getting this down? And I said, are you kidding me? Getting what down? And he just rattled off -

BUTLER - Yeah, he was half way through it when I got there. Well, but here's another thing that came out of that discussion. I had seen, as everybody had, Sandman's motion to strike. You know, on one page, he had the nine motions to strike the nine paragraphs. And their strategy was to shame us into specifying or humiliating us or what-have-you. And we came back after dinner that night -

MOONEY - And the point is, they could have, because we didn't have the facts.

BUTLER - That's right. But, both Walter Flowers - Walter Flowers - he said, I hope he does. We'll get it on the record that way.

MOONEY - That was beautiful.

BUTLER - And that was where Flowers developed the strategy in his own mind and so, that night, we went back and debated No. 1. That night, we debated No. 1, and surely demonstrated the votes, 27 to 11, that they weren't going to panic. And they had run out of time - on time on their side. We were still debating No. 1. They had run out of time on their side so their big guns were - couldn't fire but so much after supper. And we didn't have a bomb threat that night, did we.

MOONEY - I don't think so.

BUTLER - But, anyway, after supper we came back and finally beat them on that No. 1. Then we came in the next morning, we had our guns loaded, and they wanted to back off and -

MOONEY - They were happy with what they had done to us the day before.

BUTLER - Yeah, and Flowers says no thank you, and that was great. I mean that was -

MOONEY - That was brilliant, I thought, absolutely brilliant. It turned that strategy around and put it to them.

BUTLER - OK, well, that's as much as I remember about that evening meal.

MOONEY - There were a number of alternatives discussed at that meal. We had been talking about, you know, let's go to Rodino, ask for a recess and hold over until the following Monday and give us time to regroup.

BUTLER - Yeah, we did talk about that extension of it.

MOONEY - Yeah, and at one point, I think was the strategy.

BUTLER - That was the strategy, yeah, I remember now.

MOONEY - That could have looked bad too.

BUTLER - That would have looked terrible. That would have looked terrible.

MOONEY - Although, we would have come back, I think it would have given a very bad -

BUTLER - You know, we got to give the inquiry staff credit. Once we pointed them in the right direction, they came up with some fairly good stuff. But it sure was hell. And I had forgotten. We did talk seriously about putting that thing off until Monday.

MOONEY - And the other alternative was this big colloquy with the Chairman about the report and the Bill of Particulars and the specifics and, was it all going to be there and were we going to have access to see it and then Walter says, that's fine and dandy but that doesn't do any good, because we are going to see it after we vote. That doesn't make any sense. And, at one point, I think the momentum was to get the record clear on the fact that they were going to draw the Particulars -

BUTLER - That was the best we thought we could do, that's right. Oh yes, Railsback was going to have a colloquy with Jenner, wasn't it, or with Doar, or the Chairman, somebody -

MOONEY - He was going to take all of them in there if he could.

BUTLER - Yeah, but what

MOONEY \_ He was going to nail them down.

BUTLER - Yeah. He was going to say, well, he went through the questions and answers. He was having a good time with that. Mr. Chairman -

MOONEY - He went through that thing two or three times. Railsback did.

BUTLER - Yeah, he went through it once and then Flowers got there and he went through it again, but basically what he was going to do was he was going to have a Bill of Particulars posthumously, I guess.

MOONEY - Yeah, right.

BUTLER - And then he was going to agree that the Chairman - what was exactly his thrust of how he was going to do that? We would have a chance to review the report and that sort of thing.

MOONEY - And have in-put into the report.

BUTLER - That's right.

MOONEY - And make sure the facts, all the specifics, are laid out, cold. I don't recall any other approach. The ~~XX~~ record - setting the record straight. Stonewalling, I think that term came up.

BUTLER - Yeah, that's what we wound up doing.

MOONEY - Stonewalling came in there - don't

BUTLER - You know, several times there, I remember the comment being well, we have got to go, we have got to be over there in a few minutes.

MOONEY - I think you were saying it. Railsback was saying Mooney and Cohen, you are going to stay up and do this. And you said, well, they have 15 minutes to do it because we go back in 15 minutes.

BUTLER - Oh, yeah, it was something. Well, we did come back and we looked a little bit better after supper on that one motion to strike, and then, by the next morning, we had our guns loaded and -

MOONEY - Somebody, at some point, suggested that we divide up the paragraphs. Now, I don't know where that came from.

BUTLER - That's what it was. That was it. That was Flowers and that was just sort of a concensus.

MOONEY - Yeah. Let's divide the paragraphs and go after it. We know the facts, Railsback, you know this, take that, and Butler, you take this, and I will handle that, Flowers said.

