

TRANSCRIPT OF PROCEEDINGS
BEFORE THE
TEXAS STATE HOUSE OF REPRESENTATIVES
HOUSE SELECT COMMITTEE ON IMPEACHMENT
AUSTIN, TEXAS
VOLUME XII

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TRANSCRIPT OF PROCEEDINGS

B. FORE THE

TEXAS STATE HOUSE OF REPRESENTATIVES

HOUSE SELECT COMMITTEE ON IMPEACHMENT

AUSTIN, TEXAS

IN THE MATTER OF HSR NO. 161
CONTINUED HEARING
JUDGE O. P. CARRILLO

CONTINUED HEARING

VOLUME XII

BE IT REMEMBERED that on Thursday, June 12, 1975, beginning at 9:00 o'clock a.m. in the Old Supreme Courtroom, State Capitol Building, Austin, Texas, the above-entitled matter came on for hearing, having been continued from Wednesday, June 11, 1975, before the HOUSE SELECT COMMITTEE ON IMPEACHMENT, THE HONORABLE L. DEWITT HALE, CHAIRMAN, Presiding, and the following proceedings were reported by Hickman Reporting Service, 205 West Ninth, Austin, Texas 78701.

HSR
HB2

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KFT
8782
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v.12

MEMBERS PRESENT

1
2
3 REPRESENTATIVE HALE - CHAIRMAN

4 REPRESENTATIVE LANEY

5 REPRESENTATIVE KASTER

6 REPRESENTATIVE HENDRICKS

7 REPRESENTATIVE SLACK

8 REPRESENTATIVE MALONEY - VICE CHAIRMAN

9 REPRESENTATIVE NABERS

10 REPRESENTATIVE DONALDSON

11 REPRESENTATIVE THOMPSON

12 REPRESENTATIVE CHAVEZ

13 REPRESENTATIVE WEDDINGTON

14
15 APPEARANCES

16 FOR HOUSE SIMPLE RESOLUTION NO. 161

17 REPRESENTATIVE TERRY CANALES, P. O. Box 730,
18 Premont, Texas 78375.

19
20 FOR THE RESPONDENT, JUDGE O. P. CARRILLO

21 MR. ARTHUR MITCHELL, Mitchell, George and Belt,
22 1122 Colorado, Westgate Building, Austin, Texas 78701.

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1 THURSDAY, JUNE 12, 1975

2 MORNING SESSION

3 (The Committee was reconvened at 9:55 a.m.
4 pursuant to the recess on June 11, 1975.)

5
6 CHAIRMAN HALE: The Committee will come to
7 order.

8 The Clerk will call the roll.

9 (The Clerk called the roll.)

10 CHAIRMAN HALE: Five. We do not have a
11 quorum. However, since we are not going to be voting on
12 anything, hopefully, this morning, the Chair is going to
13 proceed with the taking of the testimony. We do not have
14 to have a quorum for the purpose of taking testimony.

15 Mr. Mitchell, at your request, the Chair had
16 recalled Cleofas Gonzalez. If it is satisfactory with
17 you, we will put him on the stand at this time.

18
19 MR. CLEOFAS GONZALEZ
20 was recalled as a witness and having been previously
21 sworn, testified further as follows:

22 EXAMINATION

23 BY CHAIRMAN HALE

24 Q Your name is Cleofas Gonzalez?

25 A Yes, sir.

1 Q You are the same Cleofas Gonzalez who testified
2 earlier in this proceeding?

3 A Yes, sir.

4 Q If my notes serve me correctly, you were here
5 on May the 20th, 1975, and gave testimony before the
6 Committee. Does that sound about right?

7 A Yes, sir.

8 Q You were sworn at that time to tell the truth,
9 the whole truth and nothing but the truth? Do you recall
10 that?

11 A Yes, sir.

12 Q And you are still under that oath in your
13 appearance here today. Do you understand?

14 A Yes, sir.

15 Q You will recall that the Chair gave you a
16 warning about your rights?

17 A Rights. Yes, sir.

18 Q Do you understand that that is still in effect
19 also. If you want to have an attorney, you are entitled
20 to have one. Do you understand?

21 A Yes, sir.

22 Q The Committee, Mr. Gonzalez, decided to recall
23 you because Mr. Mitchell had requested that there were
24 some matters that he wanted to clear up concerning your
25 testimony and possibly some other members of the Committee

1 may have some matters that they will want to ask you
2 about further.

3 For that reason, we appreciate your return
4 here today.

5 CHAIRMAN HALE: Mr. Mitchell?

6 MR. MITCHELL: Thank you, Mr. Chairman.

7 BY MR. MITCHELL

8 Q Mr. Gonzalez, I will try to limit my questions
9 to you as they have risen from your prior testimony
10 given here under oath. If I ask you any questions that
11 you don't understand, would you please ask me to repeat
12 them, so that the record is clear on your answers.

13 Do you understand that?

14 A I sure do.

15 Q How long have you known Judge O. P. Carrillo?

16 A I was born and raised with them all my life.

17 Q You were born and raised, in fact, on his
18 father's ranch. Isn't that correct?

19 A Yes, sir.

20 Q You worked for the family for how long, or
21 with the family?

22 A Since I started working, about the age of 12.

23 Q I believe you told Mr. Maloney earlier that you
24 are in— What is your age now?

25 A Forty.

1 Q When did you and he have a falling out?

2 A Who? Me and O. P.?

3 Q Yes. The Carrillo family.

4 A Oh, the whole Carrillo family? What are you
5 talking about?

6 Q Let me repeat the question. When did you and
7 Judge Carrillo have a falling out?

8 A George got me— Well, one time, and I can't
9 recall the date exactly, but one time he got after me
10 about, let's say, three years ago. You know, he went and
11 bought some merchandise somewhere and then that mer-
12 chandise was either charged to Farm and Ranch or I was
13 supposed to send a payment on it. One day he went up
14 to the same place and he went to buy something and they
15 didn't let him have it or something happened that he
16 didn't get the merchandise, because they owed for that
17 merchandise. He became real mad at me and he said,
18 "Cleofas, why didn't you send this payment to this Farm?"
19 I don't know what farm. I am just telling you how it
20 happened.

21 And I said, "Well, O. P., I didn't send it,
22 because we don't have no money."

23 And he started cussing there at me and I told
24 him, "Well, if you don't like it, I'll get the heck out
25 of here." And he said, "Well, don't you do it? Get—"

1 and he told me that. So, I closed the store. I should
2 have gone back— I was working for him. I should have
3 gone back to the yard where I was getting paid for it.
4 So, I got so mad, and I just went home and I went to
5 Corpus Christi and I got me a job at Page Airways and
6 I worked there for a whole month and I got paid by
7 Page Airways and I got paid by the County, because Ramiro
8 brought me back. He begged me to come back.

9 Q He fired you because of your failure to pay a
10 bill and he was— You and he had some discussion and
11 you—whether he fired you or whether you quit—and you
12 left and went to Corpus Christi. Isn't that it?

13 A He didn't fire me, because I was working for
14 him. I just didn't like what he told me there and I just
15 took off. That's right.

16 Q If I have calculated the time correctly that
17 conversation occurred some time in 1972, Mr. Gonzalez?

18 A I don't know. I can get— I worked for
19 Page Airways. I can get me—where I got paid, and I can
20 tell you, if you want to, but—

21 Q Well, to the best of your recollection.

22 A Probably '72 or '73. Page Airways. They
23 process helicopters for Page, or something like that.

24 Q You and he had a conversation in 1972 then, and
25 you have described it fully for the Committee. How many

1 other conversations have you had with Judge Carrillo,
2 say, since that conversation in 1972?

3 A None. I never did talk back to him, never.

4 Q In fact, when Ramiro came down there and hired
5 you, you went to work—and got you back—you went to
6 work, because Ramiro came and got you, didn't you,
7 Mr. Ramiro Carrillo?

8 A That's right.

9 Q And you and Judge Carrillo, really haven't
10 had much to say to each other, or to use your language,
11 you have had no conversation with him since 1972 that
12 you can tell the Committee about?

13 A I never did. That's right.

14 Q Now, prior to 1972, let me pinpoint that a
15 little more. When in '72 did this incident occur, Mr.
16 Gonzalez? At the first part of the year, and I know
17 that I am calling on you to go back three years, and I
18 know the memory of man— Just tell them, is it the first
19 part of the year or the latter part of the year that you
20 had this conversation?

21 A When I went to work over at Page Airways?

22 Q No, no. Let me repeat my question.

23 A Yes.

24 Q When did you have the conversation that you
25 described for the Committee with Judge Carrillo in '72?

1 Was it January, February, March, April, May, June, July,
2 August, or September, or October, November, or December?

3 A I don't understand your question. Could you
4 talk better, more specifics, so I can—

5 Q I will try to do that. Let me ask you: What
6 time of the year—

7 A Yes.

8 Q —did you have the conversation that you have
9 told us about in '72, Mr. Gonzalez? I think if you will
10 calm down, we will get to it. Was it in January of '72?
11 Was it in February of '72? What time was it? Was it
12 the first part of the year or the tail end of the year?

13 A What conversation?

14 Q That you had with you and Judge Carrillo, that
15 you have just told us about?

16 A Oh, it happened about in June.

17 Q All right.

18 A Or, let me see. Late May.

19 Q That wasn't too hard, was it?

20 A No.

21 Q May of 1972?

22 A Yes, sir.

23 Q Now, you went to work for Farm and Ranch when?

24 A I never did work for Farm and Ranch. I worked
25 for the County.

Q That's right. And the County had its County

1 Yard there at the Farm and Ranch location, didn't it?

2 A Yes, sir.

3 Q And you were on the County payroll and you were
4 tending to the Farm and Ranch business as you could while
5 you were working there?

6 A Well, that's what Ramiro Carrillo put me to work.
7 As long as I get paid, as I said there, I work anywhere,
8 just as long as I get paid. Let me tell you: I was
9 doing work for the County also. I was his receptionist.
10 I got all the complaints that went there; people that
11 wanted something to be done for the County. I left the
12 store work aside and I attended where I was getting paid.
13 I filled up trucks with gasoline. Workers used to come
14 to me and say, "I need this and that." I looked for it
15 and I went and got it, to Corpus, Alice, wherever I could.
16 I did most of the work I did for the County. I didn't
17 just do work for the Farm and Ranch.

18 Q Mr. Gonzalez, let me let you understand: I am
19 not making any accusation that you did not perform your
20 duties.

21 A I am just answering your question. I am just
22 trying to answer your question, sir.

23 Q The fact of the matter is, I assume and your
24 testimony is that you did perform the duties, 100 per cent,
25 to the best of your ability for the County to earn the pay

1 that you were drawing from the County?

2 A That is what I want for you to understand, too.
3 Yes, sir.

4 Q And that as you could, you handled the business
5 of the Farm and Ranch Store. Is that right?

6 A If I didn't do it, they would run me away, so
7 I had to. They forced me to, really.

8 Q You didn't draw the pay from the County for
9 not doing your work, did you?

10 A That's right.

11 Q I don't want the tenor of my questions to
12 indicate to the contrary. I agree with you. You did
13 do your duty and you did perform those duties for the
14 County for which you were paid?

15 A Thank you, sir. Yes, sir.

16 Q Now, do you recall when the store, the Zertuche
17 Store was damaged by the hurricane that's been called
18 Beulah or Celia or something, some time in the latter part
19 of 1967?

20 A I don't know what that lady was trying to say
21 yesterday. She kept on mentioning Hector Zertuche and
22 she's right. Hector Zertuche owned that, but it was
23 a General Store. Anyway, that store didn't exist for
24 two or three months. I don't know where she was getting
25 that three years. She didn't bring no evidence. She

1 didn't bring nothing that would—

2 Q I realize you are quite sensitive over the
3 lady's testimony, because you testified under oath
4 previously—

5 A I corrected Mr. Canales when we first started.
6 He said about Hector and I told him I had to do nothing
7 with— It was Arturo in the Zertuche General Store.

8 Q I believe you were asked point blank, has
9 Zertuche General Store existed and your answer was
10 only by invoice register. You testified several times
11 and I believe you—

12 A Are we talking about the Zertuche General Store?

13 Q I understand, I say, why you are sensitive over
14 the question, but, I please ask you not— Just answer
15 my question and not worry about what Mrs. Gonzalez or
16 these other folks testified to and we'll move along.

17 A This was brought up yesterday.

18 Q I understand it was and I am getting ready to
19 question you about it. You have already testified, I be-
20 lieve several times that it did not exist, didn't you?

21 A I don't think so, but except those months that
22 I said.

23 Q Yes, I understand. You are talking about
24 Christmas sales?

25 A I don't know.

1 Q And, in fact, you were asked on page 75, I be-
2 lieve it's even earlier than that, 36:

3 "Mr. Gonzalez, to your knowledge, did the
4 Zertuche General Store ever exist as an entity
5 which owned merchandise?"

6 "Not that I know of."

7 Am I right? Then it said:

8 "Did the Zertuche General Store ever have
9 any premises at which they operated, other than
10 the Farm and Ranch Store?"

11 "Well, the only time they put all that mer-
12 chandise on the old Bial," B-i-a-l is where it's
13 in the record and it was incorrect.

14 "Yes."

15 "How long did this enterprise last?"

16 And I am reading from page 36:

17 "About a month."

18 I appreciate all of that and I don't want to get
19 into what these other folks testified. You tell us now,
20 what is your testimony under oath? I want to know, first
21 of all: Did you remember Mrs. Rodriguez ever calling you
22 back in '65, '66 and '67 about who to charge merchandise
23 to at that store?

24 A Yes. I recall her. The only time she called me
25 was that she had received an invoice where this merchandise

1 was bought. And she said, "Cleofas, how am I going to
2 do with this? Who is going to pay for it?"

3 I said, "You ought to know. You are the one
4 who is selling at that store. Why call me? I don't know
5 what you've got there and where you got your merchandise
6 from."

7 That was the conversation I had with her. That's
8 right.

9 Q She was telling the truth when she said that she
10 would have an occasion to call you about where to make
11 certain charges in connection with sales made through the
12 Zertuche General Store as it existed where she described
13 in '65, or '66 or '67?

14 A I don't know when it was, but she called me
15 at times, yes.

16 Q All right.

17 A But I don't know where she called me from. It
18 could have been some from— I don't know where.

19 Q All right. Excuse me. Had you finished your
20 answer?

21 A Yes.

22 Q What did you think, Mr. Gonzalez, when this
23 lady named Elvira Rodriguez was calling you about mer-
24 chandise that the Zertuche General Store was selling? Did
25 you think she had gone crazy and lost her mind calling

1 you out of the air, or isn't it a fact that you knew
2 where that store was and you knew her and you knew the
3 business?

4 A I don't know why she called me. I mean, what
5 did I have to do— Do I have to be in charge of all the
6 stores that are open in Benavides?

7 Q That is not my question.

8 A Well—

9 Q The question is the question of your credibility
10 before this Committee under oath.

11 My question put to you is that as a matter of
12 fact, you knew there was a Zertuche General Store and
13 you knew Elvira Rodriguez was working at that store,
14 didn't you?

15 A It's just like I said a while ago. I don't
16 know if it was the Zertuche or the General Store.

17 Q Try Zertuche General Store.

18 A Sir?

19 Q Didn't you know there was a Zertuche General
20 Store just within three or four blocks of where—

21 A I know there was a general store at the
22 beginning, too, just by name and maybe it could have been
23 that time that they opened the store. I've got to see
24 some invoices to be correct. I can't remember that long
25 back. I know— It's just like I said. I know they

1 opened for— Who owned the store then, I don't know.
2 It would probably have been Hector.

3 Q All right. Now, I really don't know whether
4 we've accomplished anything with all of that or not.

5 A All right.

6 Q Did you or did you not know that there was a
7 Zertuche General Store—

8 A I did not know—

9 Q Let me finish my question, Mr. Gonzalez, please,
10 sir.

11 Did you, or did you not know that there was a
12 Zertuche General Store at a given location in the year
13 '65, 1965? Yes, or no?

14 A I did not know. No.

15 Q Did you or did you not know that there was a
16 Zertuche General Store in 1966? Yes, or no?

17 A '66? Probably.

18 Q All right. So in 1966, you think that you
19 probably knew that there was probably a store?

20 A I never did see a store, sir.

21 Q That wasn't my question. Did you or did you
22 not know that that store was in existence? Of course, you
23 sat here, so the record is clear: You sat here all day
24 yesterday while Elvira Rodriguez testified, didn't you?

25 A Yes, sir.

1 Q Were you here when I introduced the sales tax
2 receipts on the store?

3 A I didn't see them.

4 Q Well, I just asked you. Were you here when I
5 introduced the tax returns?

6 A I don't know.

7 Q I ask you the question again: Did you or did you
8 not know that there was a Zertuche General Store in
9 existence selling merchandise in 1966? Yes, or no?

10 A Just by anybody could have been doing it any-
11 where else, or a real store?

12 Q I repeat the question: Did you, or did you
13 not know that there was a Zertuche General Store selling
14 merchandise in 1966 in Benavides, Texas?

15 A I did not know. I'm sorry.

16 Q You did not know?

17 A No, sir.

18 Q Did you know whether or not there was a Zertuche
19 General Store in 1967 in Benavides, selling merchandise?

20 A Probably there was one. I can't remember. I
21 can't recall how long or when they started the Zertuche—
22 I mean—

23 Q Now your answer—

24 A They are at the Farm and Ranch Supply.

25 Q Well, at the first part of 1967. Let me limit

1 my question to that year. Did you, or did you not know?

2 The question is quite simple, Mr. Gonzalez?

3 A Yes, I know.

4 Q You did know that there was a Zertuche General
5 Store in Benavides in the first part of 1967 selling
6 merchandise?

7 MR. HENDRICKS: Point of order, Mr.
8 Chairman.

9 CHAIRMAN HALE: State your point of order.

10 MR. HENDRICKS: Mr. Chairman, it was my
11 understanding that Mr. Mitchell was calling this witness
12 to produce additional testimony and not for the purpose
13 of arguing on cross examination with him regarding
14 testimony that has been presented to the Committee.

15 I thought the sole purpose in producing this
16 witness was for additional testimony, beneficial to his
17 client.

18 CHAIRMAN HALE: The Chair would feel, of
19 course, that Mr. Mitchell is entitled to reasonable
20 latitude in developing whatever facts he wants to from
21 the witness.

22 I would hope that you all wouldn't get into
23 arguments back and forth about what somebody else
24 testified. I mean, let Mr. Gonzalez say whatever he
25 knows about this matter and testify to the facts that he

1 knows without trying to involve the other witness.

2 MR. MITCHELL: Well, I'm sorry, Mr. Chairman,
3 if I assumed that attitude. I have a necessity to
4 clarify matters which the witness testified to under
5 oath, because I understand the function of this Committee,
6 it's got to pass on the credibility of some of these
7 folks, in determining and doing its labor. I'm, of course,
8 confused. I thought maybe I would ask him some questions
9 and perhaps he could clear them up so that the Committee
10 can perform its function. I don't intend to cross examine
11 him. I hope that's not what I am cast in the role of
12 doing. I'm sorry, if I am.

13 CHAIRMAN HALE: The Chair would hope that
14 you would confine it to questions and answers and not
15 get into any arguments here.

16 Let's proceed.

17 The Chair will overrule the point of order
18 at this point. (Gavel.)

19 BY MR. MITCHELL

20 Q Then, as I understand it, the first time,
21 Mr. Gonzalez, that you can recall you knew about the
22 store was in the first part of 1969?

23 A When they took this—when they gave me all this
24 material to makes sales under this store. Yes.

25 Q All right.

1 A That was the Farm and Ranch Supply.

2 MR. MITCHELL: Could I have the exhibit
3 please; that is the application to the Comptroller for a
4 sales tax slip that has been introduced.

5 Yes. I have an authenticated copy of it. It
6 is in tandem with Carrillo's 1 which is the Zertuche
7 General Store sales tax permit, effective January 1967,
8 issued June—

9 CHAIRMAN HALE: Exhibit No. 1.

10 MR. MITCHELL: I have another one, Mr.
11 Chairman, that is the official copy from the Comptroller's
12 office that has this gentleman's application which is
13 relevant to his testimony. Carrillo 1 is one, but the
14 one I am looking for is the one that has been filled out
15 by this gentleman.

16 MR. MALONEY: Mr. Mitchell, if you would
17 like to use mine.

18 MR. MITCHELL: Thank you very much, Mr.
19 Maloney. I will ask him just one or two questions.

20 No, that's not the one. There is another one I
21 got from the Comptroller that has the application form.
22 It is in here somewhere with the seal on it.

23 I have it. Fine. That is Carrillo's 62.

24 Q I have been handed Carrillo's No. 62, Mr.
25 Gonzalez, which appears to be records of the Comptroller

1 of Public Accounts. I am going to turn to Carrillo's
2 62-3. Do you recognize that as an application for a
3 sales tax, State of Texas?

4 A Yes, sir. Sure.

5 Q It says, "Filed." When does it say it was
6 filed?

7 A 1-1-67.

8 Q January 1st, 1967?

9 A Yes, sir.

10 Q And, as a matter of fact, that is for Zertuche
11 General Store, located at Highway what? What does it say?
12 539 North side. Am I reading that correctly?

13 A Yes. 359. Well, yes. North side of Benavides,
14 Texas.

15 Q North side, Benavides, Texas. Is that correct?
16 Duval County?

17 A Yes, sir.

18 Q Description of the business says what? Sale
19 of appliances and dry goods. Isn't that correct?

20 A Yes, sir.

21 Q Mailing address? What does it say?

22 A P. O. Box 434 or 484 or something like that.

23 Q Right.

24 A What is it Hector Zertuche here? Why is it
25 signed by Hector Zertuche?

Q Just a minute now. Under the right procedure,

1 I am going to ask you first, and then you can ask me.

2 A All right.

3 Q You actually wrote in for that application Janu-
4 ary 1st, 1967 for sales tax certificate from the Control-
5 ler for Zertuche General Store, didn't you?