BUTLER - That's right, that's what we did.

MOONEY - That (unintelligible) the strategy. Turned my motion to strike around and gave them that information from Doar and dividing up the time.

BUTLER - And that sure is where it was laid out, wasn't it. And Walter Flowers didn't chicken out the next morning. I would have chickened out. And you know we debated only one of them - the motion to strike paragraph 2 the next morning. And then it was lunch time. And we went out - and I came back - I mean, they gave me paragraph 3 and I didn't know anything about paragraph 3, but - and I told Mr. Rodino that I thought maybe I'd just as soon wait until after lunch to do mine, and he said, well, we probably won't get to it but you be ready was about what he said. Well, we got - that was Saturday morning, wasn't it?

MOONEY - Uh hum.

BUTLER - So - well, I don't know what happened, but I believe - I mean I don't have any - oh, yeah, we stopped to take up the perfecting amendments, don't you remember? And that's when we took the "plan or course of conduct." WE put all that in on Saturday morning, and then we also had the stuff about Hogan's two little amendments, and we were back to "close associates". What did we do to "close associates?"

MOONEY - Well, that came out with the Railsback -

BUTLER - Yeah, that's right, that's right. There was an argument. You remember, Hogan wanted to put "close associates" into the Sarbanes' substitute.

MOONEY - Whoa, whoa, strike "close" from the -

BUTLER - Yeah, he wanted to strike the word "close" from the Sarbanes' substitute but we cleared - thought that would open new wounds.

MOONEY - Yeah. And limiting ourselves. We thought it was limiting - limiting language.

BUTLER - But we cured that by sneaking it into the Railsback amendment, so they never really had a chance to crack at that.

MOONEY - No, right.

BUTLER - And that was Jim Mann running around talking to Hogan back and forth that happened to that one. And then there were two other little amendments that Hogan put in which passed quietly but they were the ones we had agreed on in our strategy - drafting session if I remember correctly.

MOONEY \_ Right, and it (unintelligible) never got there.

BUTLER - Then we passed - the only other change was Danielson's change on the congressional committees and that's about it. I - OK, I'm gonna stop - yeah, that's it. All of that stuff - oh, here it is. I might as well put this in while I am thinking about it. We didn't finish No. 1 and the perfecting amendments until lunchtime and that was about 12:30 and we had to be back at 2:00 and we were going to have a Republican caucus that afternoon, and we had already voted on No. 2, you know, the motion to strike No. 2, and we thought 3, 4, we would take them for the rest of the afternoon. So I went to the Republican caucus and I said are you all ready to vote, and they said yes. Ed Hutchinson and Wiggins were the only people there. Mayne and others were coming in. But - and I said well, there's no use going through all these, I will take that message back to my friends. And - but you know, Ed Hutchinson and Chuck Wiggins were sitting there telling each other well, I think it is fatally defective anyway. The pleading is fatally defective. And they were still talking that kind of language here, you know. It's sorta like Hitler sitting in his bunker saying their artillery is not accurate, you know. It was just fantastic. And we came back Saturday afternoon, and I think that's where

MOONEY - By that time, I think, we had clearly regained the offensive.

BUTLER - Well, I think I have talked long enough now. I got a lot of crap here about what I did but you all

are worn out with this. No, let's take 5 more minutes, because I have a note here. Before lunch, when they told me I had to take number 3, they handed me all the material. Well, I couldn't organize it -

(INTERRUPTED FOR TAPE CHANGE)

BUTLER - It was 11 - 25 to 1 - that was the vote - on number 2. No, I was on number 3. That was my assignment. Well, he gave me that and I said, oh sure, I'll take that. Well, they handed me a lot of material, but it wasn't too good. That's when I came here to lunch - came back here to the office and got all that stuff together and I came back and found Steve Sharp on the committee had put it together for me, so I was ready, but I had also gone to that Republican caucus and they had told me they were ready to vote so I came back to Flowers and, as far as I could tell, I talked before lunch too to Walter Flowers and said we beat them at their own game so no use keeping it all up, that was my attitude.

MOONEY - Uh hum.

BUTLER - Well, Flowers came back and said, no sir, his feeling was that we ought to take our twenty minutes - take twenty minutes on each one of them and debate them and close them and so we did and for the rest of the afternoon he made the strikes and we got into the record the strong position -

MOONEY - And he voted present.

BUTLER - And he voted present. And that was a long - a long but successful way to do it and I think it kept on. We came back at 4:00 Saturday afternoon. Then we came back - no - we finished it up about 7:30 - I don't have a notation about time - about 7:30 Saturday and that and that was Article I and the vote was 27 to 11. And that's -

MOONEY - That was about what - 11:00 or so?

BUTLER - Uh hum. Was it 11:00 - no it wasn't - that we voted on Article I?

MOONEY - Saturday night - wasn't it around 11:00?

BUTLER - No - 7:00 - When was it? I should have made a note of it.

MOONEY - My recollection is that it was 11:00 that -



BUTLER - We came in at 4:00 Saturday afternoon. No, I will tell you why. It was about 7:30, because I called my wife at home and she had gone to a party. OK - well, that only establishes the credibility of the witness - or lack of it.

MOONEY - We ought to check that though. What time that did occur.

BUTLER - I will. Thank you.

MOONEY - You're welcome. We will get together on Article II.

BUTLER - Let's get organized here. This is the Donohue thing that was given out to us. No that's just a notice for it. We are clear with that. Article II, third draft I've got here. First draft. Second draft. We might as well go somewhere if we are going to keep all that noise out there. Here's all of the things that had my name on them. I must have stolen them from you or something. These are the ones we were playing with over there in the office and I marked them up.

MOONEY - This is Article I.

BUTLER - This is the resol- preamble. And on Article I - I had them, but I don't know what I have done with them. These are Article II, marked third draft, second draft and first draft. What sort of chronology - have you got Article II together in your mind?

MOONEY - Well, I have got - you want to answer that quorum?

BUTLER - No.

MOONEY - Sure? I can use the time to help organize this thing a little better.

BUTLER - OK, if you want to get organized, go ahead. No, I am going to skip the quorum because of the notice (unintelligible)

MOONEY - But I - in other words, there must be a dozen drafts here.

BUTLER - Yeah, I just can't remember all of them.

MOONEY - And, you know, we were really operating under loose procedures at this point, because some of these drafts are marked - do you have the first draft - the Mann draft -

BUTLER - No, this is called the first draft.

MOONEY - Does it have a date on it?

BUTLER - It doesn't have a date on it.

MOONEY - Does this look like it here?

BUTLER - Yeah, this is it right here. That's called the third draft.

MOONEY - I guess that's the third draft - oh, that's Mann's third draft. That was the first thing he gave us.

BUTLER - That's it - that's it. And the next day he came back and we had first draft and second draft.

MOONEY - All right. That was the first draft. That was given to us late on Wednesday afternoon. My recollection is -

BUTLER - All right, I'm going to mark that item 11 so we will know what we are talking about.

MOONEY - OK - it's got so many numbers on it - third draft, number 5 -

BUTLER - Well, you remember, Jim had been in to us two or three times and said it was coming, but it never had come, you remember?

MOONEY - He indicated he was having a lot of trouble.

BUTLER - Yeah, that's right. So this really is the - his work, if I remember correctly. We didn't really have a whole lot of in-put into it before he brought it into us, isn't that right?

MOONEY - That's right. It's his work. Do you have a note at the top of yours?

BUTLER - Yeah - "John Doar has not seen this draft but it has been discussed with him."

MOONEY - Uh hum, OK.

BUTLER - And I don't remember how much talk we gave to that, do you?

MOONEY - Well, it was really being disjointed at this point, because, remember, Railsback trying to work on some remarks for that night -

BUTLER - That's right. He ran us out.

MOONEY - Eventually did and there were two or three other things going on. Rodino was calling - I need drafts 1 and 2 - and we didn't have his finished 1. We didn't get to finish it - but I think the thing was read, I mean in part -

BUTLER - I think we didn't even get it read. We just kinda gave it to us and slept on it.

MOONEY - No actual discussion occurred on the draft, but I think the members were tossing around some - maybe some ideas on it.

BUTLER - Now, we are talking at this moment about -

MOONEY - Wednesday (unintelligible)

BUTLER - That was - yeah - Wednesday evening, the 24th, before we went to the meeting - before we went to the meeting which opened at 7:45.

MOONEY - Yeah, this is about 6:30 or about 5:30 or 6:30.

BUTLER - I am not sure - no, at this time - yeah. It just says after two drafts he had real reservations about whether we have a full case for abuse of power or not. Now, that's the evening of the 24th before we had our meeting. And so, we really didn't - this thing must have been brought to us later even - like - wait a minute - yeah, the next morning. But I remember receiving this thing and I can't be sure when we got it but let's go ahead and assume that he gave it to us and we didn't - but I can't remember very broad discussion.