6 A Probably that's right. Yes. Yes, sir.

7 Q So that—

8 A They had to have one in order to sell.

9 Q That's right.

10 A That's right.

11 Q So that you knew that there was a Zertuche
12 Store actually as early as the first day of January,
13 1967, if the record, that is Carrillo 62 is accurate,
14 didn't you, Mr. Gonzalez? Yes or no?

15 A Yes, sir.

16 Q All right.

17 A Well, they couldn't have gotten it without any
18 license, but that's all they had. They didn't have a
19 store.

20 Q So you wanted to comply with the law and you did
21 comply with the law and got it, didn't they?

22 CHAIRMAN HALE: Let's not argue between
23 the witnesses.

24 Mr. Mitchell, ask the questions and let the
25 witness give the answers and you can preserve your jury

1 argument for the Senate, if it gets that far.

2 MR. MITCHELL: I am not making a jury
3 argument. I have assiduously avoided repeating anything
4 and I have tried to ask the question and he goes on and
5 on, and I am not fussing with him. He's the one that's
6 doing it. I wish you would jump on him.

7 CHAIRMAN HALE: I'm jumping on both of
8 you.

9 MR. MITCHELL: Well, I haven't done any-
10 thing but ask a question—

11 CHAIRMAN HALE: (Gavel.) You will ask the
12 questions. The witness will give the answers. (Gavel.)

13 Q Now, tell us the truth: When did you know that
14 the Zertuche General Store was in existence, January
15 1st, 1967, the tail end of 1969 or '65? That's the
16 question.

17 A Well, since I saw this one here, probably for
18 1-1-67.

19 Q So that the testimony you gave here previously
20 that it was not in existence is not correct.

21 MR. MALONEY: Mr. Chairman, I believe that
22 is cross examination.

23 MR. MITCHELL: I withdraw the question, Mr.
24 Maloney. I think the point of order is probably taken.

25 Q All right. Where was the location of the

1 Zertuche store, January 1st, 1967, Mr. Gonzalez?

2 A Well, as long as I know, for two or three
3 months, it was at that old Vallejo Sales Building.

4 Q For clarification then, your testimony is that
5 from January 1st, 1967, for two or three months, it was
6 at that building?

7 A Yes, sir. Yes, sir.

8 Q Then, do you remember the destruction of the
9 building, as Mrs. Rodriguez has testified and some of the
10 documentary shows? Yes, or no?

11 A No, sir. I never did go over there. No, sir.

12 Q You don't know anything about the destruction
13 of the building by the hurricane?

14 A That building has been ruined since a long
15 time, sir. I don't know. It could have been by the storm,
16 but I don't know. I couldn't tell you, sir.

17 Q Were you there at the Farm and Ranch Store
18 location, Mr. Gonzalez, when the inventory was moved
19 in the year 1967 from the Zertuche Store to the Farm and
20 Ranch?

21 A No, sir.

22 Q Did you determine that there was, in fact, some
23 inventory moved?

24 A I don't know, sir. I never did see nobody
25 getting anything out of there. I am just telling you the

1 truth.

2 Q Did you have a stove and a refrigerator at
3 Farm and Ranch?

4 A No, sir. I never did.

5 Q Now, let me direct some questions, if I may,
6 to the questions that were previously put to you by
7 members of the Committee. Now, we are going to go back
8 to Farm and Ranch Store and, if you would, answer my
9 questions as they relate to the Farm and Ranch.

10 When did you first go to work for Farm and
11 Ranch Store?

12 A I think that it was the latter part of '69,
13 November of '69, I guess.

14 Q And that store has been in existence since
15 1959?

16 A Yes, sir.

17 Q And have you worked at that store— When did you
18 quit working at the store, the Farm and Ranch?

19 A May of '74.

20 Q Where did you go from Farm and Ranch?

21 A I was loose for a while and then, I talked,
22 like I said, to Mr. Parr. I was going to thank him
23 for how much they had helped me, being in the County and
24 just like I gave that testimony. I talked to him and
25 he told me that if I could do this work, give orders for

1 this welfare, and I told him I would try.

2 He said, "Well, I am going to give you this
3 job since a lot of people come to me. They cannot see
4 Ramiro Carrillo. You try it. If you can do it—and later
5 on we are going to settle everything down and you will
6 probably have your same job!" That is what he said. He
7 said, "We'll be getting together again and things are
8 going to go smooth, like they have always been and you
9 will get your job back."

10 So, I did. I worked for almost—let me see—for
11 about a year helping out the people by giving these
12 County Welfare orders, at the Benavides Implement and
13 I also sold merchandise at Benavides Implement and they
14 paid me about five per cent commission for what I sold.

15 Q Have you finished?

16 A Yes, sir.

17 Q When did you have the conversation with Archer
18 Parr?

19 A Oh, probably June of '74.

20 Q All right. And was Mr. Parr the County Judge
21 at that time?

22 A He was. That's how come I went to him and thanked
23 him for the job, because I knew he was the one in charge
24 of it. Yes, sir.

25 Q Then you went to work for the Benavides Implement

1 Store?

2 A As a commission there, because he told me for
3 me to open an office anywhere I could in Benavides and
4 I told him, "I don't need an office. All I got to do is
5 get in touch with the doctor and stores and the pharmacist
6 and tell them where I am going to be. Whenever somebody
7 goes that really needs something, to come to me and send
8 them over to me and they can get in touch with Ramiro,
9 and if I can help them. I know everybody in Benavides.
10 I know even people that work that really need some help,
11 so, if I could, I could help them. I will help them."

12 Q Actually, you got in the welfare business?

13 A Yes, sir.

14 Q Isn't that right?

15 A Yes, sir.

16 Q Now, I want you to tell the Committee how you
17 went about determining who was entitled to be helped in
18 the community? Did they come to you or the word got
19 out that you were the man to see? Tell us how that worked?

20 A I just said how it worked; that I told the stores
21 and the pharmacist and the doctor where I was going to
22 be; that whenever somebody that went, that really needed
23 help, if they— Because, you know, a lot of these people
24 owe a lot of money to the drug store and to the doctors
25 and, you know how doctors are nowadays: If you don't

1 have somebody to back you up, they won't take care of
2 you.

3 Q All right.

4 A Or the drug stores, they won't give you any
5 medicines, if you owe them some money.

6 Q If someone went to the Cash Store, for example,
7 and told Mr. Yzaguirre that they needed some help, then
8 as you testified here previously, on two occasions,
9 Mr. Yzaguirre or Mrs. Yzaguirre would contact you that
10 they had someone that needed some welfare?

11 A No, it's not that.

12 Q Tell us how it worked.

13 A No. It don't go like that. No.

14 Q I want to know how it worked when you got into it.

15 A Groceries: People go and ask for me that
16 they couldn't make or they couldn't buy the food stamps
17 or they are saving their money to buy these food stamps.
18 Groceries: People have to go to eat, but they don't go
19 to the grocery stores. I just passed the word to the
20 doctor and to the pharmacist, you know.

21 Q All right.

22 A Groceries, anybody can live without a day or
23 two, but not without any medical help.

24 Q Suppose one of the citizens of Duval County
25 went to the doctor and needed some help. The doctor would

1 then send them to see you. Is that how it worked?

2 A It depends on if they say, "Go see Cleofas to
3 see if he can help you a little bit. You owe me too much
4 money."

5 Q Right. Cleofas, that's you. Then what would
6 you do? How would you go, please, sir?

7 A If I knew the people and I knew they really
8 needed help, I would give them an order.

9 Q Would you make any determination what political
10 party they were with, before you would help them?

11 A No, sir. No, sir. I would help anybody.

12 Q That had nothing to do with whether you would
13 help them?

14 A No, sir. Not political.

15 Q Tell us the documents that you would issue?
16 Would you issue a little white slip? Would you issue
17 printed forms that had been— How did you do it? Tell
18 us about it.

19 A I gave those printed forms that were given to
20 me by Elvira De Leon, the Supervisor, wherever she gave
21 me those. I didn't go around giving notes. No. I
22 gave the order.

23 Q Would the folks come to you, Mr. Gonzales,
24 with the form as Mr. Elvira Rodriguez testified, or would
25 you have the forms?

1 A I've got the forms. Yes, sir.

2 Q You had a stack of the forms with you?

3 A Yes, sir.

4 Q Your location was at the Benavides Implement
5 and Hardware Store there in Benavides?

6 A Yes, sir.

7 Q Then the folks would come to you and would you
8 fill out the forms?

9 A Yes, sir.

10 Q Would you ask them what they needed? What
11 questions would you ask them? Their name?

12 A No. They would come in and they would say,
13 "Cleofas, I need an order for some medicines." A lot of
14 people are on Medicare, but they already had gotten three
15 drugs and they needed this other drug very badly. They
16 said, "Medicare don't cover it and I don't have money and
17 I need this drug" for something, either diabetes or this
18 and that.

19 So, I tell them, "Oh, sure, I'll be glad to help
20 you," so I would write out the order. They had already
21 the amount. The druggist would write the amount of medicine.

22 Q So they would have had from the druggist. Would
23 they have bought the drug?

24 A No, sir. Not yet. The druggist wouldn't let
25 them have it until they got that order or cash.

1 Q These poor folks that needed help, would have
2 gotten the idea from the druggist what amount of money
3 they owed the druggist and they would then be sent to you
4 and you would sit down with them and they would have the
5 amount of money they would owe the druggist?

6 A Right, sir.

7 Q You would fill in the printed form?

8 A That's right, sir.

9 Q What would you do, Mr. Gonzalez: What would
10 you do with the printed form?

11 A I didn't do anything. I just get one for my
12 records. At the end of the month, I go and pick them
13 up and take them to Elvira De Leon, because that is what
14 I am supposed to do.

15 Q Where is she?

16 A San Diego.

17 Q Did you keep a master sheet of all these folks
18 that came in?

19 A I sure did. I've got my records there of all
20 the people I helped.

21 Q Who was paying you? The State or the County,
22 from June 1974?

23 A The County.

24 Q You were drawing your pay from the County?

25 A Yes. Road and Bridge Fund, I guess.

1 Q But you would, as I understand it, take anyone
2 that was sent to you who had been either for medical
3 supplies, or pharmaceutical supplies, or doctor's bills—
4 Did it include that?

5 A Yes, sir.

6 Q All right.

7 A Hospital bills, too. I used to help up to
8 \$100 or \$125. Yes. Funerals. People that passed away,
9 too.

10 Q All right.

11 A Yes, sir.

12 Q The people that would come to you, you would
13 take their word for what they needed and you would then
14 see that those folks got it?

15 A Well, I know that whenever I helped somebody,
16 because they needed it. Yes.

17 Q I don't intend by my questions to cast any
18 reflections on the poor people of that community that
19 needed help and I don't want the Committee to misinterpret
20 my questions. I am not, by my questions, indicating
21 anything. I know the folks need some help and I am glad
22 there is someone to help them. I am just simply trying
23 to find the procedures this man followed.

24 At any rate, what would you do with the printed
25 forms that you would fill out? Would you have them sign

1 them, Mr. Gonzalez?

2 A Yes, sir. Yes, sir.

3 Q Then would you make a record of those in your
4 office there at the Benavides Implement and Supply?

5 A Yes, sir.

6 Q Then, what would you do at the end of the month,
7 if anything?

8 A Well, I would just go pick them up and take them
9 over so that Elvira De Leon can check them. They said they
10 had to be there that— Well, somebody was supposed to go
11 and check them and approve them, so when they had
12 Commissioners Court, they could get paid.

13 Q Any investigations that those offices wanted
14 to run, apparently they would and then they would trigger
15 the disbursing agent with whatever paper work they had
16 to do and the folks would be paid. Is that right? The
17 people that had given the service of the medicine would
18 be paid?

19 A That's right, sir.

20 Q Now, let's talk about groceries. Previously,
21 you testified that there was also a procedure where
22 people with the grocery stores, and I believe you mentioned
23 specifically in your sworn testimony earlier, Lauro
24 Yzaguirre— I don't know whether I am pronouncing that
25 right. Lauro?

1 A Lauro Yzaguirre.

2 Q I did a pretty good job, didn't I. Not much
3 difference between Spanish and Greek.

4 Lauro Yzaguirre would come to you and I am
5 going to try to repeat it. There are many questions about
6 these. He would come to you and he would have orders
7 that he told you that were for food and that he would want
8 them paid and that O. P. gave them those orders and that
9 you would talk to Ramiro Carrillo and you would okay them
10 and make up the paper work to get those grocery bills paid.

11 A That's right, sir.

12 Q And that then they would deliver the white slips
13 to you and that those slips— I believe you testified
14 were destroyed, except those that you produced here?

15 A Wait. Wait a minute. When Lauro Yzaguirre went
16 over, he took this white slip that O. P. had given to him.
17 If Lauro wouldn't take the slips, I wouldn't make an order.
18 I've got to have some proof, you know, because I didn't
19 want to go and write something that I didn't have proof.
20 He gave me those white slips that were given by O. P.
21 Carrillo. That's right. Yes, sir.

22 Q It would be just like the man that was a
23 doctor or funeral parlor man or drug man, would give these
24 other folks those white slips and you would take their
25 application, fill them in, turn them in to the proper

1 authorities and hope you got them paid?

2 A That's right, sir. Yes, sir.

3 Q Now, let me move, please, to the question of
4 doing the business. I think the record has been developed
5 completely, but there are several questions I want and I
6 am going to run through it rapidly.

7 From 1959 to May of May 1974, I believe your
8 testimony is you work for the Farm and Ranch. Or, you
9 work for the County, but you were tending the County
10 business as best you could and earning your pay and at
11 the same time, tending to some of the Farm and Ranch
12 business. Is that correct?

13 A That's right, sir. Yes, sir.

14 Q Was there anybody else in that store, other than
15 you tending to the Farm and Ranch business, Mr. Gonzalez?

16 A Well, the deceased Pat Gonzalez.

17 Q Mr. Pat Gonzalez prior to the time of his
18 death worked there in the Farm and Ranch also?

19 A He did most of the work that I did. That is
20 fill up trucks with gas and sign tickets for gasoline
21 that were brought in and all that stuff. Yet.

22 Q Let me ask you, please, sir: Can you recall
23 for the record when Mr. Pat Gonzalez died?

24 A That's probably— I think it was some time in
25 March of '73?

1 Q All right, sir.

2 A I really don't know.

3 Q Well, to the best of your recollection.

4 A I think it was in March, because I think he
5 passed away when my father's birthday was, I think, or
6 something like that.

7 Q We lawyers are good at asking them, and the
8 tough thing is when you call back, and I know I am calling
9 on your memory for three years.

10 Your best recollection serves you that it was
11 in March of '73?

12 A I think so, sir. I don't know.

13 Q Did Mr. Gonzales work with you from '59 to
14 March of '73, Mr. Gonzalez?

15 A No. Pat started working around, I believe—
16 Let's say '60. I don't know when.

17 Q Was he a Farm and Ranch man or was he a County
18 man, too?

19 A He was— You mean who he was working for?

20 Q Yes. Who was he working for?

21 A For the County.

22 Q Then is it fair to say that from March of '73
23 until May of '74, roughly, a year or so, you were the
24 sole man that was in the Farm and Ranch?

25 A After he passed away?

1 Q Yes, sir.

2 A Yes, sir.

3 Q Did you all ever have any part-time help in
4 the store?

5 A No, sir.

6 Q I believe you heard the testimony earlier that
7 when the Hector Zertuche Store was destroyed that the
8 Zertuche operation was moved to the Farm and Ranch some
9 time in 1967. That would be in the tail end of 1967. Do
10 you recall that?

11 A No, sir. They never did take no merchandise
12 to Farm and Ranch.

13 Q All right.

14 A I'm sorry.

15 Q I know you disagree with the witness. I didn't
16 mean to repeat that.

17 Did you get the yellow invoices from the Zertuche
18 General Store across the top of them some time in the
19 tail end of 1967? When did you first get the invoices,
20 the order slips?

21 A I don't recall the exact date, sir.

22 Q But you did get those slips?

23 A From O. P. Carrillo?

24 Q Right.

25 A Yes.

1 Q Do you recall when you first got a check, the
2 Zertuche General Store, signed by Hector or Arturo
3 Zertuche?

4 A No, sir. I can't give you the exact date. No,
5 sir.

6 Q Well, I believe your earlier testimony was that
7 there were checks on Zertuche General Store by Arturo
8 Zertuche that you have?

9 A Yes, sir. That's right.

10 Q And that there were also these order slips, these
11 yellow order slips that say "Zertuche General Store"
12 across the top?

13 A Yes, sir.

14 Q In fact, you produced some for the Committee,
15 in January, February, March of 1971?

16 A That's correct, sir.

17 Q The procedure was that when a sale came in to
18 your store from, say, the School District, that you wrote
19 out an order on the Zertuche General Store order form.
20 Isn't that correct?

21 A That's right, sir.

22 Q That you then delivered whatever it was they
23 bought to whoever was buying?

24 A That's right, sir.

25 Q Then you took, if it were a County purchase or a

1 School District purchase, you filled out whatever necessary
2 papers and you would get a check for the payment of that
3 invoice. Isn't that correct?

4 A That is right, sir.

5 Q That check would be payable to the Zertuche
6 General Store?

7 A That is right, sir.

8 Q And you always endorsed that check "for
9 deposit only, Zertuche General Store"?

10 A That is what I was instructed. Yes, sir.

11 Q And it was deposited in the bank account of
12 the Zertuche General Store by you?

13 A That is correct, sir.

14 Q Thereafter, you would also make the checks
15 from the Zertuche General Store to either Farm and Ranch
16 or to any other merchandiser, or I believe you even
17 paid some payments on Hector or Arturo's automobile,
18 trailer house and so forth, didn't you?

19 A I never did do that, sir.

20 Q I am referring to your testimony. I am trying
21 to move on. You testified you made—

22 A Yes. I made—he, once or twice, he told me,
23 "Please, Cleofas, when we get paid, send this payment.
24 It's got to be made," so I did it, but it just happened,
25 let's say, six times. I did also make some payments for

1 some gas, for some payment to the Mobil Oil Company.

2 But, just— Yes, sir.

3 Q For Arturo Zertuche?

4 A For Arturo Zertuche.

5 Q And you sent him some money; that is, to
6 Arturo Zertuche, a check signed "Zertuche General Store
7 by Arturo Zertuche," paid to Arturo Zertuche, the man
8 who owned Zertuche General Store, didn't you?

9 A Let me see.

10 Q Sir?

11 A Did I make that check? Did I write it out?

12 Q I just asked you if you ever sent him any
13 money?

14 A I don't recall, sir. Probably I did. I don't
15 recall.

16 Q But you made payments on his car?

17 A It's just like I said. I sent a payment to the
18 First State Bank in Alice one time, or maybe two. I
19 don't recall how many.

20 Q That was the Arturo Zertuche's car, wasn't it,
21 Mr. Gonzalez?

22 A I don't know. I can't tell you.

23 Q All right.

24 A I just made that check to the First State Bank
25 of Alice and they knew what it was for, I guess.

1 Q Well, that's where the note was, and that's
2 where you knew to send the payments. Is that correct?

3 A They gave me an address or something and I just
4 either took it or sent it. I don't know, really.

5 Q Now, you are not testifying that one hundred
6 per cent of the money that went into the Zertuche Store
7 account by your "for deposit only," all was transferred
8 to Farm and Ranch, are you? You are not telling this
9 Committee that one hundred per cent of that money was
10 transferred automatically to the Farm and Ranch Store,
11 are you?

12 Out of fairness to you, Mr. Gonzalez, the
13 tax returns have been introduced for the years 1965, '66,
14 '67, '68, '69 and '70 and all but one or two years have
15 been profit of varying amounts, whatever the record
16 reflects and the tax paid on Zertuche General Store by
17 Arturo.

18 A Did I make all those deposits, sir?

19 Q Yes. You didn't transfer all of the money
20 from Zertuche General Store to Farm and Ranch?

21 A Not all the— Let me see. Sometimes I guess
22 they left some money there. I don't know for what
23 reason.

24 Q You, as a matter of fact, you transferred the
25 money from Zertuche General Store to Farm and Ranch for

1 merchandise purchased from Farm and Ranch that was
2 sold to people who came to buy from the Zertuche General
3 Store. That's the money you transferred, wasn't it, cost
4 of merchandise.

5 A People or just government agencies.

6 Q Government agencies.

7 A That's right, sir.

8 Q As a matter of fact, you bought merchandise
9 through the Zertuche Store Account from other folks, other
10 than the Farm and Ranch, didn't you?

11 A No, sir. I never did. That was charged to
12 Zertuche?

13 Q Listen to my question carefully. I ask you:
14 I say, as a matter of fact, when there was merchandise
15 purchased by a governmental agency through the Zertuche
16 Store Account, while you were in charge of that account,
17 when that merchandise was not on hand from the Farm and
18 Ranch, you would buy it, or Zertuche would buy it from
19 other folks, other merchandising stores?

20 A I don't think so, sir. I don't know that, be-
21 cause I never did do that. I don't know. No.

22 Q Well, now. Let me be sure we understand each
23 other. You did have control of the Zertuche Store account
24 from '67, the tail end of '67, '68, '69 and '70, didn't
25 you?

1 A Well, sir, I hate to—

2 Q Did you or did you not? You can tell us.

3 A Well, just by this invoice register.

4 Q Right.

5 A Yes.

6 Q The invoice register, the checks that would
7 come into it and be endorsed "for deposit only."

8 A That's right, sir.

9 Q And the checks that were issued by Zertuche
10 Store, right?

11 A Yes, sir. Right.

12 Q Well, there wasn't anybody else but Arturo
13 Zertuche writing checks on the Zertuche Store account,
14 were there?

15 A I can't tell you that, sir. I mean, because, a
16 lot of times, his brother, another brother, George Zertuche
17 got some checks and I don't know who signed them.

18 Q Mr. Gonzalez, you know, as a matter of fact,
19 Arturo would come in and sit down and visit with you and
20 he would sit down and ask you how many checks you needed
21 to do your business and you would write those checks and
22 he would sign them and hand them to you, in blank, wouldn't
23 he?

24 A He didn't do that but one time, I guess. I
25 always got the checks from his brother, George. Arturo, I

1 never did talk— He went by the store. He drove in
2 with O. P. Carrillo to the bank, but I never did—

3 Q Maybe I can get at it this way: Weren't all
4 the checks on the Zertuche Store account signed by
5 Arturo Zertuche?

6 A Yes, by Arturo, but I didn't get them all from
7 Arturo, I mean. Somebody else would give them to me,
8 whenever I needed them. I already testified that, that
9 I would tell them I needed some checks for this month,
10 and they would give me them.

11 Q You couldn't draw personally on the account?

12 A No, sir. I couldn't and I wouldn't like to.

13 Q As a matter of fact, the only person that could
14 draw was Arturo Zertuche, himself, as far as you know?

15 A Yes, sir.

16 Q That's why you had to have a check signed by
17 Arturo Zertuche?

18 A That's correct, sir.

19 Q Now, we got through that. And that every time
20 a check came in from the agencies payable to the Zertuche
21 Store, the record reflects, the documentary, that you
22 would put a stamp on the back of it "for deposit only,
23 Zertuche General Store."

24 A That's correct, sir.

25 Q You never did take one of them and sign it,

1 "Zertuche General Store" and go cash it and put the
2 money in your pocket, did you?

3 A No, sir. I never did.

4 Q So we can assume that everyone of those checks
5 were endorsed and put in that Zertuche Store account.
6 Correct? "For deposit only."

7 A The ones that I got. Yes, sir.

8 Q All right. You indicated by that answer that
9 there might be some of them that we didn't know about.
10 Do you know of any checks that were issued by the County
11 or any of those agencies payable to the Zertuche Store
12 that didn't come to you? If you do, I want to know about
13 it.

14 A I think—

15 Q And the Committee wants to know about it.

16 A —that I saw some that weren't—that— I saw
17 once, you know, it so happened that Ramiro left them
18 there in the desk, and I saw and I never did deposit those
19 checks. I don't know who deposited them, or what they
20 did with them.

21 Q Other than those periods of time we have gone
22 over, you are quite sure that you followed your instructions
23 to put that "for deposit only" there on the back of that
24 check and deposit it in the bank account?

25 A For the check that I got for the merchandise I

1 sold from Farm and Ranch to the implement, I did deposit
2 all of them.

3 Q All right. And at the end of the year--in fact,
4 beginning back in 1969, when you just had the Farm and
5 Ranch—and at the end of the year— Let me direct my
6 question to you:

7 After you got the order blank from Zertuche
8 General Store and after the bank account was set up and
9 after the sales tax thing was issued, January 1st, 1967,
10 you would gather together all of those deposit slips, am
11 I correct?

12 A That's right, sir.

13 Q Total them all up. Am I right?

14 A That's right, sir.

15 Q Take all of your expenses; that is the rent on
16 the building, and whatever expenses such as cost of
17 merchandise— Isn't that correct?

18 A I used to go by the check. I used to go by
19 the checks and got like rent, so much; oil and gas, so
20 much.

21 Q All of the expenses. Am I right, Mr. Gonzalez?

22 A That is correct, sir.

23 Q And you would bundle all that material up and
24 you would go see Mr. Kirkland, didn't you, the accountant?

25 A I used to write everything down for him. All he

1 had to do was just read that and he would make the
2 income tax. Yes, sir.

3 Q All right, sir.

4 A But I did that for just about two or three
5 years.

6 Q Well, I understand, for two or three years.

7 A For the Zertuche or Farm and Ranch?

8 Q Zertuche.

9 A You are talking about Zertuche. Yes, sir. I
10 did it about two or three times. Yes.

11 Q At the end of the tax year and from your
12 testimony, you didn't have anything to do with the '68,
13 '69 and '70. The record reflects the last return was
14 filed for Zertuche General Store by Arturo Zertuche,
15 December 31st, 1970, I believe. Does that refresh your
16 memory?

17 A I don't know.

18 Q You would take that material— See if I've
19 got it straight. You would even tape it, put it on a
20 tape and add it all up, wouldn't you, on those gross
21 sales of the Zertuche General Store at the end of the
22 year? You would tape it all up; you would take that
23 tape and you would have the total figures, \$72,000,
24 52,000, 53,000—you would have all the checks, all of the
25 other checks that you had paid out, take all of that to

1 Mr. Kirkland and say, "Here it is. Prepare the tax
2 return," wouldn't you?

3 A I think that is correct. If that's what I am
4 thinking that you are trying to say, yes.

5 Q Well, I am trying, of course, we all know that
6 you gave Mr. Kirkland the data and he's here in the
7 Committee room and he can either confirm or deny it.
8 He prepared the return, and if there were any questions
9 about the data, he would call you, wouldn't he?

10 A No, sir.

11 Q He never did call you?

12 A He never did call me. No, sir.

13 For Farm and Ranch, yes; but not for the
14 Zertuche—

15 Q We are going to get to that.

16 A Yes, sir. I wanted to make it straight.

17 Q For the Zertuche General Store.

18 A No, sir. He never did call me for the Zertuche
19 General Store or anything. In fact, I didn't give it to
20 him, I gave it to— I think Ramiro took it. And no
21 questions. I know they had a lot of expenses. Maybe
22 they had to add their expenses there, too.

23 Q Yes. There is an expense. Do you remember how
24 much you were paying for rent?

25 A No, sir. Where?

1 Q Well, how much the Zertuche Store was paying the
2 Farm and Ranch for rent, for use of those premises?

3 A (No response.)

4 Q Do you remember?

5 A For that register they had there? What?

6 Q Yes. Do you remember that?

7 A No, sir. I never did.

8 Q Do you remember how much rental income Zertuche
9 Store had as distinct from payment of rent, for any of
10 those years?

11 A Well, it's very easy, because all those rentals
12 were paid or made either to Ramiro Carrillo or to Oscar
13 Carrillo. They reported it in their income tax.

14 Q Right. There is a distinction between the
15 amount paid by the Zertuche General Store for rent on the
16 building owned by Farm and Ranch and the rental income,
17 wasn't there?

18 A I never did see any rental to Farm and Ranch.

19 Q I am not fussing at you, Mr. Gonzalez.

20 A Okay. No, I didn't, sir.

21 Q You did the best job you could. You took all
22 the material together. You wanted to make an honest effort
23 to giving all the material to Mr. Kirkland so that he could
24 make an honest return. Isn't that right?

25 A That is right, sir. That is right.

1 Q Now, one or two more questions: As a matter of
2 fact, were you here when one of the Guerra boys, not
3 Arnulfo, but his brother, testified about that 500 bags
4 of cement that Judge Carrillo ordered put in that store?

5 A No, sir. I was not here.

6 Q You weren't here?

7 A No, sir.

8 Q Well, I won't try to repeat the testimony. I
9 am sure the Committee has it well in their mind. Let
10 me ask you something about that. As a matter of fact, you
11 were the man, were you not, that ordered the cement?

12 A I ordered so many things that I don't think
13 so, sir.

14 Q I don't care about anything else. How about
15 that cement that went into that foundation of that
16 store building built on Judge Carrillo's ranch. That's
17 what I want to know about.

18 A No, sir. I don't remember. No, sir. No, sir.

19 Q You don't know anything about that cement?

20 A Yes, sir.

21 Q All right.

22 A Yes. A truck came over once, just like I
23 testified. A lot of times merchandise went in there and
24 I didn't know who paid it, whether the County paid it or
25 O. P. Carrillo paid or who paid it.

1 Q The check is in evidence. Just tell us what
2 the truck said on it; whether it was Portland Cement;
3 whether it came from San Antonio, where did it come from?

4 A I didn't receive that truck of cement. You see,
5 we close at noon. That truck got there—when I came back
6 from dinner, there was Tomas Elizondo unloading this
7 truck with a bunch of kids, school kids, boys that are
8 strong enough to carry a cement bag. So I went over and
9 told him, "What's going on here," you know. We kept some
10 cement there that belonged to the Farm and Ranch and to the
11 County there, all together. So I told him, "What's going
12 on here, Tomas?"

13 He said, "Well, they ordered this cement," but
14 he didn't say whose cement it was. He said that somebody
15 ordered the cement and O. P. just sent us to come and
16 unload it, because the County workers didn't want to do it.
17 They said that that was not their duty. So, they unloaded
18 it. That's right.

19 Q Did you get the bill of lading on it?

20 A No, sir. Not that I remember. Tomas signed it.

21 Q Then, as a matter of fact, a few days later,
22 they came over and got the cement and took it out there
23 to where they were building that store, didn't they?

24 A No, sir. They didn't tell me anything. You
25 know what they did is break that lock hasp. They broke it

1 and they got in there and they loaded some cement. The
2 next day I went over. You see, that room there, I keep
3 it locked at all times, because there are a lot of tires
4 and everything and if something is missing there, I am
5 responsible for it.

6 Q I understand.

7 A I had it locked. The next day when I went over
8 or Monday when I went, I noticed that that lock was broken.

9 Q Did you talk—

10 A Sure I asked. That was my responsibility.

11 Q Did you talk to Mr. Ramiro Carrillo about it?

12 A Yes, sir. Yes, sir.

13 Q And didn't he tell you that that was the cement
14 that Judge Carrillo had purchased?

15 A No. He didn't say anything. He said, "O. P.
16 got some cement from there." Yes, sir.

17 Q Oh, he said, "O. P. got some cement"?

18 A Yes, sir. That's right.

19 Q How about all of that material? the siding, the
20 wall paneling, all of that material that went into that
21 same store? That also was bought from Farm and Ranch.
22 Isn't that correct?

23 A Well, sir, let me tell you. We have been
24 doing some— Could I have some of those exhibits and I
25 will tell you what was bought by Farm and Ranch that was

1 paid by Farm and Ranch. You see, there are some-- We
2 first ordered that cedar shingles or whatever they are
3 called. Those I can prove that that merchandise was
4 sold to the City of Benavides for the repair of that
5 City Hall.

6 Q That's right.

7 A Because Benavides paid me the next day for it.
8 And the City of Benavides should have a check for it.
9 This one right here. All of this merchandise was sold
10 to the City of Benavides, Texas, down through here.

11 Q How about this page over here, Mr. Gonzalez?
12 Where did that go? You were here when the other Mr.
13 Gonzalez--

14 A It's got the signature right there.

15 MR. CANALES: Mr. Chairman, could we ask
16 that they refer to the Exhibit Numbers that they are
17 reviewing right now for the record?

18 CHAIRMAN HALE: Yes. If you would.

19 MR. MITCHELL: It doesn't have the page I
20 am looking for. I am looking for the one that says
21 that Cinnamon--this is not the way the exhibit was
22 shaped up. Let me see the original.

23 Mr. Canales, I've got the original of the
24 exhibit. That's been rearranged.

25 MR. CANALES: Here is your Cinnamon.

1 Q You remember the paneling, the Cinnamon paneling
2 on that?

3 A Yes, sir.

4 Q I am asking you: Where did that go?

5 A I don't know, sir.

6 Q How about the Pecan paneling on that Phoenix
7 Supply?

8 A I don't know, sir.

9 Q I want to ask you about Farm and Ranch. Let's
10 get on with it.

11 A Yes, sir.

12 Q At the time, from 1959, thence to May of '74,
13 and then I believe we will move from the Zertuche Store
14 to the Farm and Ranch. Tell the Committee, please, did
15 you also make the sales for Farm and Ranch along with
16 this gentleman that died March of '73? Would you all
17 sell the Farm and Ranch materials, merchandise?

18 A Yes, sir.

19 Q You would, I assume, be paid by check or cash,
20 just like any other mechandise you sold?

21 A Yes, sir. Yes, sir.

22 Q Did you have credit accounts, Mr. Gonzalez?

23 A Yes. We had plenty of them. Yes.

24 Q So that the credit accounts; there would be
25 cash accounts and accounts, I guess, for which you were

1 paid for by check. Is that correct?

2 A Yes, sir. We always paid by check.

3 Q All right.

4 A Yes, sir.

5 Q Were there any sales made from Farm and Ranch
6 to any of the governmental agencies?

7 A Yes, sir. There were.

8 Q When was the last time you recall making a
9 sale to a governmental agency through Farm and Ranch?

10 A I don't know, sir, but there were some made,
11 I guess. There were some made. Yes.

12 Q Would some be made through the Zertuche General
13 Store and some through the Farm and Ranch?

14 A They were all made through the Zertuche General
15 Store.

16 Q That's the reason for my question. Were any
17 sales made by the Farm and Ranch to the governmental
18 agencies?

19 A They had to be sold to the Zertuche General
20 Store and from the General Store, I would write the
21 ticket out from that register.

22 Q So your answer is, "No, there would not be any
23 sales made direct from the Farm and Ranch to the
24 governmental agencies?"

25 A Some checks got in there by mistake, I guess.

1 They were made to Farm and Ranch.

2 Q All right. Well, you were in charge of where
3 the checks went, both in the Farm and Ranch account and
4 the Zertuche General Store account?

5 A Yes, sir. If they come to the Farm and Ranch,
6 I would deposit them to the Farm and Ranch Supply.

7 Q Right. And if they came to the Zertuche General
8 Store, you would make that deposit?

9 A Yes, sir.

10 Q The record reflects that the checks that came
11 into Farm and Ranch that were also stamped "for deposit
12 only, Farm and Ranch."

13 A That is correct, sir.

14 Q And they were deposited in the Farm and Ranch
15 account. Is that correct?

16 A That's correct, sir.

17 Q Did you have any control over that account; that
18 is, drawing any checks on it?

19 A No, sir. They would have to be signed by
20 the Commissioner. The owner of the store, Ramiro Carrillo.

21 Q Ramiro Carrillo who was part-owner of the store?

22 A That is correct, sir.

23 Q Did you make an end-of-the-year inventory in
24 your Farm and Ranch?

25 A Yes, sir.

1 Q That end-of-the-year inventory would, of
2 course, be the beginning inventory for the coming year,
3 wouldn't it?

4 A That is correct, sir.

5 Q And you would close that out, say, your December
6 31 inventory would be the growth for the opening—twelve—
7 after November; then, take the gross sales figures in the
8 inventory and make up, wouldn't you, Mr. Gonzalez?

9 A Yes, sir.

10 Q Then you would take the collections for cost of
11 merchandise, labor, expense, or anything else?

12 A Yes, sir.

13 Q Would you take those over to the accountant?

14 A I would give them to Ramiro Carrillo.

15 Q As far as you know, he would take them to Mr.
16 Kirkland, wouldn't he?

17 A Yes, sir. I think so.

18 Q Tax returns.

19 A I didn't make any for Zertuche. I just made it
20 for Farm and Ranch. Yes, sir.

21 Q Now, there is testimony that I am puzzled about
22 and I am going to ask you a question or two on it.

23 You testified earlier that you would, on
24 occasion, cash checks to persons that would come into
25 the store with a County check. Do you remember that

1 testimony?

2 A Yes, sir.

3 Q I'm going to see if I can't— That's at page,
4 oh, somewhere, about page 91 in your testimony. Let me
5 see if I understand it. Your testimony was that sometimes
6 people would come in the store with a check that was made
7 payable to what we call a third person and cashed the
8 check and endorse it and you would give them the money?

9 A Explain that just a little bit so I can—

10 Q I would rather just go to your testimony:

11 "Question: You said that on occasion you
12 cashed checks for people who did not exist?"

13 "Yes, sir."

14 "These were checks drawn on the County?"

15 "Yes, sir."

16 "Who gave you the checks?"

17 "Ramiro Carrillo, the County Commissioner."

18 "In other words, the people who were supposed
19 to get the money did not present you the checks?"

20 "Answer: By you, no, sir."

21 "Question: Were the checks endorsed on the
22 back?"

23 "Answer: Yes, sir."

24 "Question: What did you do with these
25 checks?"

1 "At first when we started, the Commissioner
2 would say, 'Go to the bank and deposit the
3 checks.'"

4 Do you remember that testimony?

5 A Yes, sir.

6 Q That is what I am asking about. Let's see if
7 I can follow this. People would present checks drawn on
8 the County payable to, say, Mr. Rene Martinez or Mr.
9 Juan Martinez, but Mr. Rene Martinez or Mr. Juan Martinez
10 wouldn't be the one that presented. These checks would
11 be endorsed, wouldn't they?

12 A That's right.

13 Q And the person that presented them to you, you
14 would have them endorse the check?

15 A What persons? If they went there, in person?

16 Q Yes.

17 A Yes. Sure.

18 Q And then you would pay them the money and you
19 would take the check? Right?

20 A You see, a lot of these things, these people
21 worked by claims. You see, they worked a week, let's
22 say the first part of January. And they worked this
23 week and then no more work. So they need the money. So
24 Ramiro would tell me, "Cleofas, make a check for Farm and
25 Ranch. Make a check to Rene Martinez," like you said, and
I would make a check to Rene Martinez. Then when the check

1 came, then Ramiro would look for that man and have him
2 sign that check and then he would give it to me and I
3 deposited that check, because that amount was drawn from
4 the Farm and Ranch Supply.

5 Q That's right. I didn't mean to indicate that
6 you were testifying to a wrongdoing.

7 A No. I am just explaining myself.

8 Q In other words, what was happening is those
9 folks, just like other folks, get ahead of their paycheck
10 and Mr. Ramiro Carrillo would make an advance on it and
11 when they got the check, he would take the check and have
12 them sign it and take out what was owed and give them the
13 money?

14 A That's right, sir.

15 Q Yes. Some other of your testimony that kind of
16 piqued my curiosity. This testimony, first of all about
17 that Farm and Ranch Store location. I believe Mrs.
18 Rodriguez drew it out there for us. I have never seen it,
19 so I have to kind of go by— It's a half a block fenced
20 in, isn't it?

21 A That's right, sir.

22 Q And it's got a building on part of it, has it
23 not?

24 A It's a whole building. It's kind of an L-shaped
25 building and then there's another one, like that.

1 Q And I envision that you've got an open yard
2 where the County stores some of its equipment?

3 A That's right.

4 Q There isn't anything wrong with that. That's
5 the deal where the County was permitted to store its
6 equipment there, big heavy equipment. Isn't that
7 correct?

8 A I think so. Yes, sir.

9 Q You know so?

10 A Yes, sir. Yes, sir.

11 Q Just like when the testimony here was yesterday
12 by the Ranger that there was County equipment stored on
13 Mr. Ramiro Carrillo's ranch. You know, as a matter of
14 fact, that he has allowed them to store that big, heavy
15 equipment, because they don't have a place to put it.
16 Isn't that correct? You know that?

17 A Yes, sir.

18 Q Now then, you have an entrance into the store?
19 Am I correct?

20 A That's right, sir.

21 Q Then you have a high fence around the half a
22 block. Isn't that correct?

23 A Right, sir.

24 Q Then the County, in fact, keeps equipment,
25 merchandise, in the area, either in the open area or the

1 closed area where the merchandise is perishable. Am I
2 right?

3 A That is correct, sir.

4 Q Does the Farm and Ranch have its own inventory
5 also there?

6 A Yes, sir.

7 Q And I don't believe you know where the stove
8 and refrigerator is?

9 A I never did see them, sir. I was there for
10 quite a few years.

11 Q I understand. I don't mean to fuss at you.
12 Is there any other inventory, other than that,
13 that I have described, and was there, when you left
14 there in 1974, in May?

15 A What do you mean by "other inventory"?

16 A Anything else? What other merchandise was
17 there that belonged to Farm and Ranch? Was anything else
18 there?

19 A All the merchandise out there belonged to Farm
20 and Ranch, with the exception of a few things that
21 belonged to the County, that were there.

22 Q And you know, you were on the County payroll
23 and doing your duty and performing your duty as to the
24 County and you kept up with the County's inventory, didn't
25 you, the County property?

A That's correct, sir.

1 Q And you knew the Farm and Ranch property?

2 A That's right, sir.

3 Q And you didn't have to worry about Zertuche
4 Store, because you said there wasn't any of that.

5 A That's right, sir.

6 Q How about if I wanted fence posts and the County
7 would come to you and wanted fence posts. Isn't it a
8 fact, too, Mr. Gonzalez, that sometimes you all would
9 order those fence posts to be sold to the County?

10 A That's right, sir. That is right.

11 Q So there are checks in the record that say,
12 15,000 fence posts to be sold to the County, wouldn't
13 it? They wouldn't keep those fence posts on hand, would
14 they?

15 A Well, I didn't—

16 Q Sir?

17 A I sold something of that many posts.

18 Q And there was barbed wire, too, wasn't there?
19 People would come in and want to buy barbed wire.

20 A That's right, sir.

21 Q So that, and let's see if I can say it
22 correctly: You had the County equipment that was stored
23 there. Right? In the yard?

24 A Right, sir.

25 Q You had County property, inventory?

1 A That's right, sir.

2 Q You had Farm and Ranch inventory?

3 A That's right, sir.

4 Q You had inventory that was not there, but
5 that was ordered to fill an order, such as the fence
6 posts and barbed wire and so forth. Is that right?

7 A That's right, sir.

8 Q Now your testimony was previously under oath
9 that there was County equipment that you sold to the
10 County. Now, that is what I want to ask you about. Do
11 you remember that testimony?

12 A That is right, sir.

13 Q Do you mean to tell me that you knew that there
14 was equipment that was owned by the County and a man would
15 come in and want to buy it and that you would sell that
16 equipment to the County?

17 A Just like I said. This man came and he wanted
18 some posts. I asked Ramiro and he said, "Sell them to
19 him," and we would go get another trip and I would replace
20 them. That is right, sir. That's what I meant. I think
21 it's in the records, too. That is exactly what I said,
22 I think.

23 Q Let me see what the record says.

24 A I think that is what I said.

25 Q You didn't say anything about replacing them.

1 A Oh, I sure did.

2 Q You did?

3 A Yes, sir. I am sure I did. Yes, sir.

4 Q You didn't want to indicate that anything was
5 missing— In other words, the County—

6 A They had their equipment there, I mean others—

7 CHAIRMAN HALE: (Gavel.) Let's eliminate
8 the arguments. Counsel, ask the questions and let the
9 witness answer the questions and let's move on.