MOONEY - Yeah, I don't either. I'm starting to get Article II (unintelligible). Now, do you recall that next - I took this that night - the 24th - Wednesday night - and tried to rework from this something for the committee - the coalition - to talk about the next day. Now -

BUTLER - Meanwhile, Frank Polk got involved in it.

MOONEY - Yeah. Frank was working on what he - something from McClory which we kinda refer to as Article II, Abuse of Power. Do you have this particular draft? This is something that I prepared, I think. I am not sure.

BUTLER - No, I don't have this one.

MOONEY - That actual draft was done late on -

BUTLER - You've got 7/25 at 7:00 P.M. written on it.

MOONEY - Right - but, see, this here. I had taken that draft and rewrote it. So this really becomes another draft. That was the draft I was using to rewrite it. This was done by Frank Polk and myself and Mr. Mann after a meeting late in the evening. But I am wondering what this thing looked like before I started to chop it up. In other words, I would like to get -

BUTLER - Well, that's right, because it has got a lot of pasties and everything else.

MOONEY - Yeah.

BUTLER - This one still has got the subpoenas in it, right?

MOONEY - Yeah, that wasn't dropped out until late. Now,  
- Let's see, when -

BUTLER - I do have Friday morning. We had a meeting in Frank Mann's office on Friday morning, July 26, and that's when -

MOONEY - That's when he finished Article I, wasn't it?

BUTLER - Yeah, that's when we polished off Article I. Still - I have still un-something the phrasing of Article II, Abuse of Powers. Certainly don't want subpoenas in there. Try again. Use McClory substitute. Railsback, Butler and Mooney. That was in Mann's office when we were - Friday morning or something or other. Then, before the meeting, we got to McClory and he came up to me and asked - tried to get me to introduce the McClory substitute. It turned out to be the Hungate substitute later, but -

MOONEY - I guess I - Frank Polk was telling me this morning that Hogan was very anxious to introduce that Article II. And I knew that he was willing to do it. I didn't know he was anxious. And then I guess McClory had some reservations about a Republican introducing II and III because he had intended to introduce the Third Article. But I guess Rodino decided that it would look as if the Democrats were permitting Hogan a lot of publicity which would - he could use in his campaign against a Democrat for governor, so that night they asked Hogan to -

BUTLER - Think it over. That's interesting, because that may give me some insight into Hogan's ambitions to be a manager. I think -

MOONEY - Well, that's going to be critical - in deciding on management, I think.

BUTLER - What have you heard on that?

MOONEY - Well, there is actually no thought being given at this time.

BUTLER - Yeah, I think that's the way it should be.

MOONEY - And, the more I think -

BUTLER - What do you view as the job of the manager? Does he have to examine witnesses?

MOONEY - He does everything.

BUTLER - You don't think the lawyers can examine the witnesses?

MOONEY - Well, I think they probably could, depending on what the Senate is willing to come up with. But I think the lawyers are going - you see, Senator Mansfield has put us on notice that he is going to rewrite the procedures, so what he comes up with is - but the managers are absolutely critical and they should be you know, a manageable group of 5 or 6 or maybe 8, evenly divided between Republicans and Democrats and -

BUTLER - Evenly divided?

MOONEY - Evenly divided. That probably won't happen, but I would think that would be important. So it's a fair standoff. And then they proceed in very complete control. I mean, the managers get right down and do everything with the help of the staff. In fact, they have a mastery of the facts and set up the procedure. They go over every possible trial strategy. They make all the decisions and direct the staff to do this, that and the other. And, the big problem I think is whether to have it before or after the election.

BUTLER - Well, you have to get re-elected in the meanwhile, too.

MOONEY - In other words - well, you know, this thing - the trial is probably - if nothing else happens, the trial will probably take place in October. And, you know, what Democrat or Republican is going to take on the awesome task of trial four months before his re-election?

BUTLER \_ Four months? Four weeks.

MOONEY \_ Four weeks before his re-election. Unless he is, you know, unopposed. But, I don't think - there are very few Republicans who don't have opposition.

BUTLER - I don't know any right now, do you?

MOONEY - No, I don't. So, the other dilemma is getting people outside the committee. I think you run the risk of that person having a tremendous problem of knowing the facts as well as the members of the committee, plus, you know, is he compatible? I mean, it is essential that this group work together - be able to work together.

BUTLER \_ Well, I had envisioned the lawyers - counsel - having more responsibility than in the past, simply because the complexity of the case, it ought to be professionally presented, you know.

MOONEY - Uh hum. I don't know if we have anybody on the staff that could do that either.

BUTLER - Well, nobody but John Doar - not John Doar, but Jenner. Jenner was quite - well, they could hire somebody (unintelligible) but they are privileged to get all the trial (unintelligible)

MOONEY - I don't know. I really - I think it is really a very complicated setup.