10 MR. MITCHELL: He's the Committee's witness.
11 I have completed.

12 CHAIRMAN HALE: Do you have any further
13 questions, Mr. Mitchell?

14 MR. MITCHELL: Thank you.

15 CHAIRMAN HALE: Do you have any questions,
16 Mr. Maloney?

17 MR. MALONEY: Just one. Could I get the
18 witness to sign his name three times to this slip of
19 paper.

20 A (The witness complied.)

21 MR. MALONEY: I will have this introduced
22 in the record.

23 CHAIRMAN HALE: Let the Chair make a
24 suggestion, before you introduce that in evidence; that
25 the Court Reporter or Mr. Johnson write on there, somewhere

1 on there, "Signature of Cleofas Gonzalez," so we can know
2 what it is, when we check it later.

3 (The paper referred to was
4 marked "Exhibit-71" for
5 identification.)

6 BY MR. MALONEY

7 Q Mr. Gonzalez, when you were given a check which
8 was signed by Mr. Arturo Zertuche to pay some type of
9 bill with, was this a blank check, blank in every respect,
10 except his signature?

11 A That is correct, sir.

12 Q Who would fill in that check?

13 A I will, myself.

14 Q Would you always be the one who did it?

15 A Well, for those checks that they gave me,
16 yes, sir. Yes.

17 Q When you had to pay a bill for Farm and Ranch,
18 who gave you a check to pay the bill?

19 A Ramiro Carrillo.

20 Q And it was blank in every respect, except the
21 signature of Ramiro Carrillo?

22 A That is correct, sir.

23 Q Who filled in the amounts, who you were going
24 to pay the money to and how much money?

25 A Myself.

Q Did you keep any type of books, whatsoever,

1 books of account?

2 A No, sir. All I kept were those invoices and
3 those canceled checks.

4 Q When you took things to Mr. Kirkland, what did you
5 just take them? The invoices and canceled checks?

6 A I added up all the invoices and that was mer-
7 chandise bought that year. Then I would add up all the
8 deposits. That was merchandise sold for that year. Then
9 out of those canceled checks, I would get all the rentals,
10 all the expenses, like light bills, oil and I would write
11 them. I would take him everything, just itemized and
12 just ready for him to—

13 Q Would you take him the bills, themselves, or
14 just the totals?

15 A No, sir. Just this. I never did take the
16 bills. I asked Ramiro if he wanted to take everything,
17 and he said, "No. Just skip it and in case somebody
18 wants to check, they can just come and check here.

19 Q You were telling the Committee something about
20 a time that Tomas Elizondo was unloading cement?

21 A Yes, sir.

22 Q Was there only one occasion on which cement
23 was brought there, or were there more than one occasions?

24 A There were more than one occasion. That's right.

25 Q So, would you be able to tell the Committee, if

1 we are talking about the cement that was supposed to
2 come from Mexico at the time Tomas Elizondo was unloading
3 it, or could it have been any time?

4 A I don't think it was Mexico cement. No, sir.
5 I don't know. I couldn't tell you that, sir, but I don't
6 think it was from Mexico.

7 Q Cement was a commodity that was sold there at
8 the Farm and Ranch?

9 A Yes, sir.

10 Q And from time to time, it would be ordered and
11 unloaded there? Is that correct?

12 A Yes, sir.

13 Q One more question: You mentioned that when
14 someone worked on contract labor and maybe only worked a
15 week or so in a month, their check wouldn't actually be
16 paid to them, until the next month, which is the
17 usual procedure?

18 A The County Commissioners meet every second
19 Monday of the month, you see, so it takes quite a long
20 while.

21 Q If someone came in and wanted what we might call
22 an advance payment or want their money, how would they go
23 about doing this?

24 A They would ask Ramiro and Ramiro would give
25 instructions and just give them whatever they needed,

1 or if they wanted the whole amount, for me to give the
2 whole amount.

3 Q Would you do that by writing them a check on
4 Farm and Ranch, or would you just keep a slip to see how
5 much they had?

6 A No, sir. I would write a check on Farm and
7 Ranch. Sometimes I had some cash there, you see, because
8 we don't have any bank in there. They would tell me, "I
9 need the cash." And if I had it there, I will give them.

10 Q When you gave it to them in cash, what would
11 you get in return?

12 A The other check.

13 Q Would you make any type of notation that you
14 had given Rene Martinez something?

15 A I would make a notation that I had gotten this
16 cash to pay this man. Yes, sir.

17 Q Would there be occasions when you would give
18 someone a check?

19 A That is correct, sir. Most of the time I gave
20 checks, but some people, you see, they don't have a way
21 to go to San Diego and they needed the cash and I had the
22 money there so I made him a favor and I would give them the
23 cash.

24 Q Was Pat Gonzalez any relation to you?

25 A No, sir.

1 Q What did he do before he came to work at Farm
2 and Ranch?

3 A Well, he had a sweet shop and then he had a
4 heart stroke and the doctors told him not to work anymore
5 at the sweet shop. He owned a little ranch. He told me
6 once that he felt like he wanted to do something, so he
7 went over to Ramiro Carrillo and asked him for a job. He
8 said, "Ramiro, I would like to do some kind of— I would
9 like to be here—"

10 Q Were you present at that conversation?

11 A Yes, sir. I was there when he went. He asked
12 Ramiro that if he had something for him to do, he said,
13 "I will work for any amount that you pay me. I want some-
14 thing to do." He was always, you know, liked to be with
15 people. He owned that sweet shop, you know. He started.
16 Ramiro hired him. He paid him about \$125 a month, or
17 something.

18 Q Was he paid out of the Farm and Ranch account?

19 A No, sir. He was paid by the County. He was paid
20 by the County.

21 Q When you ordered cedar posts, who did you order
22 those from?

23 A He ordered them from Austin. Ramiro would come,
24 you know, in the County car and try to locate where they
25 sell some posts and they would just call us, or go some

place around near Austin and get these posts.

Q Was there a company called "Benavides Cedar Posts" that you knew of?

A Yes, sir.

Q Where was it located?

A Well, the Cedar Posts started about that time that we started that construction, about 1960, let's say, and it was there in Benavides.

Q Who was the proprietor or owner of that, if you know?

A I think it was Oscar Carrillo. I think it was Oscar.

Q Do you know of any firm named Duval County Cedar Posts or Duval Cedar Posts?

A Is that company recent, or how has it been?

Q I am just asking you if you are familiar with that name?

A There have been so many deals there in Benavides that, probably, yes. Yes.

Q Did you make the sales tax reports to the Comptroller of Accounts?

A For Farm and Ranch Supply?

Q Yes.

A Yes, sir. I sure do. Yes, sir.

Q How did you arrive at the amount that you were

1 to pay the Comptroller?

2 A Well, they send me a form and I add up all those
3 invoices that I sell monthly and if it fits for this
4 Zertuche Store, that is a tax exempt for resale, so I left
5 that out. I just charged— I just did it like I was
6 supposed to, you know.

7 Q Let me ask you then: Did Zertuche General
8 Store ever sell anything to anyone who was not a County
9 entity, such as the Water District or the County or the
10 City of Benavides or any of those?

11 A I don't know, sir. I couldn't tell you.

12 MR. MALONEY: That's all that I have.

13 Thank you.

14 CHAIRMAN HALE: Mr. Hendricks?

15 BY MR. HENDRICKS

16 Q Just one or two points here. Mr. Gonzalez,
17 was there a General Store and a Zertuche General Store?

18 A They started with a General Store and it was
19 owned by Hector Zertuche. Then when he left to the Army,
20 his brother took over, Arturo. Then when Arturo got it,
21 it was changed to "Zertuche General Store."

22 Q Was there ever a Zertuche Store?

23 A Not that I know. Just by—

24 Q They are completely separate then, the General
25 Store and the Zertuche General Store? Hector had the

1 General Store?

2 A Yes, sir.

3 Q And is that the one the lady was employed by?

4 A I couldn't tell you, sir, because— I don't
5 know what she was trying to say. I think it was by
6 Hector, that General Store. I don't know.

7 Q Then the Zertuche General Store was by Arturo
8 Zertuche?

9 A Yes, sir.

10 Q And they were separate and distinct? Is that
11 correct?

12 A Yes, sir.

13 MR. HENDRICKS: Thank you. That's all I
14 have, Mr. Chairman.

15 CHAIRMAN HALE: Mr. Kaster?

16 BY MR. KASTER

17 Q Mr. Gonzalez, the place where the Zertuche
18 Store was, the building was not destroyed by the hurricane,
19 was it? It was just damaged?

20 A Yes, sir.

21 Q The building is still standing. Is that
22 correct?

23 A Yes, sir.

24 Q Where is that with regards to the highway?
25 Is it north of the highway, south of the highway or where?

1 A It's north of Highway 359. It is across the
2 railroad tracks.

3 Q When you first testified, I had written down
4 that you said that as far as you knew, the store was
5 formed about 1965, but they really didn't have any
6 merchandise. Is that correct?

7 A That's correct, sir.

8 Q The only time that you know of any merchandise,
9 there was a sale for a month or so of some Christmas
10 items?

11 A That is correct, sir.

12 Q From the front of the store, back to the counter,
13 is how far?

14 A It's about from here to there, about 15 feet.

15 Q About 15 feet. So that it would be very
16 difficult to get much merchandise in that much area. Is
17 that right? I mean a stove and an ice box?

18 A That is correct.

19 Q What happened to the merchandise at the
20 Christmas sale? Do you know what happened to that?

21 A No, sir. I don't know.

22 Q Did it just last a short time and then they
23 closed it up?

24 A That is correct, sir.

25 Q You don't even remember, did you say, when that

1 merchandise was supposed to have been brought over to the
2 Farm and Ranch Store?

3 A I don't want to say that that lady lied, but
4 I never did see— I was there. I never did see anything
5 like a stove or an ice box that belonged to them that was
6 put over there. No, sir. They never did. I am positive.

7 Q When you would sell things to the county, I
8 think you said you used a register that said "Zertuche
9 General Store". Is that correct?

10 A Right, sir.

11 Q Now when the County would pay, or whoever the
12 governmental entity was like the School District, the
13 Water District, the County, that money would come, made
14 out to Zertuche Store?

15 A Right, sir.

16 Q Then you would stamp it or endorse it. Then
17 you would do what with it?

18 A I would make a deposit and deposit it to the
19 Zertuche General Store and then I would make a check.

20 Q Then you had one of those checks that were al-
21 ready signed that was blank?

22 A Right.

23 Q What would you do with that?

24 A I would make a deposit to Farm and Ranch Supply.

25 Q So you would take the money right out of the

1 deposit and transfer it right over to Farm and Ranch
2 from Zertuche?

3 A That check. I would just deposit that check.
4 Yes, sir.

5 Q I think you said that on a couple of occasions,
6 and just a couple of occasions, they would tell you to
7 make a check to somebody else.

8 A Yes, sir. That's right.

9 Q How much per cent of the time, though, did you
10 do this?

11 A Very little, I can tell you.

12 Q Would you say that 90 or 95 per cent of the
13 time, money went from Zertuche to Farm and Ranch?

14 A That is correct, sir.

15 Q Is it that much? I mean that high a per cent
16 of the time?

17 A Well, as long as I know, what they bought. Yes.
18 Merchandise that I sold, just like I said. Yes. Maybe
19 there were some other checks that went—

20 Q You weren't authorized to sign checks either
21 from Farm and Ranch or from Zertuche?

22 A No, sir. No, sir.

23 Q The people that worked at Farm and Ranch, you
24 and I think you said Mr. Pat Gonzalez. Did you say that
25 Mr. Pat Gonzalez was paid by the County?

1 A Yes, sir.

2 Q You were paid by the County?

3 A Yes, sir.

4 Q Do you know of anyone who worked at the Farm
5 and Ranch Store that was paid by the Farm and Ranch
6 Store?

7 A Well, nobody that worked for the Farm and Ranch,
8 at the store. Probably sometimes they hired somebody to
9 do something. That was contract labor.

10 Q I am talking about day-to-day for running the
11 store?

12 A No, sir. No, sir.

13 Q So you and Mr. Gonzalez, running the store, were
14 paid by the County?

15 A Yes, sir.

16 Q The place where the cement was stored, where
17 is that in regard to the main part of the building?

18 A Well, it's behind, in a special room that was
19 made there by the old lumber yard for cement.

20 Q Is it a tin building?

21 A Yes, sir.

22 Q And then that's where they stored cement?

23 A Yes, sir.

24 Q For the Farm and Ranch Store, where did you
25 store cement? In that same building?

1 A In that same place. Yes, sir.

2 Q And you stored tires and cement in there?

3 A Right, sir.

4 Q And periodically, you would get cement in there
5 for sale. If the County wanted to buy cement or if
6 somebody wanted to buy cement, they'd pick it up there?

7 A Right, sir.

8 Q When the County wanted to pick up items, from
9 the County, would they come see you and you go get it?

10 A They had to. Yes.

11 Q Did you have some method of keeping track of
12 the items that you sold to the County that were County
13 items? How did you handle that?

14 A I could tell you, yes, sir.

15 Q Would you mark that out? If a guy took five
16 bags of cement that belonged to the County—

17 A Well, no. No. Whatever was there—it belonged
18 to the Farm and Ranch.

19 Q The County didn't own any items there?

20 A Well, not but tools. They had some tools there,
21 like shovels.

22 Q I am talking about if they wanted to buy
23 cement.

24 A No new merchandise. No, sir.

25 Q They would always buy it through Farm and Ranch,

1 but you would bill it through Zertuche?

2 A That is correct, sir.

3 Q As far as you know, the whole time you were
4 there, after the 1967 or whenever that hurricane was,
5 the only thing that you had from Zertuche was a register?

6 A That is correct, sir.

7 Q And there was nothing else. Now, you keep
8 track of the items that were sold by Zertuche and take it
9 to the accountant and he could do whatever he wanted with
10 it, at the end of the year?

11 A That is right, sir.

12 Q And you would take another account from Farm
13 and Ranch and do the same thing with that?

14 A That is right, sir.

15 Q Now, on the food stamps that you have testified,
16 not food stamps, but those white forms that you testified
17 to earlier, would you tell us again how that worked?
18 Was this while you were at Farm and Ranch?

19 A Yes, sir.

20 Q I think you testified that the people at the
21 store—or who would tell you to take those white slips?
22 What would you do with those white slips?

23 A Those white slips were taken by me at the end
24 of the month by Mr. Yzaguirre. Yes.

25 Q What would you do with them?

1 A I would take out the order, on an order that
2 they were supposed to be giving out, where it says,
3 "name of person" whose got this order, I would write,
4 "list," so I wouldn't make so many. I would write three
5 or four names on one, you see, so it would save me some
6 work to do. I wouldn't have to make one for everybody,
7 so I just wrote, "list."

8 Q Did you know the people on those white slips?

9 A Some of them I did, sir, and some of them, I
10 didn't. If they wrote just "Mr. Garcia," there are a
11 lot of Garcias. I don't know which Garcia I got. I
12 couldn't tell that. I always asked Mr. Carrillo, "O. P.
13 brought me this. Do I make them out?" And he said,
14 "Yes, go ahead. Those are people that O. P. helped."

15 Q Judge O. P. Carrillo would bring them to you?
16 Mr. O. P. Carrillo would bring you these slips?

17 A No, sir. The grocery man.

18 Q The grocery man would bring them?

19 A Yes, sir. Yes, sir.

20 Q Then you were trying to find out who they were
21 and they would say, "Well, O. P. helped them."

22 A Well, sir, when I was making them out, I could
23 tell. Some names didn't go right, but I couldn't do
24 anything about it.

25 Q Because you were doing what you were told. They

1 told you to make a list and you made a list?

2 A That is correct, sir.

3 Q Now, there seems to be some confusion as to when
4 you left Farm and Ranch. In the first part of your
5 testimony to Mr. Mitchell, you said it was in 1972 and
6 later on you said it was in May of '74.

7 A It was in May of '74, when I left.

8 Q When you split with Carrillo, didn't you leave
9 right then?

10 A I didn't split with the Carrillo. I just didn't
11 want to work there any more.

12 Q Was this in '72 or '74?

13 A '74.

14 Q When did you work for Page Airways?

15 A That time, just one month.

16 Q Was this in '74 or '72?

17 A Probably in '72, I guess. '72.

18 Q Then you went back in '72 and continued to work
19 where?

20 A At that same, for the County.

21 Q Farm and Ranch?

22 A They paid me for that month that I was off.
23 They paid me for it.

24 Q You went back to work with Farm and Ranch in
25 '72 after you worked for Page Airways?

1 A Yes, sir.

2 Q You worked there for two more years?

3 A Yes, sir.

4 MR. KASTER: I think that's all.

5 CHAIRMAN HALE: Ms. Weddington?

6 Mr. Chavez?

7 MR. CHAVEZ: No, sir.

8 CHAIRMAN HALE: I'm sorry, Ms. Thompson.

9 I didn't see you. Ms. Thompson.

10 BY MS. THOMPSON

11 Q Mr. Gonzalez, those food slips that you showed
12 us here one night, the first night you testified: Did
13 you ever receive any of those food slips coming from the
14 Cash Store.

15 A I don't—

16 Q Mrs. Yzaguirre's store, the Cash Store. Did
17 any of them ever go to that store? Did she ever have to
18 pick up any food slips from that store, from people who
19 went by to get groceries?

20 A I don't understand what you mean.

21 Q You know the Cash Store?

22 A Yes, ma'am.

23 Q Did anybody ever need food and come to you and
24 say, "We would like to have some food," or "We need some
25 food," or did they ever get a slip from the Commissioner
and go to the Cash Store to buy groceries?

1 A Yes. A lot of people go there for help. Yes,
2 ma'am.

3 Q Did they ever use any of those little white
4 slips?

5 A No, ma'am. When they go there, I give them
6 out an order that I make myself and I ask the—

7 Q What did you make them on? Did you make them
8 on a Zertuche order form?

9 A No. The regular Duval County Welfare order.

10 Q No, before you went to work for the Welfare
11 Department and when you were working for the Farm and
12 Ranch Store. When you were working for the Farm and
13 Ranch Store, did anybody ever come by and get any of
14 those white slips and go over to the Cash Store to buy
15 groceries?

16 A Not white slips. No. They got the original—
17 Ramiro Carrillo was in charge of that. I would fill them
18 out and I would tell Mr. Carrillo that people, you know,
19 people know when Mr. Carrillo gets the form. Mr. Carrillo
20 is at the Farm and Ranch every morning, you see, and
21 people always, when they need, they will wait for him
22 there until they catch him. If they don't catch him in
23 the morning, that's it. They won't catch him at all.

24 So, they talk to Mr. Carrillo and say, "Mr.
25 Carrillo, I need an order, please." Mr. Carrillo would

1 tell me. I would take the book to Mr. Carrillo. He
2 would sign the order and I would give them whatever Mr.
3 Carrillo said to give them. No slips, orders, original
4 orders.

5 MS. THOMPSON: Thank you, Mr. Chairman.

6 BY MR. CANALES

7 Q Would you look at these, please?

8 Mr. Gonzalez, I want to direct your attention
9 to that first page of that Carrillo Exhibit. Would you
10 look at the number on it, please, at the bottom? I think
11 it's circled. It is 63?

12 A It is "Car-63." Yes, sir.

13 Q Car-63. Do you recognize that invoice?

14 A Sure. Yes, sir.

15 Q It has been brought to the attention of this
16 Committee that that was material used on the Ranch Store
17 which was built on O. P. Carrillo's ranch. Was that
18 material delivered to the City Hall?

19 A Yes, sir.

20 Q The City Hall project that was done by Gabriel
21 Gonzalez?

22 A That's right, sir. Yes, sir.

23 Q Would you look at the next page and give me the
24 number off of it.

25 A That is "Car-64."

1 Q Where was that material delivered?

2 A Some of this material here, it came on that
3 truck, too.

4 Q That same?

5 A Yes, sir.

6 Q But at least that first page, 63?

7 A I know that all this material on page—on 63
8 and well, this 64 and then let's go back to it. I didn't
9 receive this merchandise. No.

10 Q Let's look at 63 again.

11 A 63, yes.

12 Q Has it got your signature on it?

13 A Yes, sir. Yes, sir.

14 Q I would like to ask you, there was a question
15 raised the other day about sales tax. Were any sales made
16 or was material ever bought through the Farm and Ranch
17 Store and picked up by anybody other than a governmental
18 entity whereon the sales tax was not paid?

19 A Yes, sir. Well, by May 15 of '74, I think I
20 was already out, but I am not sure. I was not working
21 for Farm and Ranch right then. I understand now what you
22 say. Yes. I think that some of the merchandise was
23 delivered to O. P. Carrillo. I think we didn't even make
24 an invoice for it.

25 Q You didn't even make an invoice for it?

1 A No, sir. No, sir.

2 Q Then it wouldn't have been included in the
3 invoices that you sent to Mr. Kirkland?

4 A No, sir.

5 Q He just went and picked up material. You never
6 billed him for it and this was never reflected in the
7 records which you sent to the accountant when he prepared
8 the income tax returns?

9 A I think that is correct, sir.

10 MR. CANALES: Thank you.

11 CHAIRMAN HALE: Mr. Chavez?

12 BY MR. CHAVEZ

13 Q Mr. Gonzalez, I am a little bit confused. I
14 need you to help me out here.

15 You remember the first time that you testified,
16 Mr. Hale asked you some questions. Mr. Mitchell went over
17 some of those questions. That has to do with some of the
18 checks in the County that were brought over by Mr.
19 Ramiro Carrillo to be cashed and supposedly the money was
20 to be given to the people.

21 A It was given to Ramiro Carrillo after I got the
22 check, sir.

23 Q Now, do you know whether or not Ramiro Carrillo
24 had already cashed these checks for those people?

25 A I don't get you.

1 Q Okay. Go over again for me what it was that you
2 did with those checks? How it was that you cashed them?

3 A A lot of times, besides these checks that I
4 got—besides these people that went over that they needed
5 their money in advance, Commissioner Carrillo a lot of
6 times gave me about six or eight checks of the amount of
7 \$200 for me to bring him the cash.

8 Q Okay. Those names that were on those checks,
9 did you know the people that were on there, the people,
10 the names on those checks? Did you know those people?

11 A I guess. Yes. Yes, sir.

12 Q Were they real, live people?

13 A I would say, yes, sir. Yes, sir.

14 Q Do you know of any time that Ramiro Carrillo
15 gave you a check made out to a person that did not
16 exist?

17 A I don't think so, sir.

18 Q The reason I asked you that, that is what I
19 understood you to tell Mr. Mitchell.

20 A Uh huh.

21 Q When Mr. Hale was asking you this, he was asking
22 about these checks. And he said, "And the payee on the
23 cashed checks would be a fictitious payee, somebody that
24 did not exist"?

25 A I didn't say that, but that is not what I meant.

1 Q In other words, you didn't understand Mr. Hale's
2 question?

3 A I did understand, but, you see, when they write
4 like "J. Perez," or "C. Perez," who do you go by that?

5 Q I don't know, Mr. Gonzalez. Mr. Hale nor I
6 were there, so we don't know. We don't know these people,
7 that's why we have to rely upon what you are telling us.

8 A That's right, sir.

9 Q And you are telling us, your testimony here is
10 under oath and it is very important, and I think you are
11 trying to be fair with us and tell us the truth. But, now
12 are you telling us that you never saw a check that was made
13 out to a person who did not exist?

14 A Well, these letters have, I don't know anybody—
15 you know, when I got these checks, I don't know anybody
16 by— Do you understand?

17 Q No. I am asking you: Do you know, and you are
18 telling us here under oath, that Ramiro Carrillo gave you
19 some checks made out to persons that did not exist?

20 A I think so. Yes.

21 Q Are you sure?

22 A Sure. Yes.

23 Q Okay. How many checks did he give you?

24 A I couldn't tell. I can't tell you, sir.

25 Q How do you know that the people did not exist?

1 A Well, because those letters, those "J. Perez,"
2 or—

3 Q You've never seen a check made out just to the
4 first initial and the last name?

5 A Not an important check like a County check.
6 No, sir.

7 Q But I mean— I don't want you to guess. I want
8 you to be absolutely sure.

9 A Ask me your question again.

10 Q Did Ramiro Carrillo give you checks made out
11 to people that did not exist?

12 A He did.

13 Q How many checks?

14 A I can't tell you, sir.

15 Q What were the names of these people that did
16 not exist?

17 A I don't remember, sir.

18 Q How do you know they did not exist?

19 A By the names, sir.

20 Q Well, now: What did you do to find out that
21 they did not exist?

22 A I didn't do nothing, sir. It's just my imagina-
23 tion.

24 Q It's just your imagination?

25 A Yes, sir.

1 Q Okay. Then you do not have actual proof that
2 those people did not exist?

3 A Well, we will find out one of these days.

4 Q I am asking you now, because you are here today.
5 I am asking and I want to find out.

6 A I have already told you. No, when you asked
7 me that.

8 Q But you also said that it was your imagination.

9 A Well, you asked me another question and I said
10 another answer.

11 Q Do you just think that these people do not
12 exist?

13 A They did not exist.

14 Q And it is not up to your imagination? You are
15 absolutely sure?

16 A I am sure. I will take it that way.

17 Q What period of times did he give you these
18 checks? When?

19 A Oh, I can't remember, but let's say three years
20 back. I mean he gave it for several months, you know.
21 He made it out for a long time.

22 Q Well, did it go on every month?

23 A Probably so. Yes.

24 Q Well, I don't know, Mr. Gonzalez. You need
25 to be a little bit more sure with me anyway. You say

1 "probably so." I mean, did he; or didn't he?

2 A Yes, sir.

3 Q Every month?

4 A Yes, sir.

5 Q For how many years?

6 A Three years.

7 Q What years would those be?

8 A Let's say '70, '71, '72, '73.

9 Q And '74, he didn't do it?

10 A I don't think so. He probably did. I don't
11 know. I am just giving you more or less.

12 Q Now, Ramiro Carrillo would bring you these
13 checks and you would return the money?

14 A Yes, sir.

15 Q Did you give the money only to him?

16 A Correct, sir. Yes, sir. Yes, sir.

17 Q Only to him? Nobody else?

18 A Nobody else, sir.

19 Q You didn't give any of this money to O. P.
20 Carrillo?

21 A No, sir.

22 Q If Ramiro Carrillo was doing something wrong
23 by cashing these checks and keeping the money himself,
24 you don't have any evidence to show us that O. P.
25 Carrillo benefitted from that money?

1 A No, sir. I don't have no proof.

2 Q What Ramiro Carrillo did with that money, you
3 don't know?

4 A I don't know, sir.

5 Q But none of these activities were related to
6 O. P. Carrillo in any way?

7 A I don't think so.

8 Q Now, earlier when you testified to Mr. Mitchell,
9 when you were giving out this help to the people, you
10 said that you kept a record of all the people that you
11 helped?

12 A When I took over?

13 Q Yes.

14 A Yes, sir. Yes, sir.

15 Q Where did you keep these records?

16 A I've got them in my possession. Not right now,
17 but I have them where I work, at Benavides Implement.

18 Q Do you have an office there?

19 A Yes, sir.

20 Q Were you required to keep this list?

21 A I did it for my protection.

22 Q Well, you know that the County kept a list? You
23 gave them a list, did you not?

24 A Yes, sir, I did. Yes, sir.

25 Q You gave them the records?

1 A Yes, sir.

2 Q And there was some little conversation there
3 that you had quit Ramiro Carrillo and you had gone to
4 Archer Parr and this was some time last year?

5 A Yes, sir.

6 Q Was this about the time that Ramiro Carrillo
7 and Archer Parr had split?

8 A I think they were still together at that time.

9 Q You think they were still together?

10 A Yes, sir.

11 Q Were they having problems at that time?

12 A Well, I don't know.

13 Q You say you kept this list for your own
14 protection?

15 A Yes, sir. When I took over. Yes.

16 Q You don't keep this list in order to check it
17 off against a voter's list at the time of election?

18 A No, sir.

19 Q Tell people—

20 A I don't go for that. No, sir.

21 Q To tell people— You didn't do this to tell
22 people at election time, "Well, now, I helped you when
23 you needed help, and now, it's time for you to help me,
24 by voting for so and so"?

25 A No, sir. The first time that I was— In April

1 of this year, of '74, I got a call from Mrs. Elvira
2 De Leon and she said, "Cleofas, stop giving orders, be-
3 cause Mr. Carrillo wants you to stop giving orders, be-
4 cause there are some ladies that are instructing people
5 how to vote and they say that you are giving out orders
6 for \$30 for food so they can vote for you all."

7 I told Mrs. De Leon, "That's a lie, because
8 you can come and check or you can check when I take those
9 orders. That's a lie. I am not doing that."

10 Q In other words, you do know that some people
11 did say that?

12 A Yes, sir. Those people, they had working for
13 them, you know, trying to make people vote for them.
14 They were saying this lie. Yes.

15 MR. CHAVEZ: That's all, Mr. Chairman.
16 Thank you.

17 MR. CANALES: Mr. Chairman, I have a
18 couple of other questions.

19 CHAIRMAN HALE: Mr. Canales?

20 BY MR. CANALES

21 Q Mr. Gonzales, I would like to ask you some
22 questions on the advances that were so benevolently made
23 by Mr. Ramiro Carrillo on checks that were going to be
24 made out or on claims, for County workers, since they
25 wouldn't be paid until a month later. You would write a

1 check from Farm and Ranch Store, generally. Sometimes
2 you give cash?

3 A Yes.

4 Q But, generally, you would write a check to
5 these people and give it to them?

6 A That's correct, sir.

7 Q That was because their paycheck would not be
8 coming until some time maybe a month later. Right?

9 A That is correct, sir.

10 Q When you prepared your expenses for the Farm and
11 Ranch Store, did you deduct this amount as labor?

12 A No. I just left them out.

13 Q You didn't include them in the—

14 A Yes, sir. That was just—

15 Q —records that were sent to Mr. Kirkland?

16 A Yes, sir. I would write "loan," I think on the
17 bottom there where it says, "for," or something like this.
18 Just "loan," or something like that.

19 Q So it wouldn't have been deducted as an expense?

20 A No, sir. I left them out.

21 Q Let me ask you: You saw the checks that came in
22 later, because they were deposited in the Farm and Ranch
23 Store? Right?

24 A Yes, sir.

25 Q Because the Farm and Ranch Store was later

1 reimbursed for this disbursement?

2 A Yes.

3 Q Now, just one brief question: Were the checks
4 that you made out in advance always in the same amount
5 as the checks that you received from the County?

6 A That is correct, sir.

7 MR. CANALES: Thank you.

8 CHAIRMAN HALE: Any further questions?

9 MR. MITCHELL: Mr. Hale, may I request that
10 the sworn testimony of this witness previously taken,
11 and taken today under oath, together with that of Mrs.
12 Elvira Rodriguez and Mrs. Lauro Yzaguirre, be certified
13 and delivered to the Grand Jury of Travis County for the
14 purpose of determining whether or not the offense of
15 perjury has been committed, by any or all of them?

16 CHAIRMAN HALE: Mr. Mitchell, the matter of
17 referring any of this matter to the Grand Jury will be a
18 matter that the Committee will take up. We appreciate
19 your interest in it.

20 MR. KASTER: Mr. Chairman, if we are going
21 to do that, there are several others that we could just
22 send over there.

23 CHAIRMAN HALE: Yes. I sincerely trust,
24 Mr. Mitchell, that you are equally zealous, as the
25 Committee is, in trying to ferret out all of these misdoings.

1 BY CHAIRMAN HALE

2 Q Mr. Gonzalez, the Chair would like to ask you
3 one or two questions pertaining to the calendar year 1970.
4 Were you operating and running this operation during
5 the calendar year 1970?

6 A Yes, sir.

7 Q You were being paid by the County during the
8 year 1970?

9 A Yes, sir.

10 Q But your duties were there at the Farm and
11 Ranch Store?

12 A Well, yes.

13 Q You were operating the Farm and Ranch Store?

14 A Yes. The County Commissioner has got his office
15 there, too, sir.

16 Q Now, were you aware that Arturo Zertuche filed
17 an income tax return for the year 1970 in which he re-
18 ported gross receipts of \$72,974?

19 A No, sir. I haven't. Nobody has talked to me.

20 Q During the year 1970, did you sell merchandise
21 of the value of \$72,000 through the Zertuche General
22 Store?

23 A It is hard for me to say, sir.

24 Q I understand.

25 A Yes, sir.

Q On this tax return, it also shows for the

1 calendar year 1970, that they paid out rent on business
2 property of more than \$18,000.

3 A I don't think that's right.

4 Q What business property would the Zertuche
5 General Store have been renting during the calendar year
6 1970? Do you know?

7 A (The witness shook his head.)

8 Q Do you know of any business property they would
9 have been renting during the calendar year 1970?

10 A The Zertuche General Store?

11 Q The Zertuche General Store.

12 A I don't know that they owned anything. No, sir.

13 Q It also shows a deduction during 1970 for
14 "salaries and wages paid" and it's difficult for me to
15 read these figures. It is either \$404 or \$604. I can't
16 be sure of that first digit. Do you know of anyone that
17 was employed there that was paid either \$404 or \$604 in
18 wages by the Zertuche General Store during 1970?

19 A I don't know, sir. Really. No.

20 Q Did you receive any money, yourself, as wages
21 from Zertuche General Store?

22 A No, sir. Not at penny. Not even from Farm
23 and Ranch, nor Zertuche. No, sir.

24 Q Your total compensation came from Duval County?
25 Is that correct?

1 A That's right, sir.

2 (The witness nodded.)

3 Q It also showed "commissions paid" of \$4,000
4 during the calendar year 1970. Do you know who these
5 commissions would have been paid to?

6 A No, sir.

7 Q It shows disbursements for gasoline and oil
8 during 1970. I am not sure I am reading this figure
9 correctly. It looks to be 2,385 dollars. What would the
10 Zertuche General Store have been using that they would
11 have used gas and oil of \$2,300?

12 A I couldn't tell you, sir. They said they had
13 some rental equipment, but I don't know if they really
14 did or not. I couldn't say.

15 CHAIRMAN HALE: Are there any other questions
16 of this witness?

17 Ms. Weddington?

18 BY MS. WEDDINGTON

19 Q How much inventory did the Farm and Ranch Store
20 actually have? When you talk, for example, about it having
21 feed on hand. Did it have two sacks or ten, or twenty,
22 or sort of how much inventory was there of various items?

23 A About \$4,000 or \$5,000 worth.

24 Q Total?

25 A Yes, ma'am.

1 Q Sort of translate that for me. I have a hard
2 time figuring out how much \$4,000 in equipment actually
3 is? I mean, how much was there in the building?

4 A Equipment, or are you talking about merchandise?

5 Q Merchandise or whatever Farm and Ranch—

6 A We had a good stock of merchandise, ma'am.

7 Q I don't know what a "good stock of merchandise"
8 is.

9 A Well, we had a lot of auto parts, bolts, nails,
10 hardware, paint.

11 Q You had paint?

12 A Yes, ma'am.

13 Q Did you usually have like 50 gallons on hand?
14 Or did you just order it?

15 A No, ma'am. We just had about four gallons of
16 each like oil and aluminum paints and a few house paints
17 in quarts. We didn't have a very large stock, but we had
18 some.

19 Q Would you say on most of the items like how
20 many stoves and refrigerators would you have had on hand?

21 A None, ma'am.

22 Q Was there a stove and refrigerator from Zertuche
23 that had been there?

24 A No, ma'am. I never did see one in there. We
25 had a refrigerator that belonged to the hunters, you know.

1 But they will take it out. It's a freezer that they use
2 while hunting. When the hunting season started, they would
3 take this freezer and then they brought it back in. That's
4 the only freezer we had. But that is a freezer.

5 Q But no refrigerator at all?

6 A No, ma'am.

7 Q What about stoves?

8 A No, ma'am. I never did see a stove in there.

9 Q Did you ever have bicycles?

10 A No, ma'am.

11 Q So, really, you could get whatever you wanted,
12 but there were very few items, big items, anyway, that
13 were there in stock?

14 A That's right. I bought a lot of refrigerators
15 and washing machines from the Whirlpool Company, but you
16 see, somebody would order them and I would just get them
17 for them and sell them.

18 Q You didn't keep the floor full of Whirlpools?

19 A No. I didn't have a floor plan. No, ma'am.

20 They took away the franchise because of that,
21 I guess. Yes, ma'am.

22 MRS. WEDDINGTON: Thank you.

23 CHAIRMAN HALE: Are there further questions?

24 Mr. Kaster?
25

1 BY MR. KASTER

2 Q Mr. Gonzalez, is there a sign on the Farm and
3 Ranch Store that says, "This is the Farm and Ranch Store"?

4 A No, sir.

5 Q Was there a sign on the Zertuche Store that
6 said, "This is the Zertuche Store"?

7 A I didn't see one. No, sir.

8 Q Was there a sign that said either "General Store"?

9 A No, sir.

10 Q So most of the stores in Benavides don't even
11 have signs on them?

12 A There are quite a few stores that don't have a
13 sign on them in Benavides.

14 Q Does the Cash Store have a sign on it that says
15 "Cash Store"?

16 A I believe so. I'm not sure.

17 Q Most of the stores there don't have signs. People
18 just have to know where they are?

19 A That's right. Yes.

20 MR. KASTER: Thank you.

21 CHAIRMAN HALE: Mr. Canales?

22 BY MR. CANALES

23 Q Mr. Gonzalez, one other question: There was some
24 discussion yesterday, a question raised as to the process
25 used in Duval County for bids to repair the City Hall
which belongs, I think, to the Water District. Were you

1 working for the Duval County at the time that the City
2 Hall was repaired?

3 A Yes, sir. I was working there and that one day
4 that the City had a City Alderman meeting, I went over
5 and told them that I knew that this building was going to
6 be replaced and I needed some money, so I told the
7 Mayor, Octavio Saenz, that I would like to bid on this
8 job. He told me, "Well, I'm sorry, Cleofas," because
9 it came out in the paper, you know. They were taking
10 bids. It came out in either the Corpus or the Alice
11 paper, I don't know. So I went over to that meeting and
12 asked them— I do a little carpentry myself. I do any
13 kind of a job, so I wanted to get that job and he told
14 me, "Cleofas, I'm sorry, but you can't do anything here,
15 because for political reasons, we already have somebody
16 that is going to do the work."

17 I told him, "Then, why did you advertise it in
18 the paper," and we started arguing there. I started
19 arguing with Mayor Saenz, Octavio Saenz. And he said,
20 "Well, Cleofas, you know how it is here. For these political
21 reasons, we've already got somebody that's going to do
22 the job!" I got mad and I told him a lot of things there.
23 He can come and testify, if he wants to. I told him
24 there. They gave it to this boy that came and testified
25 yesterday.

1 Q Who is the daughter of Octavio Saenz? That is
2 the Mayor, isn't he, of Benavides?

3 A Sir?

4 Q Who is the Mayor's daughter in Benavides?

5 A He's got two daughters. They are related to
6 me, but I don't even know their names. I think one is
7 Anna and the other, I don't know.

8 MR. CANALES: Okay. Thank you.

9 CHAIRMAN HALE: Are there further questions?

10 Mr. Hendricks?

11 BY MR. HENDRICKS

12 Q Mr. Gonzalez, looking at this 1970 calendar
13 year income tax return of Arturo Zertuche, it shows there
14 is a depreciation of a '65 Chevrolet in there. Do you have
15 any knowledge of Arturo owning a '65 Chevrolet?

16 A '65? Well, I know the Judge gave him some. He
17 had a truck, but I don't know if it's '65, really. I
18 couldn't say.

19 Q Did the Farm and Ranch Store own a '65 Chevrolet?

20 A Well, they've got so much equipment that I
21 couldn't tell you, sir. Really, I wouldn't like to go
22 into it.

23 Q It also shows a \$4,000 legal and professional
24 fees in it. Have you got any idea what Arturo might have
25 paid \$4,000 to some lawyer for?

A No, sir. I couldn't. No.

1 Q Do you have any idea of what the gross sales,
2 the Farm and Ranch Store made to the governmental entities
3 of Duval County in 1970?

4 A Just to Duval County?

5 Q Well, to the governmental entities in Duval
6 County?

7 A Well, I'd say about 60 per cent of what they
8 sell is for the government. Yes.

9 Q Would that have approached \$72,974 sales to the
10 government, the Water District, School District, Duval
11 County?

12 A I think that is too much. No, that is— I would
13 say about forth, in all, but 72— I don't think so.

14 Q Well, would you say it would be somewhere around
15 \$44,000?

16 A Well, that looks more like it. Yes.

17 Q It shows the telephone expense for this general
18 store. Has there ever been a telephone listed for Arturo
19 Zertuche General Store, to your knowledge in Benavides?

20 A Well, it's probably somewhere else, but not—
21 I don't know where, sir.

22 Q Have they ever had any utilities? There is
23 a \$681.96 deduction of utilities. Have they ever had
24 lights and water in that old building down there, or did
25 they have, in 1970?

1 A I don't think so, sir. I don't know.

2 MR. HENDRICKS: I believe that's all I
3 have, Mr. Chairman.

4 CHAIRMAN HALE: Are there other questions?

5 Ms. Thompson?

6 BY MS. THOMPSON

7 Q Mr. Gonzalez, did I hear you earlier testify
8 that you knew about everyone there in Benavides?

9 A Yes, ma'am.

10 Q You are pretty familiar with things that go on
11 in Benavides?

12 A Yes, sir. I have been there everyday.

13 Q Who has been driving those El Dorados and Thun-
14 derbirds down there that the County has been paying
15 insurance on?

16 A Well, not in Benavides. Probably in San Diego,
17 but not in Benavides.

18 BY MR. MITCHELL

19 Q You mean you all have been running around in
20 the dark without no running water in that store, the
21 Zertuche Store, 1970?

22 A (No response.)

23 Q Sir?

24 MR. HENDRICKS: Are you talking to me?

25 MR. MITCHELL: No. The witness, Mr.

1 Hendricks. (Laughter.)

2 A Oh, you are talking to me?

3 Q Yes, sir. It's not proper for me to address
4 questions to the Committee.

5 A I think all of those pipes have been busted since
6 I first got there. We started plumbing wrenches in that
7 building.

8 Q Can you answer my question: Have you had no
9 running water and no lights in that building?

10 A I don't know, sir. I don't know.

11 Q And, as a matter of fact, when you paid the
12 note to the Alice Bank, it was on that Chevrolet that
13 Mr. Hendricks asked you about, and you knew that, didn't
14 you? That's why you paid that note, was Arturo's
15 Chevrolet.

16 A Well, it was just a car note, but I don't know
17 what car. It didn't say there. They just told me "Send
18 the check." How did I know what car it was? I didn't see
19 that note. I didn't ask anything, sir.

20 MR. MITCHELL: No further questions.

21 CHAIRMAN HALE: Any further questions?

22 (No response.)

23 CHAIRMAN HALE: Mr. Gonzalez, thank you
24 for coming back.

25 The Chair will advise you that you may return

1 to Duval County and continue with your work. You are
2 still under subpoena to the Committee. Unless you hear
3 from us to the contrary, you go on about your business.

4 If we need you further, we will get in touch
5 with you.

6 A Thank you, sir.

7 CHAIRMAN HALE: The same instructions as
8 we had before. Do you understand?

9 A Yes, sir.

10 CHAIRMAN HALE: Thank you very much.

11 (The witness, Cleofas Gonzalez, was excused.)

12 CHAIRMAN HALE: Members of the Committee,
13 according to my clock, it's 12:00 o'clock. Possibly we
14 should recess at this point. We have two other witnesses
15 this afternoon.

16 Will all the members of the Committee please
17 stand by here for just about 30 seconds after we recess.

18 Mr. Maloney moves that the Committee stand
19 recessed until 1:30 this afternoon. Is there objection?

20 The Chair hears none and the Committee stands
21 recessed until 1:30 o'clock p.m. today. (Gavel.)
22
23
24
25

1 THURSDAY, JUNE 12, 1975

2 AFTERNOON SESSION

3 (The hearing was reconvened at 1:30 p.m. pur-
4 suant to the luncheon recess.)