BUTLER - Well, let's get back to Article II.

MOONEY - That's a long way down the road, don't you think?

BUTLER - I hope. I am not sure.

MOONEY - I have two things on the 25th. At 7:00 P.M. and 12:15 P.M.

BUTLER \_ I have the draft of Article II, now.

MOONEY - Do you have draft called 7 - Article II, 7:00 P.M.?

BUTLER - Yeah.

MOONEY - On the 25th.

BUTLER - Yeah, that's the one we just copied.

MOONEY - Right. Do you have it before I chopped it up?

BUTLER - Not yet, but I am getting it. Now look at this.  
The thing that McClory gave me - this is the opening  
gun of McClory, isn't it. Look at that.

MOONEY - Yes, it is. See now, this is drafting that is  
occurring elsewhere. In other words, we have two  
sets of drafting going on. I have two copies of  
McClory's - Do you have one of these?

BUTLER - Article -

MOONEY - I don't have a copy of this.

BUTLER - Let's see that. That's with the letter of July 24.  
All right, you want to copy this again.

MOONEY - I think we are going to have to go to Friday to  
get this Article -

BUTLER - To get the chronology -

MOONEY - To get his side anyway. I think we can take it  
up to a time.

BUTLER \_ All right, what came to us first?

MOONEY - OK, now, I think this here - do you have something  
marked 7/25/74 12:15 P.M.?

BUTLER - Yeah.

MOONEY - And that has A and B - B being -

BUTLER \_ Yeah, we still got A and B, right. And, going  
backwards, one marked 7:00 P.M. - what we really  
need is the thing you pasted up, don't we?

MOONEY - Right.



BUTLER - We don't know what it looked like when it was pasted up, right?

MOONEY - We don't have that 7:00 P.M. version. We have what followed it. This is what Frank and I and Mr. Mann put together. And then - that's the 25th - the 26th, there are several drafts -

BUTLER - The thing marked Third Draft is what we really began with, though, isn't it?

MOONEY - Uh hum.

BUTLER - That's the first thing that Jim Mann ever let us see. Yeah, that just kinda floated in from the side. That really doesn't - that's the thing we got in the middle of the (unintelligible)

MOONEY - Now, on the 26th, I've got here - somewhere - on the 24th - I've got two things on the 24th.

BUTLER - The 24th?

MOONEY - Yeah.

BUTLER - Ok, what you got?

MOONEY - The first thing is what Mr. Mann gave us - third draft.

BUTLER - Third Draft - marked that No. 11.

MOONEY - Now, I have something here on the 24th. I don't know quite where it came from.

BUTLER - Second draft.

MOONEY - Yeah, and this here, have you seen that?

BUTLER - Yeah.

MOONEY - Where did that come from?

BUTLER - That came from Jim Mann. And he said - and he came in the next time and said I've got two drafts - the first draft and second draft. He brought these two in to us at the same time.

MOONEY - OK.

BUTLER - On the morning of the 25th.

MOONEY - All right - that's right. We marked them as such.

BUTLER - Yeah - for some reason.

MOONEY - Yours are marked what?

BUTLER - First Draft and Second Draft. These two items you see - those two are somebody else's numbers. They are not mine.

MOONEY - 7/24 - this is called First Draft, right?

BUTLER - No, this is called First Draft.

MOONEY - What is this called here?

BUTLER - Second Draft.

MOONEY - OK, this is Second Draft. I don't have - what's this here?

BUTLER - First draft. They brought that one in at the same time. That doesn't look familiar to you?

MOONEY - I remember it - I don't -

BUTLER - Yeah. We didn't do any work on that. We went straight to the - oh, no, this has some work in it. We read that one over some time, but just to keep the record straight, we will mark the one called First Draft - we'll mark it 12; and the one marked Second Draft, we'll call that 13 so we'll know what we are talking about. Now, so far as I can remember, we had both of them going back and forth and I suspect that we didn't spend too much time with it at this time - I mean formally the group going over it. I don't remember, but I see only a few marks.

MOONEY - Yeah, I have (unintelligible) improperly, but Mr. Flowers had (unintelligible) at that word.

BUTLER - Yeah, we came up with unlawfully.

MOONEY - OK, when was - that was Thursday - is that when Mr. Mann came in with it?

BUTLER - Yeah, Thursday morning before we did anything else. I mean, Thursday morning.

MOONEY - That's the what - 25th?