5
6 CHAIRMAN HALE: The Committee will come
7 to order.

8 Members of the Committee, the Clerk advises
9 me that she has reduplicated a list of all of the
10 exhibits which have been put into evidence up until this
11 point and a revised list has been made in front of each
12 member of the Committee. I call it to your attention,
13 because you have received so much material, stacked up
14 in front of you that it may get lost. I think you will
15 find that list to be very helpful in trying to check
16 through the Exhibits.

17 It even includes the Exhibit 71 which was put
18 into evidence shortly before we took the noon recess.

19 Is there any business of the Committee, before
20 we start hearing testimony?

21 Mrs. Yzaguirre, would you take the stand,
22 please?

1 MRS. LAURO YZAGUIRRE

2 previously called as a witness, was recalled by the
3 Committee and having been duly sworn, testified further
4 as follows:

5 EXAMINATION

6 BY CHAIRMAN HALE

7 Q Your name is Mrs. Lauro Yzaguirre?

8 A Yes, sir.

9 Q You are the same Mrs. Lauro Yzaguirre who
10 testified earlier before this Committee?

11 A Yes, sir.

12 Q We welcome you back and thank you for coming
13 back on our request.

14 You will remember that the Chair at that time
15 swore you to tell the truth, the whole truth and nothing
16 but the truth?

17 A Yes, sir.

18 Q Do you understand that you are still under that
19 oath—

20 A I do.

21 Q —in your appearance before the Committee?

22 A Yes, sir.

23 Q Likewise, you will recall that the Chair advised
24 you of your rights with respect to your appearance here
25 and that advice still goes at this time?

1 A Yes.

2 Q Do you understand that?

3 A Yes, sir. I do.

4 Q Mrs. Yzaguirre, you testified before the
5 Committee in your previous appearance concerning the fact
6 that there were numerous people that came into your store,
7 purchased groceries for the account of Judge O. P.
8 Carrillo, took the groceries out and you charged that to
9 the Judge Carrillo account. Is that correct?

10 A I did. Yes, sir.

11 Q And that up to \$400 each month of that bill was
12 paid to you on a check from Duval County?

13 A As far as I remember, as I told the Committee.

14 Q And that Judge Carrillo, if the bill ran more
15 than \$300, is my recollection of your testimony, if the
16 bill ran more than \$300, then Judge Carrillo would write
17 you a check for the difference?

18 A Either write me a check, or if he didn't have
19 time to come, I would just get that balance and run it to
20 the next month.

21 Q Carry it forward?

22 A That's right.

23 Q Now, there is testimony and evidence to the
24 effect that Judge Carrillo issued to the Cash Store numerous
25 checks, and I would ask you the question— I am going to

1 show you photocopies of a number of checks here and I
2 would ask you as a predicate for that—

3 A First, sir, do you have all checks that have
4 my endorsement there?

5 Q Well, these checks don't show endorsements. I
6 am going to—

7 A Okay.

8 Q — I am going to show you the checks and ask
9 you about them.

10 A Okay.

11 Q First, I would ask you this: Did you ever
12 accept any checks signed by Judge Carrillo for which you
13 gave out cash in return? Did you ever cash any checks?

14 A That's very common in Benavides, because we
15 don't have a bank. Not just to Judge Carrillo, but
16 for a lot of people we know, we do the same services.

17 Q So you would have a lot of checks flowing through
18 your store that were not necessarily for merchandise?

19 A That's the truth.

20 Q Is that right?

21 A That's right.

22 Q Where people just come in and cash a check?

23 A In case people would want to go on a trip, or
24 something, we don't have a bank. They would come to me
25 and if I know the people, like we know most of the people

1 there, I would cash the checks. The Cash Store would
2 cash the check for maybe 10, 20, 30, 50 or 300— I mean,
3 it all depends, I mean. That didn't mean that bought
4 that many groceries. That was cash, you know. And not just
5 to Mr. Carrillo, but to a lot of people buying there.

6 CHAIRMAN HALE: Could we see Carrillo
7 Exhibit No. 32?

8 Hand it to the witness.

9 (Exhibit 32 was furnished to the witness.)

10 Mr. Johnson, see if on the top of the first
11 page, it lists "Ranch Groceries, 1971."

12 MR. JOHNSON: Yes, sir.

13 CHAIRMAN HALE: Fine.

14 Q Mrs. Yzaguirre, you have in front of you an
15 exhibit which has been marked as "Car-32," meaning
16 Carrillo 32.

17 A That's right, sir.

18 Q This entire exhibit consists of some 12 or 15
19 pages of photocopies of just checks, apparently of
20 canceled checks.

21 A I see that.

22 Q If you will look at the first page, I want you
23 to follow down with me the first check there shows, appears
24 to be on December 17, 1970, to the Cash Store for \$100.

25 A Yes, sir.

1 Q Of course, I realize that's been four and one-
2 half years ago. We are talking about December 1970. Do you
3 remember that check?

4 A That, I see it. But, like I tell you, I cash
5 checks like that. I can't remember that back. I mean, I
6 know, because it is here and I see it.

7 Q If it were the only one, there would be no
8 problem, but I want you to follow down with me here for
9 just a moment now and we'll see.

10 A Yes, sir.

11 Q The next check is No. 576 there. We are still
12 on the first page.

13 A Oh, I'm sorry.

14 Q January 7, 1970. It probably meant 1971.

15 A What is the amount you just quoted me, sir? You
16 quoted an amount.

17 Q If you will just look at the exhibit.

18 A It's \$25 and you said 500.

19 Q No. The previous one was \$100.

20 A Yes, sir.

21 Q The number of the check is 576. I was looking
22 at the number of the check, so you could identify it.

23 A I'm sorry. That's right. The number of the
24 check.

25 Q For \$25?

1 A Yes, sir.

2 Q And it is made out to the Cash Store?

3 A Yes.

4 Q In fact, all of these that I am going to call
5 your attention to are made out to the Cash Store?

6 A Okay. Yes, sir.

7 Q The third check there is for \$25, January 14,
8 1971. The fourth check, January 14, '71, \$175. It
9 appears to be in a different handwriting. Do you recognize
10 the handwriting on any of those checks?

11 A Well, not on the 621, because that's not Mr.
12 Carrillo's writing.

13 Q Is the signature on it Judge Carrillo's
14 signature?

15 A Yes. It is the same signature as the other one.
16 Yes, sir.

17 Q Then turn the page. January 18, 1971, \$50.
18 January 17, 1971, \$45. January 23, 1971, \$85. January
19 27, 1971, \$100. February 4, 1971, \$45.

20 A Yes, sir.

21 Q Are all of those apparently Judge Carrillo's
22 signature on those?

23 A To my knowledge it is.

24 Q They are all made out to the Cash Store?

25 A Yes, sir.

1 Q Turn the page. Then February 5, '71, \$75?

2 A Yes, sir.

3 Q February 11, '71, \$25. February 18, '71, \$50.
4 February 19, '71, \$50. February 21, '71, \$45.

5 Turn the page. Then there is one on March 5,
6 '71, \$50. March 9, '71, \$50. March 19, '71, \$10. March
7 28th, '71, \$50. April 19, '71, \$100.

8 Then you will turn the page. April 20, '71,
9 \$75. April 25, '71, \$5. May 6, '71, \$100. May 7, '71,
10 \$25. The last one on that page is not a Cash Store
11 check.

12 A I know.

13 Q Then all of them on the next page. And if you
14 will turn on through there— I am not going to enumerate
15 each one, because this Exhibit 32 is in evidence. But
16 that shows a tremendous number of checks involving a
17 substantial sum of money—

18 A I understand.

19 Q —that was paid to the Cash Store, apparently
20 on checks signed by Judge Carrillo during 1971. I
21 haven't run an adding machine tape on them, but it would
22 like— I have just listed them here and I have two
23 columns on one page, all in 1971, checks varying anywhere
24 from \$10 to as high as \$175.

25 A Does he claim he paid this as groceries? I

1 don't know—

2 Q Judge Carrillo has not testified, so we do not
3 know what he claims—

4 A Oh, no. Because in any store, it's impossible
5 for any check to come— You know, there has to be some
6 cents.

7 Q Well, these checks, I assume, were put into
8 evidence in the absence of Judge Carrillo telling us
9 what they were for—

10 A Uh huh.

11 Q —but his counsel put these checks in evidence
12 and I, as Chairman, assume that they were put in evidence
13 to refute your testimony about the groceries. I assume
14 that he meant to prove by this that Judge Carrillo was
15 paying you for all the groceries which he received. Is
16 that true?

17 A Well, I told the Committee the difference was
18 paid. I told you if there was a difference, it was paid
19 by him. If there was a difference, maybe one in just
20 an estimate of from one to ten checks. I doubt it if they
21 all would come to an even number, I mean in cents. I mean,
22 because that's very rare in a grocery store to come to
23 just an even number.

24 Q All right. There are several questions that I
25 want to ask you about these checks.

A Yes, sir.

1 Q Some of them, you may not be able to answer.
2 For instance, you have not looked through all of these
3 checks. I have. For example, during 1971, there was
4 apparently some three or four thousand dollars worth of
5 these checks, payable to the Cash Store. In 1972,
6 however, there was less than \$500 in 1972. In 1973, there
7 was none, at least that were put into evidence here. If
8 there were any, they were not put into evidence. And in
9 1974, there were cancelled checks for about—it looks like
10 about \$700 or \$800.

11 Can you tell me why there would have been so
12 many more of these checks in 1971 than there would in
13 '72, '73 or '74?

14 A The only reason I can give you, sir, is that
15 when he would make trips out of town, he would come and
16 cash checks— I imagine, because maybe someone in another
17 town, they don't— At least, to me, they wouldn't cash a
18 check here in Austin, because they don't even know me. I
19 mean that's the only explanation I have.

20 Q Well, counsel has called my attention to another
21 exhibit which I did not examine in this connection, because
22 it's labeled ranch gas, 1973, which is Carrillo Exhibit
23 24, which also has some photocopies of canceled checks
24 for 1973, payable to the Cash Store. Evidently there were
25 some in 1973, also.

A For gas, did you say?

1 Q Do you have a gas pump at the Cash Store? Do
2 you sell gasoline there?

3 A No, sir.

4 Q Well, we apparently have some more checks
5 scattered through here that have been misclassified
6 and listed under other categories that were also payable
7 to the Cash Store.

8 MR. MITCHELL: Mr. Maloney pointed out,
9 Mr. Chairman, that 24 has been mislabeled. Some of
10 those are for groceries. All I can do is blame it on
11 my secretary.

12 A I'm glad somebody got the blame.

13 Q I'm sure that you possibly don't know the
14 answer to this question, but I am going to ask you
15 anyway. I notice in studying these checks over, they
16 do not follow the numerical sequence of the check numbering
17 system. I am going to ask you the question, if you know
18 any reason for that: For example, if you will look on
19 the first page there of your exhibit, Check No. 576 in
20 the middle of the page?

21 A Yes, sir.

22 Q It is dated January 7. And yet the one right
23 below it is dated January 14, 1971, but it's Check 423.

24 A I notice that. Yes, sir. I saw it.

25 Q Which indicates it should have been issued

1 before Check 576?

2 A I noticed that.

3 Q Some months prior to that. Can you account
4 for that discrepancy?

5 A No, sir.

6 Q Do you know why the numbering sequence on the
7 checks would not be in order?

8 A No, sir.

9 Q And that same lack of logical numbering goes
10 all the way through here. I have taken the list down
11 and these checks going to you apparently had no logic
12 or rhyme or reason about how the checks were issued.

13 MR. CANALES: They are on two or three
14 different bank accounts.

15 CHAIRMAN HALE: I know. I have earmarked
16 the ones. Some of them are on the First State Bank in
17 San Diego and some are on the First State Bank and Trust
18 of Rio Grande City Bank. But those are different number-
19 ing systems, counsel, on the checks. And I have so
20 labeled those.

21 Q For example, take the First State Bank of San
22 Diego, Check 276 was issued on June the 16th and Check
23 236 wasn't issued until August 1. So there is certainly
24 a certain lack of logic, even in the other two banks.
25 However, most of these checks were issued on the First

1 State Bank of Alice; all but just a few of them. And
2 there were also a very few that were issued on another
3 bank there in Alice. Is there another bank in Alice?

4 A I think there are three, sir.

5 Q I didn't make a note of that—

6 A I think there are three.

7 Q —that last bank in Alice.

8 A Well, there is the Bank of South Texas.

9 Q The Bank of South Texas.

10 A There is the Alice National Bank, and the
11 First National Bank.

12 Q Well, I will not labor the point with you,
13 Mrs. Yzaguirre, but let me just wrap up my questions
14 to you with this one question: In spite of several
15 thousand dollars worth of checks that are shown here
16 and assuming you received all of those, which I don't
17 know whether you did or whether you didn't, but even so,
18 did you also receive from the County of Duval a check
19 each month in the amount of \$300 or less, if the amount
20 was less, in payment for groceries, which you delivered
21 to somebody in the name of Judge Carrillo?

22 A I did, sir.

23 Q Okay. Thank you very much.

24 CHAIRMAN HALE: Are there any other
25 questions? Mr. Maloney?

1 MR. MALONEY: Can the witness see Carrillo
2 Exhibit 24, please.

3 (Carrillo 24 was furnished to the witness.)

4 BY MR. MALONEY

5 Q Mrs. Yzaguirre, I believe that you testified
6 earlier and again testified today that the Judge would
7 run an account with you, and when the County didn't pay
8 the full balance of the account and he didn't come in to
9 clear it up, you would carry it forward?

10 A Like I said—

11 Q So that there would be a balance?

12 A —a balance of credit. Yes, sir.

13 Q Would you look on page 15 of that exhibit,
14 please, at the bottom of the page, on Check No. 177.

15 A What page?

16 Q Page 15. Marked at the bottom, please.

17 A Yes.

18 Q On that last check on that page, which is a
19 December check, doesn't that check recite balance, 1973?

20 A Well, that's not my writing.

21 Q I understand that, but doesn't that check have
22 that on it?

23 A Yes. Yes.

24 Q That would seem to indicate to me that a
25 balance was carried forward each time, if this check was

1 to clear up a balance. Could this check be such a check?

2 A Well, probably. If it was carried as a balance,
3 Yes.

4 Q So the Judge would not necessarily clear up the
5 balance every month. It might go forward for several
6 months, before he gave you a check to clear up the entire
7 balance?

8 A Yes.

9 Q Would you basically want your balance cleared
10 up at the end of the year? Especially around Christmas
11 time?

12 A You don't know the trouble I have collecting,
13 not to just one. I wish they would pay at the first of
14 the month. Everybody, then I really would be without
15 gray hairs.

16 Q All right. What is your husband's name?

17 A Lauro. L-a-u-r-o.

18 Q Has he ever worked at the Judge's ranch?

19 A To my knowledge, I don't think so.

20 MR. MALONEY: Would you show the witness
21 Exhibit 14, which is "Ranch Labor, 1973," or Carrillo 14.

22 Q This exhibit is "Ranch Labor, 1973," and I
23 direct your attention to page 9; check No. 107 on that
24 page, which represents a check from O. P. Carrillo to
25 Lauro Yzaguirre for \$142.50 in October of 1973.

1 A And that's for labor for my husband?

2 Q This is what I don't know. That's why I am
3 asking you.

4 A No. Because that is labor for my husband. That's
5 my printing. I mean that is my-- That is Lauro Yzaguirre.
6 That's my, my--

7 Q You would have filled that in yourself?

8 A Yes, sir. I would have been his secretary,
9 because I usually print, I mean.

10 Q Does that appear to be your printing on that
11 check?

12 A To what I do. It looks just like my printing,
13 of course.

14 Q I know it's difficult to recall back.

15 A I know; I know, but sometimes my printing--

16 Q It's been almost three years.

17 A -- I usually print.

18 Q But do you recall such a check having been paid
19 for your husband's labor on Judge O. P. Carrillo's ranch?

20 A No, sir. I don't recall. But that's my-- I
21 usually print like that, I mean.

22 MR. MALONEY: That's all I have. Thank you.

23 A That is why I wanted to check on the endorsements
24 on the back.

25 CHAIRMAN HALE: Mr. Hendricks?

1 MR. HENDRICKS: Carrillo 23. Would you
2 get it, please.

3 (The exhibit, Carrillo 23, was furnished the
4 witness.)

5 BY MR. HENDRICKS

6 Q Mrs. Yzaguirre, do you all have a son named
7 Lauro Yzaguirre?

8 A No, sir. His name— Do you want his name? His
9 name is Jesus Abel Yzaguirre, but his initials are J. A.
10 Yzaguirre.

11 Q Look on page 7; check No. 413. Now this is
12 dated March 15th of 1974, which is just a little over
13 a year ago.

14 CHAIRMAN HALE: What exhibit are you looking
15 at?

16 Q March 15th, 1974. By any chance, do you re-
17 member that check? It's only been a little over a year
18 ago? That's in the amount of \$366.26. And the memo on it
19 is "balance of March." Does that ring a bell in any way
20 with you? Can you explain that?

21 A No, it does not, but, like I say, a balance is
22 a balance. Well, if that was his balance, that was his
23 balance. I mean, I can't question that.

24 Q Would this be one of the checks in which he
25 picked up what he went over the \$50?

A Probably. Yes. Probably could.

1 Q You were trying to say all the way through
2 Mr. Hale's testimony if most of these checks made out to
3 the Cash Store in the amount of \$50 and \$100 and \$25 had
4 been for groceries, there would be some odd cents?

5 A Yes, sir.

6 Q Like this \$366.26. Is that what you were
7 trying to say?

8 A Yes. It always comes to some cents.

9 Q It very seldom comes out in even dollars.

10 A Well, the grocery stores usually come out in
11 cents, you know.

12 Q With the sales tax, it very seldom comes out
13 even.

14 A Yes, sir. People that have stores know that.

15 MR. HENDRICKS: I believe that's all I
16 have, Mr. Chairman.

17 A Excuse me, sir. I just saw something here, not
18 concerning my store, but all the rest of the stores that
19 are here has some cents. I mean, that is all, if you will
20 see that.

21 MR. HENDRICKS: Yes, I noticed that.

22 A I am just looking at it.

23 CHAIRMAN HALE: Mr. Kaster.

24 BY MR. KASTER

25 Q Mrs. Yzaguirre, you still have Exhibit 23, that

1 Carrillo 23?

2 A Yes, sir.

3 Q Are you still on that same page?

4 A Yes, sir.

5 Q If you will look up there, the one for Ben's
6 Grocery. It comes out to \$92.98.

7 A I didn't hear, sir.

8 Q For Ben's Grocery?

9 A Yes, sir.

10 Q If you will turn the page, at the bottom of the
11 page, there is one to Kroger's?

12 A Yes, sir.

13 Q What's the amount on that?

14 A \$84.14.

15 Q If you turn the page again, there is one to
16 Hillcrest Grocery.

17 CHAIRMAN HALE: It's the second one from
18 the top.

19 Q It is page 6.

20 A Yes, sir.

21 Q The one to Hillcrest Grocery?

22 A Yes, sir.

23 Q How much is that?

24 A \$9.73.

25 Q And the next one down, to Ben's Grocery?

1 A \$248.91.

2 Q And the one at the bottom of the page, to
3 Ben's Grocery?

4 A \$71.46.

5 Q So that every check issued to another store comes
6 out in odd cents—

7 A That's why I was telling you that the people
8 that have stores, at least should understand that.

9 Q I would like to ask you: Have you ever cashed
10 checks for Judge Carrillo? In other words, as you were
11 saying, that guy wants to come in and get fifty dollars
12 and you know when you cashed checks?

13 A Like I say, for others. Not just for the Judge;
14 but for his brothers.

15 Q No. Would he send one of his workers in? Would
16 you cash a check if he—

17 A If he sent one, of course, I would. That is
18 why I wanted to maybe— That's why I wanted to see my
19 endorsement and maybe, if he did, I sure would. Like I
20 said, with the food. You all asked me why did I give
21 him this and this? Well, it's—

22 Q It's his workers and you know them and you have
23 never had one questioned that you cashed for him?

24 A No, sir.

25 Q Did you do this very often, cash checks for the

1 Judge or his workers that the Judge signed?

2 A Mostly for the Judge.

3 Q He would come by and cash a check?

4 A Like I say, for a trip or something like that.

5 MR. KASTER: I would like for her to
6 look at Exhibit 43.

7 (The witness was furnished Carrillo 43.)

8 Q Do you have that exhibit? Is that 43? Down
9 at the bottom righthand side of the page, it says
10 August the 6th, 1973, and it says, "List."

11 A Yes.

12 Q Do you see that?

13 A Yes.

14 Q And there are some names and I think the total
15 comes up to \$245? Am I looking at the same one you are?

16 A This one has \$210. I don't know.

17 Q I'll turn to that one then.

18 A Oh, you're right.

19 Q That is one for \$245 and it says, "List"?

20 A Yes, sir.

21 Q What is this for? What do you do with that?

22 A This copy or what?

23 Q What did you do? What does this represent where
24 it says "List," somebody's name and an amount, \$35, Mr.
25 Patricio Garza, it looks like.

1 A If you look at the top, that was brought by Mr.
2 Ramiro Carrillo. Remember, I used to tell you— I didn't
3 have nothing to tell you.

4 Q They would bring you the list up at the top
5 here?

6 A Yes, sir.

7 Q And then you would write this list?

8 A Yes. That is what I was—

9 Q I want to get this straight. This says, August
10 the 6th. It says Duval County Welfare Department,
11 August the 6th, 1973.

12 A Yes.

13 Q There are some names on that?

14 A Yes, sir.

15 Q They brought that to your store and you typed
16 out—

17 A They told me to give them a few little things.

18 Q You made this ticket out on August the 6th
19 off of this list up here?

20 A Yes, sir.

21 Q Do you know if these people are real people? Do
22 you know any of these people?

23 A Well, I have been— I mean, I was brought a list—
24 I don't know if it was yesterday or the day before yester-
25 day, or I don't remember. But I was brought a list by a

1 Texas Ranger. Of course, what he brought me, was just
2 initials. You know, initials and last names. Like I
3 told him, an initial can mean a lot of things, you
4 know. But with names like this, I might know, you know---with
5 the real name, I might, you know, know them.

6 Q Well, I am asking you, this list on August the
7 6th, it says, "list." Do you know any of these people?

8 A Yes, sir.

9 Q Do you know all of them?

10 A Well, I know some. Some. Maybe if I would see
11 them, because actually, I was not born and reared there,
12 but I mean I know some, a lot of them. Yes.

13 Q The other page, there was another list there,
14 and one totals 275 and the other totals 210. Is that
15 made off of the same list that is on those pages, from
16 the Duval County Welfare Department?

17 A Do you mean, if it is the same as this?

18 Q Yes.

19 A Yes.

20 Q Now, the one that is August the 10th. Do
21 you know those people?

22 A August the 10th.

23 Q The one that you wrote and it says, "List."

24 A Let me read mine, because I think I understand
25 mine a little better.

1 Q Do you see the ticket labeled August the 10th?

2 A Yes. But I am saying where I write, because
3 over here, I didn't understand it. I wrote here to the
4 best I could understand here. Yes. I know. For example,
5 there is one with an initial.

6 Q Yes. V. Camino? I don't know what it is.

7 A V. Carrillo.

8 Q Carrillo?

9 A Yes, sir. With initials, it is hard, but with
10 names, if I know them.

11 Q I will refer you to a list dated of August the
12 20th and there are some with initials on there.

13 A Like I said, with initials, paid with initials—

14 Q Well, I am asking you, do you know any of those
15 people?

16 A Like I said, I know about Mariato Ruiz, but
17 I don't know if that's the one they are talking about. I
18 know a Mariato Ruiz.

19 Q You don't know all the people on that list?

20 A Let me see. I know Chris Cantu. I mean, not
21 personally, but I know Chris Cantu, Abel Garza, I think—
22 Abel Ruiz, I know.

23 Q To the best of your knowledge, did these people
24 come in and pick up groceries for that amount?

25 A Some of them did. Some didn't.

1 Q Some of the people on this list did not?

2 A Like I told you before.

3 Q That's why I am asking you now, because we have
4 an exhibit here.

5 A Yes.

6 Q Some of the people on these lists did not come
7 in and pick up groceries?

8 A Yes. That's right. That is what I testified
9 before.

10 Q So that if you total the three lists of August
11 the 6th, August the 10th and August the 20th, which
12 apparently this does on the front page of the Exhibit that
13 I have—and I don't know if it's the same— It came out to
14 a total of \$730 for that month.

15 A That's right.

16 Q You are telling me now that not all of the
17 people on the list pick up groceries?

18 A Yes.

19 Q Then there is a warrant here where the County
20 paid you \$730 for that grocery bill?

21 A Yes, sir.

22 Q I think you testified earlier now that part of
23 that \$730 represented \$300 for the Judge's food and some
24 for Ramiro's food and the other for the people who actually
25 came and bought the food?

A That's right, sir.

1 Q I think you testified earlier that some of the
2 Judge's workers came by and picked up food to take out
3 to the ranch or wherever they took it?

4 A Yes.

5 Q Did Patricio Garza ever pick up food?

6 A Yes, sir.

7 Q How long has he been picking up food for the
8 Judge?

9 A As far as I remember, I mean—

10 Q A long time?

11 A To me. Yes. A long time means a year or—

12 Q Several years?

13 A Probably. Yes.

14 Q Did he come just on weekends, or did he come
15 during the week?

16 A He came during the week.

17 Q During the week?

18 A Yes, sir.

19 Q What are the hours your store is open?

20 A 6:30 or 15 to 7:00 until about 6:30 or 7:00.

21 Q At night?

22 A Yes. And Saturdays.

23 Q And Saturdays. And you are closed Sunday?

24 A We used to open on Sundays, but we are closed
25 now, for quite a while.

1 Q But as far as you remember, Patricio Garza
2 picked up food during the week, at different times during
3 the day, or did he always come after work?

4 A Mostly in the morning.

5 Q Mostly in the morning.

6 A In the mornings.

7 Q Again, you tell us, you have cashed a lot of
8 checks for the Judge for "cash."

9 A That's right.

10 MR. KASTER: I believe that's all I have.

11 CHAIRMAN HALE: Mr. Laney?

12 Ms. Thompson? Is Ms. Weddington here? Mr.
13 Chavez?

14 MR. CHAVEZ: No questions.

15 CHAIRMAN HALE: Are there any further
16 questions of this witness?

17 Mr. Maloney?

18 BY MR. MALONEY

19 Q Mrs. Yzaguirre, how long have you lived in
20 Benavides?

21 A We married in '54 and we moved back to Alice,
22 I don't know, six or seven months later, and then we came
23 back— Well, my son was born in— I have to think back—
24 yes, because— '56. I think he was born in '58. And I
25 think he was a year old when we moved back to Benavides.

1 I think he was a year old, so that must have been about
2 '59, I think.

3 Q At any rate, you have been in Benavides about
4 15 years?

5 A Yes. My son is 16, something like that.

6 Q How long have you operated the Cash Store, as
7 far as your participation in the Cash Store?

8 A What you are telling me, when the store— My
9 husband's name has been—

10 Q Well, I understand he got it from his father?

11 A Yes. Yes.

12 Q How long have you actually worked in the store
13 on a continuous basis.

14 A Well, I have been helping at the store, you
15 see, and I am not there, you know. I go and come. All
16 the errands and all of that, I go and come. Then I was
17 sick and all of that.

18 Q How long have you actually been doing that?

19 A Well, since, like I say, '59, and then in
20 '70, I was operated, so I was out for quite a while, you
21 know.

22 Then when I was well, you know—of course, you
23 know, I am still under the doctor's care, but I still
24 help.

25 Q Let me ask you this: How far is the Cash Store

1 from where Mr. Oscar Carrillo lives?

2 A It's the main highway, 359. You cross the
3 tracks and then, you know, it's right there.

4 Q It's almost directly across from your store.
5 Isn't that correct?

6 A Yes. Uh huh.

7 Q There are some buildings next door to his house,
8 are there not?

9 A Yes.

10 Q In fact, an old place that used to be the
11 bank is right there on the corner?

12 A Yes.

13 Q Which would be almost directly across from
14 your store?

15 A Yes, sir.

16 Q Have you ever known of the Zertuche General
17 Store, or a General Store being operated on those
18 premises?

19 A No, sir. I mean, I don't know them. If there
20 were, I don't know...

21 Q Would you, do you think, operating the store
22 across the street that you would know?

23 A Well, I mean, I probably would. Yes.

24 Q If it was being operated on any type of
25 continuous basis?

1 A I guess I would. Yes.

2 MR. MALONEY: Thank you.

3 A Yes, sir.

4 CHAIRMAN HALE: Are there other questions?

5 Mr. Canales?

6 BY MR. CANALES

7 Q Mrs. Yzaguirre, do you know Rogelio Sanchez?

8 A I know who he is, but I would have, you know—

9 Q Has he ever traded at your store?

10 A Trade? Rogelio? Rogelio Sanchez? He might
11 come in and buy, you know, a drink or something, but what
12 I mean is, we don't carry his account, if that is what
13 you mean.

14 Q He doesn't buy any groceries from you?

15 A No.

16 Q Now, Patricio Garza does come in and buy
17 groceries from you?

18 A He buys personal groceries. His wife does.

19 Q And he picked up groceries for the Judge?

20 A That's right.

21 Q You have been working there off and on since
22 1969? 1959?

23 A Yes.

24 Q I know you said you couldn't remember too well,
25 but it is very important. Could you recall approximately

1 what year the first time he came in to pick up groceries
2 for the Judge?

3 A That, I couldn't tell you, sir.

4 MR. CANALES: Thank you.

5 CHAIRMAN HALE: Mr. Chavez?

6 BY MR. CHAVEZ

7 Q Ma'am, do you know Elvira Rodriguez?

8 A Yes. I see her.

9 Q You know who she is?

10 A Yes.

11 Q You saw her? You were here yesterday when
12 she testified?

13 A Yes. I was here yesterday.

14 Q Do you remember her testifying that she worked
15 part time over with Hector Zertuche at his store?

16 A Yes. I heard that testimony.

17 Q Did you know that? Did you ever see her working
18 there?

19 A No. I mean, I never did.

20 Q You never did? Do you know Hector Zertuche?

21 A To my knowledge, I didn't.

22 Q It's possible that she did and you don't re-
23 member?

24 A It's possible she did. Yes. She probably did.

25 Q Did you know her back in '64, '65, '66?

1 A I might have. Yes.

2 Q And you don't know if she worked with Mr.
3 Zertuche in the store?

4 A She probably did. I mean, I don't know.

5 Q Do you know Hector Zertuche?

6 A I know Hector and Arturo. I know both of them.

7 Q Do you know if they ever operated a store?

8 A No. No, sir. I don't know.

9 Q Then is it possible that they did operate a
10 store and you didn't know about it?

11 A It could be possible. Yes.

12 Q You are not telling us that they did not
13 operate a store?

14 A No, no. It could be possible. Yes.

15 Q On these names that you were mentioning a
16 while ago, like on that Margarito Ruiz?

17 A Ruiz.

18 Q You are not telling us, are you, that when you
19 got a list and there were last names and initials that
20 these people did not exist?

21 A No. I did not tell you that.

22 Q You are saying that because of the initial—

23 A That's the only reason I am telling you, because
24 the initial can mean a lot of names.

25 Q Well, do you know anybody else with a name Ruiz

1 that has a first name that begins with an "M"?

2 A Right now, I don't.

3 Q So it's possible that all these people that
4 just had initials would be people that you probably
5 know, but because of just the intial, you are not sure
6 if it's them?

7 A Yes. That's the only reason, because an initial
8 means a lot of things.

9 Q But the last names would not be strangers to
10 you, would they?

11 A No.

12 Q The cashing of these checks by Judge Carrillo,
13 this was not anything unusual, was it?

14 A No, to anybody. No, no, no. It's very, very
15 common.

16 Q Isn't there on occasion when people might come
17 and buy something and make the check for a larger amount?

18 A Yes, sir.

19 Q This is not unusual, is it?

20 A No.

21 Q Even in grocery stores?

22 A No, but since I came here, my policy has
23 changed a lot. (Laughter.)

24 Q Before—

25 A Now, the checks, in this corner we put—and I

1 am telling you the truth now. People would come buy,
2 say two dollars and make the check for \$25, Cash Store.
3 And if you would see it, you would say, "Well, he bought
4 \$25.00," which I mean, maybe you're right about that. But
5 now, it is, like I said, my policy has changed.

6 Q I am sure a lot of policies have changed down
7 there now.

8 A I mean, to me, I don't care about the rest, but
9 to me.

10 Q What we are concerned with is what happened
11 back there.

12 A Yes.

13 Q It was not unusual for somebody to come in and—

14 A You see now my policy has changed. If it's
15 \$25, if they buy one dollar, you had better be sure it's
16 going to be here, a dollar, right here. I'm sorry, it
17 never entered my mind, it never did. It enters my mind
18 now, but it's too late.

19 Q But back then, at that time, it was nothing
20 unusual?

21 A I mean, they are all my friends.

22 Q Let me ask you my question?

23 A Yes, sir.

24 Q Back then, it was not unusual for somebody to
25 come in and buy, like say, twelve dollars worth of groceries

1 and make a check for \$25?

2 A No.

3 Q You didn't think anything was wrong, because
4 they did that, did you?

5 A No. They could probably buy \$12 and make it
6 for \$300. It was true.

7 Q Nothing unusual. If you knew the people, you
8 would go ahead and cash the check?

9 A If I knew the people and even sometimes they
10 come back—bad checks.

11 Q But with Judge Carrillo, you never did have
12 any problem?

13 A No, sir.

14 Q He was a good customer of yours?

15 A He was.

16 MR. CHAVEZ: Thank you.

17 CHAIRMAN HALE: Mr. Hendricks has a
18 question.

19 BY MR. HENDRICKS

20 Q Mrs. Yzaguirre, you say you didn't notice any
21 business being conducted at the Zertuche General Store
22 or the building it was supposed to have been located in?

23 A That's right. I didn't see it. There probably
24 was, but—

25 Q What you are saying, they might have conducted

1 a little business, and you not noticed it? Is that
2 correct?

3 A Sir, I didn't hear you?

4 Q They might have had a small business, and you
5 not noticed it?

6 A Yes, sir.

7 Q Let me ask you this: Could they have
8 possibly in one account alone to Duval County, during
9 the years 1970 and '71, sold to Duval County, \$55,630.52
10 worth of merchandise and you not noticed any business
11 over there, being right across the street from it?

12 A I don't know about that, sir.

13 Q Don't you think you would have noticed some
14 business there, if they did just that much with one
15 account alone, over \$55,000?

16 A If it was my store, yes. My store.

17 MR. HENDRICKS: Thank you.

18 CHAIRMAN HALE: Mr. Maloney?

19 BY MR. MALONEY

20 Q About what is the population of Benavides?
21 About how many people?

22 A Well, the last time I saw that sign, of course,
23 it probably has decreased. I think it was 3,000 and
24 something, I think. Maybe it's a little more or less, but
25 that average, about 3,000.

1 Q You had mentioned that Patricio Garza's wife
2 shopped—does her grocery shopping with you. Is that
3 correct?

4 A Yes, it is.

5 Q When she buys her groceries, does she pay cash
6 or give you a check, or is it charged on the Judge's
7 account?

8 A She pays with a check.

9 Q Does she buy enough groceries then to, in your
10 estimation, to support a family? She does not charge it
11 to the Judge?

12 A No, sir. Not her personal ones.

13 MR. MALONEY: Thank you.

14 CHAIRMAN HALE: Any further questions?

15 Ms. Thompson?

16 BY MS. THOMPSON

17 Q Mrs. Yzaguirre, do you sell anything in your
18 store besides groceries?

19 A We sell tubs and buckets and cattle feed and
20 groceries.

21 Q If someone wanted to buy some linens, towels
22 and sheets and things, where would they buy them in
23 Benavides?

24 A At the Cuero Store or at the Noel Mundo.

25 Q If they wanted to buy children's toys, you know,

1 like at Christmas time: Where would they buy them, in
2 Benavides?

3 A I have seen them at the De Leon's Drugstore.
4 That's where I have seen them.

5 Q But you wouldn't know where people bought
6 these items like sheets and towels and things from the
7 Zertuche Store? I mean, you would probably have some
8 knowledge about them having traded over there, if
9 they bought stoves and refrigerators?

10 A I couldn't tell you that.

11 Q If they wanted to buy a stove and refrigerator,
12 say in 1970 or '71, where would they buy them?

13 A If they had that, they would buy it there.

14 Q What store sold it?

15 A Ma'am?

16 Q What store would they go to, to buy a stove or
17 a refrigerator or a washing machine?

18 A I think at that time, when I came to Benavides,
19 at that time in '54 or '55, at that time, I think there
20 was the Vaello Store there that was selling those things.

21 Most people, just like groceries and appliances,
22 even if we have them in Benavides, they go to Alice or
23 Corpus or somewhere else to buy it.

24 Q You run sales on things in your store, don't
25 you?

1 A Ma'am?

2 Q Do you have sales on things in your store,
3 don't you? You know, a sale like "Flour for five pounds
4 for so much," you know?

5 A Yes.

6 Q And I imagine other stores run sales on things,
7 don't they?

8 A Yes.

9 Q Like drugstores and things like that. Now, if
10 the Zertuche Store had been in existence and they had run
11 sales on items like toys and linens and things like that,
12 you probably would have known about it, wouldn't you?

13 A I probably would. Yes.

14 MS. THOMPSON: Thank you, Mr. Chairman.
15 That's all I have.

16 CHAIRMAN HALE: Are there further questions?

17 MR. MITCHELL: May I ask a question or two?

18 CHAIRMAN HALE: Yes. Mr. Mitchell?

19 BY MR. MITCHELL

20 Q In line with the questions put to you by Mr.
21 Chavez, Mrs. Yzaguirre, is it also usual and customary,
22 where you have a customer who maintains an open account,
23 such as apparently Judge Carrillo's account was from
24 1970 to 1974, that he would come in and pay on that
25 account and I believe your testimony was that the balance

1 would be carried forward.

2 A If there was a balance, or if he didn't pay that
3 balance, you know, the balance would be carried forward
4 to another month.

5 Q And that periodically, he would close that
6 balance out as indicated by some of the checks that were
7 mentioned by members of the Committee in questioning you.
8 And you noted that in those checks, like say \$736.16,
9 when that balance was closed out, the odd cents would be
10 taken care of? That would be possible, too?

11 A Yes, sir.

12 Q And you mentioned in answer to one of the
13 questions that you were with the Texas Ranger yesterday.
14 I want you to tell us, what were the circumstances you
15 were with the Rangers and who was present?

16 A Well, the Texas Ranger was Mr. Martinez.

17 Q All right.

18 A And there was another gentleman. He was intro-
19 duced to me, but I don't know his name. I mean, there
20 was another gentleman with him.

21 Q Were you shown a list of people?

22 A He showed me a list of people. He had some
23 photostatic copies of, you know, just like I have been
24 shown here, you know.

25 Q Yes.

1 A Like I said, he had a list with initials, so I
2 told him, "Well, those initials mean—" you know and then
3 he had a lot of papers, so I came to one signed by Mr.
4 Cleofas Gonzalez.

5 Q Mr. Cleofas Gonzalez certainly is real. He is
6 sitting back there in the courtroom.

7 A Of course, I know him. Of course.

8 Q I want to know if there were any—if you were
9 promised anything or were persuaded or led or threatened
10 in connection with your testimony about whether those
11 people that Mr. Kaster asked you about were real or not
12 real and those that were mentioned by Mr. Chavez in
13 his questions?

14 A No, sir.

15 MR. MITCHELL: That's all. Thank you.

16 CHAIRMAN HALE: Are there further questions?

17 Mrs. Yzaguirre, you are under subpoena to the
18 Committee. The same as we did before, the Chair will re-
19 lease you at this time. You may go on about your
20 business with the understanding that you are still under
21 subpoena to the Committee. And if we need you any further,
22 we will let you know.

23 A Yes, sir.

24 CHAIRMAN HALE: You are, of course, entitled
25 to claim reimbursement for your expenses in coming up here,

1 as you did before.

2 A Thank you, sir.

3 CHAIRMAN HALE: Thank you for your
4 appearance.

5 (The witness, Mrs. Lauro Yzaguirre, was
6 excused.)

7
8 CHAIRMAN HALE: You are Mr. Oscar D.
9 Kirkland?

10 THE WITNESS: That's right.

11 CHAIRMAN HALE: Mr. Kirkland, do you under-
12 stand and speak English thoroughly?

13 THE WITNESS: Fairly well.

14 CHAIRMAN HALE: Do you think you need
15 an interpreter?

16 THE WITNESS: I don't think so.

17 CHAIRMAN HALE: Well, if you do, let the
18 Chair know. Some of these witnesses have had difficulty.

19 It's my duty as Chairman to advise you of
20 your rights with reference to your testimony. You will
21 be sworn to tell the truth and your failure to do so
22 could subject you to a prosecution for perjury.

23 After you have completed your statement, members
24 of the Committee may ask questions concerning your
25 testimony. You must answer these questions truthfully

1 and your refusal to do so could subject you to punish-
2 ment for contempt.

3 You can refuse to answer questions only on the
4 ground that such answers might incriminate you or tend
5 to incriminate you in some way.

6 You are privileged to have an attorney of
7 your selection sit with and advise you as to your answers,
8 if you desire.

9 The Chair will attempt to protect your rights
10 at all times.

11 Do you understand the advice I have given you?

12 THE WITNESS: Yes, sir.

13 CHAIRMAN HALE: Are you now ready to
14 testify?

15 THE WITNESS: Yes, sir.

16 CHAIRMAN HALE: Would you stand and raise
17 your right hand?

18
19 MR. OSCAR D. KIRKLAND

20 was called as a witness by the Committee and, being first
21 duly sworn by the Chairman, testified as follows:

22 EXAMINATION

23 BY CHAIRMAN HALE

24 Q Would you state your name, please?

25 A Oscar D. Kirkland.

1 Q Your mailing address, Mr. Kirkland?

2 A Box 251, Alice, Texas.

3 Q What business or occupation do you pursue?

4 A I am a Certified Public Accountant.

5 Q Do you conduct that practice in Jim Wells County?

6 A Yes, sir.

7 Q And surrounding counties, I presume?

8 A Yes, sir.

9 Q You are here at the request of the Committee and
10 we will serve a subpoena on you, before you leave, to
11 protect you on your appearance here, Mr. Kirkland.

12 Let the Chair, on behalf of the Committee, thank
13 you for coming up without us actually, physically
14 serving the subpoena on you there in Alice. It saved us
15 a little time by your volunteering to come on in advance
16 of the service of the subpoena.

17 CHAIRMAN HALE: Mr. Mitchell, do you want
18 to go into anything with this witness, before the Commit-
19 tee starts asking him questions?

20 MR. MITCHELL: I think it's fine. You all
21 get my work done for me real well. You may proceed.

22 My client is not here and I can sleep a bit.

23 CHAIRMAN HALE: Do you get the same rate
24 when your client is gone, as when he's here, Mr.
25 Mitchell?

1 MR. MITCHELL: Whether I am awake or asleep,
2 Mr. Hendricks will jump on that, I know. He always does.

3 CHAIRMAN HALE: Mr. Mitchell, the reason
4 the Chair asked you, I understood from our earlier con-
5 versations that you might want to have some evidence you
6 wanted to use this witness for. If so, I was going to
7 make him available to you first, if you wanted him.

8 MR. MITCHELL: I think, only out of fair-
9 ness to the witness, Mr. Chairman, I may state to him and
10 I am going to try to be accurate with the record.

11 Mr. Kirkland, there has previously been intro-
12 duced into evidence, as a part of the hearing here, of the
13 Hector Zertuche, or Zertuche General Store, tax returns,
14 '65, '66, '67, '68, '69 and '70.