BUTLER - No, this is the meeting in Mann's office I think maybe Friday morning. No, we must have had it -

MOONEY - No, we got those at our meeting - we were really meeting on Article I and he brought those with him.

BUTLER - That's right, that's right. That's the notation on - in Railsback's office, Jim Mann said after two drafts he still had real reservations about whether we have a case for abuse of power now. I don't know whether that was in Railsback's - in the morning. That wasn't when he said we still hadn't gotten the drafts. That's right. That's the first two. He was still wrestling - That's why a third draft came to us later on in that day. On the 24th - the afternoon of the 24th - Wednesday afternoon.

MOONEY - OK - Wednesday afternoon or Thursday afternoon.

BUTLER - I mean Wednesday afternoon. He gave us the third draft and we looked at it.

MOONEY - Yeah, the third draft came to us late Wednesday afternoon.

BUTLER - That's right. And we just kinda took that and looked at it.

MOONEY - Yeah. Didn't talk about it much and then we left. The following morning we came back. Was that when he had the two -

BUTLER - That's when he had the two drafts. The next morning.

MOONEY - Right. That's 12 and 13 that we've marked them.

BUTLER - Thursday morning, right.

MOONEY - Thursday morning.

BUTLER - Thursday morning, the 25th, that's right. I didn't remember - How about - don't you think we got these things Thursday morning?

MOONEY - Thursday morning - right.

BUTLER - Because he brought up something that evening at dinner at the Capitol Hill Club.

MOONEY - I think I remember being a bit confused (unintelligible) about his two drafts. We were never too sure which one he was talking about. He kept changing them back and forth - people would say what draft are you using? That's when we decided to mark them. OK, I don't have a copy of that. I think the reason that our drafts do not show a lot of marking up is because we weren't really marking up much. We were talking about these. But we were so far removed from the drafting stage and still very much involved in Article I and the talk was very general.

BUTLER - That's right.

MOONEY - Yeah. I think - because the group wasn't sure at that time either whether -

BUTLER - Who was doing it.

MOONEY - Yeah, who was going to do Article II. Whether we were going to do it or whether Frank Polk and McClory were going to.

BUTLER - That's right. Mann came in there accompanied by Polk at that time. All right, that makes better sense.

MOONEY - Then, on the 25th -

BUTLER - Wait a minute. The 25th is Thursday.

MOONEY - Well, the 24th is Wednesday.

BUTLER - Yeah, these were done in the evening of the 24th. I mean items 12 and 13 were done sometime late at night on the 13th - I mean late at night on the 24th -

the 24th was the day we opened, which was Wednesday. So it was done late at night on Wednesday, the 24th, and brought to us Thursday on the 25th. So they are still dated the 24th. Now, that's my understanding of items 12 and 13. We had those two drafts and we talked about 12 and 13. I can't remember - I know we put the word "unlawfully" in there in place of "improperly" and moved Richard Nixon - don't you - because I remember somebody said we want Richard Nixon in number 13 around at the head - Richard Nixon's name be first -

MOONEY - Cohen said that.

BUTLER - Cohen - yeah.

MOONEY - I remembered that when I drafted it, and "improperly" was a word they wanted to get out of there.

BUTLER - Yeah, and I am some - well, so - this really was not much - some how we jumped on this. I don't know what happened but you know - it's influenced - it's still got A and B in it. I also have a notation about some modest changes but mostly I had question marks in number 12, but the things that we were worried about is just too wordy, I think, and Daniel Ellsberg's name is mentioned in there - but

MOONEY - It really - we weren't able to handle this yet.

BUTLER - That's right. We just weren't able to handle it. And that night, that thing I just - when we went back that evening after supper - you see, at supper on Thursday we spent our time kicking around Article I and we didn't get to this. And I remember Jim - that's when we got these two things - 12 and 13 - at supper Thursday evening's when he finally delivered them to us - the two drafts - at supper Thursday evening. I remember him sitting down at the end of the table and giving them out. And we were still working on Article I. We were cleaning that up. We really didn't get around to talking about it too much but we talked about it a little and then we went to supper and then he said he was going - and Frank Polk was there and Frank was going back and talk to McClory and we got there - after supper we came in - I have a notation at 9:55 McClory gave us this thing that we copied for you a minute ago. All right, let's number that item 14. Now, so that - now, the next morning was Friday morning, and -

MOONEY - The 26th.

BUTLER - The 26th and that's -

MOONEY - No, wait a minute, I have a couple of things here on the 25th.

BUTLER - I noted that - well - one of those is 7:00 P.M. on the 25th.

MOONEY - And I've got one at 12:15 P.M.

BUTLER - Yeah that's - you also have this one, don't you?

MOONEY - Yeah. You got two for the 25th, right?

BUTLER - Right. Now, I judge that your - let's number this one so we won't lose track of it. Let's number this first one 7/25/74 at 7:00 P.M. - let's number that one 15 so we'll know what we are talking about.

MOONEY - Why wouldn't you then number this 12:15 already?

BUTLER - Because 12:15 is later than 7:00 P.M., isn't it?

MOONEY - That's Noon, isn't it?

BUTLER - Oh, you think was midday?

MOONEY - Yeah, Midday.

BUTLER - Yeah, well, now - that makes better sense. Oh, yeah, that's the thing you handed us when we came in that morning. Oh, so that would be number 15, right. Right. Now I am beginning to get the - that's the first time we - so you had taken what we kicked around the night before and -

MOONEY - And tried to put it in form -

BUTLER - And had lines on it and numbers and everything. Now we are talking. So this really is the first time we have got something that is in the same style that we have and it still has A and B in it, hasn't it?

MOONEY - Yeah, you'll find A and B going right through.

BUTLER - And all of a sudden we woke up one morning and it wasn't there.

MOONEY - That's right. Well, the morning it really got put out was when you and Railsback met in Mann's office and we talked about parliamentary procedure itself and not being able to separate that article itself and having to vote on the whole article and you and Mr. Railsback started talking about it and were not too happy with it anyway - tacking on to an article which you felt (unintelligible)

BUTLER \_ Yeah, that begins to come back to me.

MOONEY - Then you both quickly concluded that the way to support Article III - whether it became Article III or not - you didn't want to attach to I or II. So, I remember at one point of our discussion of Article I thinking that that was an obstruction of justice about this (unintelligible) and wanting to put that in Article I.

BUTLER - All right - now it begins to come back to me. So the item we have numbered 15 was given to us when - you see, we didn't start in until 12:00 Noon on that day did we?

MOONEY - Uh hum.

BUTLER - I believe that's right isn't it?

MOONEY - What - this is the -

BUTLER - This was Saturday - Friday - Saturday - Friday - the 25th is Thursday. All right - let me back up - then I am mistaken again. We are influenced - in this thing right here, dated 12:15 P.M. - that is - that's the result of the two drafts Jim Mann brought in there and we kicked around and I thought - you say we kicked it around - I thought we kicked it around at supper but I could be wrong. If that's the case - on Thursday - you'd think if we put the time and date on it we would be able to remember what had happened.

MOONEY - I remember (unintelligible) It was Thursday afternoon about -

BUTLER - All right, that makes sense.

MOONEY - This may have been one of the things kicked around -

BUTLER \_ That makes better sense. We backed up - that makes better sense. So, when I say 12 and 13

MOONEY - So we did have two on the 25th. We had this one. We had - I guess the other would be this 7:00 P.M. -

BUTLER \_ The one you brought to supper.

MOONEY - Yeah, but it wasn't marked up like this.

BUTLER - That's right.

MOONEY - It was the two drafts we had to work with at supper -

BUTLER - Oh, here's what it is. That makes better sense. No, that's interference and misuse of - you see what is creeping in here. On item which I have still numbered 15, included but not limited to, that's the same language we were still using in Article I.

MOONEY - But are the same - it's even in this article here too. But for the first time it is scratched out.

BUTLER - Right - on one or more of the following. So, whenever we made the decision to go to one or more -

MOONEY - I think it was at supper.

BUTLER \_ Supper the evening of the -

MOONEY - These are the two we were kicking around at supper, I think, except we don't know what the 7:00 P.M. draft is because it is all marked up.

BUTLER - Yeah, the draft that you pasted over is probably a refinement. What you did is you took the one marked 12:15 - that's our item 15 - and we played that around and you retyped it and then you took another look at it and maybe, I don't know -

MOONEY - OK, these were the two things kicked around at supper.

BUTLER - Well, let's number this one 16 - the one at 7:15 so we can keep it straight.

MOONEY - All right. They were kicked around at supper.



BUTLER - On the evening of the 30th.

MOONEY - And we went back in the meeting. And the meeting let out, I think, around 11:00. But during the meeting, Frank Polk and I were down in his office redrafting this and Frank had pretty much written out I and II in longhand and had the secretary down there retype and then Jim Mann came down and reviewed this - what Frank and I had done, and he said this is - he thought it was an improvement in many respects and said that he wanted a copy. And so late that night, we are talking about what - the 25th?

BUTLER - Thursday evening.

MOONEY - Late Thursday evening, this was number 16 - actually shouldn't be 16 - should be 17. But we don't have a 16 to put in there.

BUTLER - OK, that's right. We will call it 17 and say 16 missing.

MOONEY - Yeah, we know what 16 looks like - I mean it has a number there.

BUTLER - We'll know it if we run into it.

MOONEY - But we can't find it.

BUTLER - OK, that makes better sense. So that's what you came up with in the middle of the night. All right, then you reduced that to another writing did you?

MOONEY - And Jim Mann was very pleased with this, and I cautioned him that the Republicans had not looked at this yet - you know, just because Frank and I wrote it - that it had to be passed through the Republican coalition. So - but he - knowing that - took this away. Let's see - on the 26th - OK here, do you have something that looks like this?

BUTLER - No - yeah - no. I mean I remember seeing it.

MOONEY - All right - notice what it says at the top. That's a redraft of what we -

BUTLER - Right, right. This is what - this is-

MOONEY - Jim Mann took this back and came up the next morning with that.

BUTLER - Right - OK - let's go get a copy of this. We are making progress. For some reason, I just don't have much notes. You know, you just are so tired you couldn't take notes. I didn't realize I was writing history. I don't guess anybody did.

MOONEY - I guess that's for sure.

BUTLER - The next morning - on the morning of the 26th, we came into Mann's office and he had been meeting with Frank Polk and the Democratic Steering Committee and we had no substantive changes -

MOONEY - You don't have a copy of this do you? Oh yeah, she just made you a copy.

BUTLER - The markup? Yeah, that's item 17.

MOONEY - Now, for the 26th I have got - she's got one out there. Here's another - here, I am sorry, that's the rewrite - that's a copy of the one she is making now. I am sorry.

BUTLER - That's all right. Do you have an extra copy of this?

MOONEY - Yeah, that's yours.

BUTLER - OK, well the other one has your marks on it, so that's fine. She'll bring it back. We are getting close to the Promised Land now. No, this is Article II - yeah.

MOONEY - Here's a newer one. Here's an 11:00 A.M. draft.

BUTLER - Of what day?

MOONEY - Of the 25th.

BUTLER - Oh, this is the 9:00 P.M. draft. Thank you.

MOONEY - 9:00 P.M. 27th. That's a response to the -

BUTLER - Good gosh.

MOONEY - Well, look, this has a lot of (unintelligible) I've not seen that before.

BUTLER - It came out of your file - 11:00 A.M. on the 25th.

MOONEY - Well, wait, here's the first. I've got it. OK, now we're coming. Here we go. Here's the first draft of that - when Jim Mann came to -

BUTLER - Let's see what you've got.

MOONEY - I think that - remember, he told them - here's the one she made copies of it for me.

BUTLER - This is the one we are numbering as item 12. This is your copy of item 12, isn't it?

MOONEY - I have marks on this thing.

BUTLER - Well, throw our 12 away. So the one we just made you - that will probably just confuse you.

MOONEY - No - going back to - let me see - going back to that draft - Mann draft 1 and 2 -

BUTLER - You just numbered your first and on first - that's the one I numbered 12.

MOONEY - That's number 12. And the other is numbered 13?

BUTLER - Second draft is numbered 13.

MOONEY - I have on page 2 of item 12 parentheses around going down about four or five lines - 6 lines from the top - beginning "by pursuing a policy of concealment" -

BUTLER \_ Yeah, I have a question mark by that.

MOONEY - I've got a question mark by that, plus I have parentheses around - beginning there and ending after "document" - acting director was instructed to conceal these documents.

BUTLER - We decided we didn't want to spell that out quite that carefully, that's all I remember.

MOONEY - Then there was a mistake I noticed on page 8. There was a misspelling of targets. In the middle of the page "Department by virtue of his official position to"

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BUTLER \_ Targets - that's right. We changed that.

MOONEY - And then on page 9 - you notice how we have numbered - apparently they were taken from a larger document. We only have a few pages here but the pages are running - in item marked 6 they have them listed and I have brackets around beginning at third line "unlawful and covert activities". (unintelligible) The group was talking about (unintelligible) had to go and Railsback or somebody indicated we ought to start tracking Title 18 - impede, delay, obstruct - and use that language rather than improper. The next page - I think you had something here on the first (unintelligible) going down about three lines (unintelligible) and somebody said scratch contempt of House of Representatives that it was inaccurate - not contempt of the House - and then we put at that point that he was acting in defiance of the House of Representatives and in derrogation - derrogation was- scratched defiance in the other line and put derrogation. That's where that came from. And then I think you - my recollection is that language came from you.

BUTLER - I was trying to think. It probably did because - yeah.