15 The O. P. Carrillo individual returns for '70,
16 '71, '72.

17 The input data, that is, the checks into Zer-
18 tuche Store have not been introduced, mainly because the
19 State of Texas, through the machine that was bought by
20 the House, won't produce them. But, I have made them
21 available to the Committee.

22 The checks, roughly marked along the lines that
23 you have previously delimited as "ranch," "gas," "groceries,"
24 "building," et cetera, have likewise been, hopefully,
25 correctly reproduced and they are also into evidence.

1 I think, with that background and that input,
2 the Committee can, Mr. Chairman, I don't want to suggest
3 a blueprint to follow by the Committee, but so that the
4 witness is aware that the record speaks to those documents
5 and I am sure that those are the relevant documents.

6 CHAIRMAN HALE: I take it then, Mr.
7 Mitchell, it is not your intention to use this witness
8 for the development of any affirmative evidence on your
9 part? Is that correct?

10 MR. MITCHELL: I have him here for the
11 Committee. If you all have any questions you like—

12 CHAIRMAN HALE: I asked you the question,
13 because it had been my impression earlier that you were
14 going to put on a lot of documents and use Mr. Kirkland
15 in proving those documents up. That's fine.

16 Q Mr. Kirkland, I'll ask you, in view of Mr.
17 Mitchell's comment to you, if you were the person who
18 prepared the tax returns to which he made reference?

19 A Yes, sir. All of them.

20 Q On the Hector Zertuche tax returns for 1965 and
21 '66?

22 A Yes, sir.

23 Q And Arturo Zertuche tax returns for '67, '68,
24 '69 and '70?

25 A That's right.

1 Q And did you likewise prepare the tax returns
2 for Judge O. P. Carrillo for 1971, '72, '73—

3 CHAIRMAN HALE: Do we have the '74 in
4 evidence?

5 Q — '73 returns?

6 A Yes, sir.

7 CHAIRMAN HALE: We have the '72 and the
8 '73.

9 Then you put the '71 in yesterday, didn't you,
10 which has a big number.

11 MR. MITCHELL: Yes, sir. Mr. Donaldson had
12 requested it, Mr. Chairman, and I brought it back. It is
13 not in consecutive order with the other two, but that
14 is in there, too.

15 CHAIRMAN HALE: Could I have Carrillo 2
16 and Carrillo 3, exhibits, for the witness to look at?

17 (The exhibits were furnished to the witness.)
18
19
20
21
22
23
24
25

1 Q Now, Mr. Kirkland, do you have in front of you
2 Exhibits labeled CAR-2—

3 A Yes, sir.

4 Q —which are photocopies of the tax returns of
5 Hector Zertuche for '65 and '66?

6 A Yes, sir.

7 Q Is that correct?

8 A Yes, sir.

9 Q Did you prepare those returns?

10 A Yes, sir.

11 Q Where did you get the information which you
12 used to fill out those returns?

13 A From the sheet of yellow paper brought to me
14 with a list of income and expense.

15 Q By Hector Zertuche?

16 A I don't remember for sure. They would usually
17 come in, several of them would come in at one time, and
18 probably Hector brought me those.

19 Q Would you turn through Number 2, Carrillo 2,
20 and the first page is the front page of Form 1040, and
21 then there is the page 2 of Form 1040, and then next
22 is Schedule C.

23 A All right.

24 Q I direct your attention to Schedule C. Accord-
25 ing to that return, this was a profit or loss from a

1 business, a retail business, and under the item there,
2 "Business name," it just says "General Store." Is that
3 correct?

4 A That's right.

5 Q Where was that store located, if you know?

6 A I was told that they operated in Benavides.

7 Q Where, in Benavides?

8 A I didn't know. They gave me a box number.

9 Q You show in line one there, "Gross receipts,"
10 thirteen thousand—and it looks to be \$531, although I'm
11 not sure if that is a five. Is that right?

12 A I believe it's an eight.

13 Q Eight?

14 A Yes.

15 Q \$13,831?

16 A Yes, sir. I'm pretty sure that's right. You
17 take the five below off of there and get your three.
18 These things are kind of—

19 Q All right. Then they show "Salaries and
20 wages" on line 15 of how much?

21 A \$857.

22 Q Do you know who that was paid to?

23 A No, sir, I don't.

24 Q On line 17 it shows "Legal and professional
25 fees, \$1,200." Do you know who that was paid to?

1 A No, sir.

2 Q On line 13, there is no entry. What would
3 that indicate to you?

4 A Well, that would indicate that there was no
5 rent paid.

6 Q They did not pay any rent on any property
7 anywhere, which they charged as a business expense?

8 A Quite often they would put these under the
9 wrong classifications. At one time they brought me in
10 one and it said "Commissions - \$4,000." And I made up
11 his tax return "Commissions - \$4,000," and he signed it
12 and sent it in. Later I prepared a tax return for O.
13 P. Carrillo and that was rent income, rent on the store
14 paid to O. P. Carrillo. And it was put under "Commis-
15 sions," but it should have been store rent.

16 Q Well, that's on another return.

17 A Yes, sir.

18 Q I'm going to ask you about that \$4,000 item in
19 just a minute.

20 According to this return, this store lost
21 money during 1965.

22 A Yes, sir.

23 Q What was the loss?

24 A \$2,544.60.

25 Q Over \$2,500 loss on the operation of the

1 store. Is that right?

2 A Yes, sir.

3 Q Now, if you will turn to the 1966 tax return,
4 I would like to also direct your attention to Schedule
5 "C" on that return. Is that the same person and the same
6 business on that Schedule "C" as it was on the 1965
7 return?

8 A Yes, sir.

9 Q And it shows "Gross receipts" of how much for
10 that year?

11 A \$11,523.08.

12 Q What does it show on line 13 pertaining to
13 rent on business property?

14 A \$600.

15 Q So that year they paid \$600 in rent somewhere?

16 A Yes, sir.

17 Q Or at least claimed they did.

18 A Yes, sir.

19 Q It shows an item of \$225 for depreciation.

20 A Yes, sir.

21 Q Do you know what that was for?

22 A A 1961 Scout.

23 Q What is a 1961 Scout?

24 A I believe it is some kind of a little Inter-
25 national— I'm not real sure.

1 Q A motor vehicle?

2 A Yes, sir.

3 Q A motor vehicle of some kind?

4 A Yes, sir.

5 Q All right. Thank you.

6 Now, if you will look at the next exhibit,
7 labeled "Carrillo Exhibit 3." This exhibit purports to
8 be photocopies of the tax returns of Arturo Zertuche
9 for '67, '68, '69 and '70. I would direct your attention
10 to Schedule "C" of the 1967 tax return. What was this
11 business that is the information for which you filled
12 out this Schedule "C"?

13 A It was substantially the same business, except
14 it was in the name of Arturo Zertuche.

15 Q Do you know why the name is different in '67
16 from what it was in 1966?

17 A It was my understanding that Hector had
18 finished school and left and gone to work, and they
19 turned it over to Arturo.

20 Q So, it was your information that in 1966 and
21 prior years Hector Zertuche operated this store, and in
22 1967 and subsequent years Arturo operated the store?

23 A Yes, sir.

24 Q Was there a hurricane down there about that
25 time?

1 A I'm pretty sure there was.

2 Q In 1967?

3 A Yes, sir.

4 Q In September, 1967?

5 A Yes, sir.

6 Q On or about September 7, 1967. Does that
7 refresh your recollection?

8 A Well, I think that is pretty close.

9 Q All right.

10 Now, what was the gross receipts shown by
11 Arturo Zertuche in 1967 on this business?

12 A It was \$56,552.40.

13 Q That was quite a substantial increase, wasn't
14 it?

15 A Yes, sir, it was.

16 Q Do you know why such a big increase in the
17 business?

18 A No, sir.

19 Q When Arturo took it over?

20 A No, sir, I don't.

21 Q I direct your attention to line 13 on Schedule
22 "C". What is the entry on line 13?

23 A "Rent on business property - \$5,491.50.

24 Q Over \$5,000 rent?

25 A Yes, sir.

1 Q Compared to \$600 in 1966 and zero in 1965.

2 A Right.

3 Q Is that right?

4 A Yes.

5 Q And then in Schedule "C-1," there is an item,
6 line 25, "Contract Labor, \$1,200." Do you see that at
7 the bottom of Schedule "C"?

8 A Yes, sir.

9 Q In Schedule "C-."? Do you know what that
10 \$1,200 is for?

11 A No, sir, I don't.

12 Q Do you know to whom the \$5,491 in rent was
13 paid?

14 A No, sir.

15 Q Would you turn to the next year, 1968, also to
16 Schedule "C". Would this be the same store that we have
17 been talking about?

18 A Yes, sir.

19 Q I'll ask you if you notice anything different
20 on that one as to the product which it mentions. Does
21 it still say "Food store"?

22 A "Farm store."

23 Q Farm store?

24 A Yes, sir.

25 Q I couldn't read that. Is that the way we have

1 shown it on every one of these returns?

2 A I believe so. It was the same in '67.

3 Q The Farm store.

4 What were the gross receipts in 1968?

5 A \$72,441.79.

6 Q That's a big increase even over '67, isn't it?

7 A Yes, sir.

8 Q Would you say this store is really prospering
9 during these years?

10 A It seemed to be.

11 Q Now, I direct your attention to Item 13,
12 "Rent on business property." How much rent does it show
13 there?

14 A \$1,600.

15 Q Do you know what that's for?

16 A No, sir.

17 Q Do you know who it was paid to?

18 A No, sir.

19 Q And then in Schedule "C-1" at the bottom of
20 that page it shows an entry there of "Gasoline and oil,"
21 or "Gas and oil,"— I can hardly read the writing and my
22 photocopy is so poor—" \$1,501.41." Do you know what this
23 farm store would be doing that it would use that much gas
24 and oil?

25 A It was my understanding that along about that

1 time they were renting out a bunch of equipment that
2 they were—they were renting equipment and in return
3 sub-renting it, but they were putting the rental costs,
4 it seems, under "cost of merchandise purchased" here.
5 It ran the gross up, and I was under the impression that
6 a lot of this gasoline and oil, that they did some work
7 out of there with the equipment themselves.

8 Q Fine. Would you turn to the 1969 return, also
9 Schedule "C". I believe the gross receipts have now
10 increased to \$81,000, haven't they?

11 A Yes, sir.

12 Q And here, what do they show for "Rent on business
13 property" on this '69 return?

14 A \$12,981.90, I believe it is.

15 Q What business property would they be renting
16 in Benavides that they would be paying more than \$1,000
17 a month for?

18 A Well, at that time, I think they reclassified
19 their rent on this equipment that they were sub-renting
20 and put it under a rent classification.

21 Q Do you show that somewhere on this return,
22 elsewhere on this return?

23 A No, sir. It shows up in the gross receipts up
24 here. But you will notice, the gross profit is way
25 higher, because the rent was reclassified, pulled out of

1 "Merchandise purchased" and put down under "Rent on
2 business property."

3 Q Under item 15, "Salaries and wages," it shows
4 how much?

5 A It looks like \$1,795.50.

6 Q Seventeen ninety-five--

7 A Or \$1,795 even.

8 Q \$1,795. Do you know to whom that was paid?

9 A No, sir, I don't.

10 Q Would you turn to the 1970 return? I direct
11 your attention to Schedule "C" of that return. This is
12 the same General Store that we have been talking about,
13 is it not?

14 A Yes, sir.

15 Q And the gross for 1970 has dropped a little,
16 about \$10,000, down to \$72,000 plus. Is that right?

17 A Yes, sir.

18 Q Now, I direct your attention to line 13 on
19 that. "Rental, \$18,000," or a little more?

20 A Yes, sir.

21 Q Do you know what would cause the rent to be so
22 high?

23 A I remember, they brought in a sheet on that,
24 and it showed about two columns of figures: \$450, \$750,
25 which looked to me like rental on tractors and heavy

1 equipment. And they had a tape on it, and that was the
2 total.

3 Q Line 18 shows "Commissions - \$4,000." Is that
4 the \$4,000 you mentioned earlier in your testimony?

5 A Yes, sir. That was rent on the store.

6 Q And that was \$4,000 that was paid to Judge
7 Carrillo?

8 A Yes, sir.

9 Q For rent, rather than commissions?

10 A Yes, sir.

11 Q Did you prepare Judge Carrillo's tax return
12 for the year 1970?

13 A Yes, sir.

14 Q We do not have a photocopy of it. Would that
15 \$4,000 in commissions that is shown on here, would you
16 have reported that as income on Judge Carrillo's 1970
17 income tax return?

18 A Yes, sir. On Schedule "E", "Rent income."

19 Q So you found out that this was not commissions
20 but was rent prior to the time that the returns were
21 filed?

22 A After the Zertuche return was filed, but prior
23 to the time that the Judge's return was filed.

24 Q Did you file a correction return on the
25 Zertuche return?

1 A No, sir.

2 Q You just let it go. But you did correct it
3 on the Judge's return?

4 A That's right.

5 Q And showed it as rental income to him for
6 1970?

7 A Yes, sir.

8 Q What was that rental income for?

9 A They told me it was for a store building in
10 Benavides.

11 CHAIRMAN HALE: I'm sure that other
12 members of the Committee are going to ask you questions
13 about these exhibits. Could we have Exhibits Carrillo
14 71, Carrillo 7 and Carrillo 8.

15 Q Now, I will direct your attention to Carrillo
16 71, which is the 1971 tax return for O. P. Carrillo.
17 Did you prepare that return?

18 A Yes, sir.

19 Q And on the front page of Form 1040 it shows on
20 line 12 \$22,607, which I presume there is a W-2 to
21 support. That was his salary as Judge, I presume,
22 wasn't it?

23 A I don't remember what year, whether that was
24 his salary as D.A. or Judge. Probably as Judge.

25 Q I believe the record reflects that he became

1 Judge in January, 1971, Mr. Kirkland. So that income
2 for the year 1971 from the State would have been as a
3 Judge.

4 A Yes.

5 Q Now, on line 15, "income other than wages,
6 dividends and interest," you show a loss of \$15,362.

7 A Yes, sir.

8 Q How did we arrive at such a big loss? I may
9 be getting a little free accounting advice here.

10 A He had a \$1,341 loss from his business, as he
11 still had a bunch of equipment and all left over from his
12 legal practice that we were depreciating. He showed
13 \$7,315.68 income from pensions, annuities, rents and
14 royalties. Most of that was income from the General
15 Store, from the Farm and Ranch Store in Benavides, and
16 rent property, and some property that was in trust from
17 his father. And he had a ranch loss of \$21,786.97.

18 Then on down under "other income" he had
19 director's fees of \$450. And the net figure was the
20 \$15,000 and something loss.

21 Q All right. I direct your attention to Schedule
22 "E", part 3. He shows an income there from "O. P.
23 Carrillo, Trustee," of \$6,138.99.

24 A Yes, sir.

25 Q Do you know what is the source of that income?

1 A That is a trust that was given to him and
2 his brothers and sisters by his father a long time ago:
3 ranch land, oil income. That is his proportionate
4 part of the income from that property given to him by
5 his father.

6 Q Does any other income go into that trust?

7 A No, sir.

8 Q Did any income from the Farm and Ranch Store
9 go into that trust?

10 A Not that I know of.

11 Q Did any income from the Zertuche General
12 Store go into that trust?

13 A No, sir.

14 Q Then on that same "Part 3," the next entry on
15 there appears to be a partnership, O. P. and Ramiro D.
16 Carrillo. What is the nature of that business?

17 A That is the Farm and Ranch Store.

18 Q They show a loss that year of \$1,332.

19 A Yes, sir.

20 Q Is that right?

21 A Yes, sir.

22 Q How do you account for the loss?

23 A Well, I don't have the partnership return
24 here. I would have to look at it. It is just more
25 expense than there was income. They had a lot of

1 depreciable property at that time and a lot of
2 depreciation is one thing that threw it into a loss.

3 Q Would you look at Form 4562, which is next to
4 the last page in that exhibit?

5 A All right.

6 Q —which is a list of numerous items on which
7 Judge Carrillo was claiming depreciation.

8 A Yes, sir.

9 Q Were those his individual items, or are those
10 part of the partnership with Ramiro Carrillo?

11 A These are all his.

12 Q In addition to that partnership claimed
13 depreciation on a lot of equipment, too. Is that right?

14 A Yes, sir.

15 Q And this is probably not pertinent to this
16 inquiry, but I would like to ask you. I noticed in his
17 law practice here, on Schedule "C", you wrote off
18 depreciation on two automobiles: one, a 1969 Cadillac,
19 and one a 1971 Cadillac.

20 A Yes, sir.

21 Q Is that correct?

22 A Yes, sir. But look over to the far right, and
23 you will see I took one month's depreciation on the 1969
24 Cadillac and he traded it. And I took eleven months on
25 the '71.

1 Q I see. You were actually only claiming
2 depreciation on one automobile.

3 A One at a time.

4 Q One at a time. Yes. Well, my question to
5 you was going to be if you got by claiming two, I wanted
6 to find out how you did it.

7 A Some people do.

8 Q Now, if you would look at Carrillo Number 7,
9 Exhibit Number 7, Carrillo Number 7, which is the 1972
10 tax return. Did you prepare this return for Judge
11 Carrillo?

12 A Yes, sir.

13 Q I direct your attention to the third page of
14 that, which is photocopies of wage and tax statements
15 for 1972.

16 A Yes, sir.

17 Q The second one there is Duval County. Well,
18 we'll take the first one. The first one was from Robert
19 W. Calvert for \$22,000 plus. That would be his salary as
20 Judge, I presume.

21 A Yes, sir.

22 Q The second one is Duval County, \$1,200. What
23 does that represent?

24 A I don't know. It was a W-2 and that was—

25 MR. CHAVEZ: Supplement.

1 Q Do you know whether or not he receives com-
2 pensation as a member of the Juvenile Board in that
3 District or not?

4 A No, sir. I don't. That may be what this is.
5 I don't know.

6 Q Now, I direct your attention to Schedule "C"
7 of that return, which shows receipts from the practice
8 of law of \$5,884. Is that correct?

9 A I believe it is \$5,887.

10 Q \$87?

11 A Yes, sir. It shows up here.

12 Q I can hardly read these figures.

13 Do you know the nature of the work that was
14 done by Judge Carrillo for that \$5,800?

15 A No, sir. What that is, through the years with
16 Judge Carrillo and a lot of other clients, they don't
17 keep their records like they should. I mean, they'll
18 make deposit slips and not put names on them; write
19 checks and not put what they're for. And when I come
20 across deposits of any size and they can't account for
21 them, I make them pay tax on it. And there were some
22 unidentified deposits in here that I couldn't determine
23 where the money came from, and nobody knew. So I didn't
24 know what else to do with it so I just put it down as
25 business income and had him pay tax on it. I would rather

1 they would over-pay their tax if they can't account for
2 it.

3 Q All right. Now I direct your attention to
4 Schedule "E" of that return, Part 3. Again, it shows
5 income from a trust, O. P. Carrillo, Trustee, in the
6 amount of \$6,800 plus.

7 A Yes, sir.

8 Q Is that the family trust that you mentioned
9 a minute ago?

10 A Yes, sir.

11 Q And no money went into that trust, to your
12 knowledge, from either the Farm and Ranch Store or the
13 Zertuche General Store?

14 A No, sir.

15 Q Or any derivatives from those two business
16 enterprises?

17 A No, sir.

18 Q Did any monies go into those trusts from any
19 of the properties that they had inherited from their
20 ancestors?

21 A Not that I know of.

22 Q The next one shows income from the partnership
23 with Ramiro of \$7,500 plus.

24 A Yes, sir.

25 Q Is that the income from the Farm and Ranch

1 Store?

2 A Yes, sir.

3 Q So they made a profit that year?

4 A That's right.

5 Q Now, I direct your attention to Schedule "G".
6 That is a form that is used, is it not, in order to
7 average out an abnormal year.

8 A Yes, sir.

9 Q So that the tax payer can get a break by
10 leveling out his income over a five-year period.

11 A Yes, sir.

12 Q Called "income averaging."

13 A Yes, sir.

14 Q My question to you on that: this shows as a
15 predicate for income averaging in 1972 his taxable income
16 for the preceding four years. 1970 shows zero. How do
17 you account for zero income in 1970?

18 A His losses exceeded his income.

19 Q On the return which you filed?

20 A Yes, sir.

21 Q Even after you had included \$4,000 rent that
22 was labeled as "commissions" on the Zertuche tax
23 return?

24 A Yes, sir.

25 Q And he still came out with a loss for the

1 year—

2 A Yes, sir.

3 Q —on his entire return?

4 A Possibly not a loss, but such little income
5 that his exemptions and deductions were more than his—

6 Q No taxable income for 1970?

7 A That's right.

8 Q And even for 1968, only \$5,200 taxable
9 income?

10 A Yes, sir.

11 Q In 1969, \$14,000 plus.

12 A Yes, sir.

13 Q In 1971, \$5,500 plus.

14 A Yes, sir.

15 Q And 1972, \$16,000 plus.

16 A Yes, sir.

17 CHAIRMAN HALE: Not much taxable income.

18 Q Now, Mr. Kirkland, if I could direct you to
19 Carrillo Exhibit 8, which is the 1973 tax return for
20 Judge Carrillo. Did you prepare that return?

21 A Yes, sir.

22 Q On page 3, which are the Wage and Tax State-
23 ments, we notice the same two that he had in the
24 preceding year: one from the State Comptroller for his
25 judicial salary, one from Duval County for \$1,200, and

1 now we see a third one added on there from Starr County
2 for \$1,200. Do you know what that would be for?

3 A No, sir, I don't.

4 Q You wouldn't know whether that was for
5 Juvenile Board membership in Starr County?

6 A No, sir.

7 Q Now, I direct your attention to Schedule "C".
8 I believe it is just one or two pages past where you
9 are.

10 A Yes, sir.

11 Q That shows again as a profit or loss from
12 profession of attorney at law, and he shows zero gross
13 receipts for that year. Is that correct?

14 A Yes, sir.

15 Q So, in 1973, he had taken in no fees as an
16 attorney during that year?

17 A That's right.

18 Q Now, if you would look at Schedule "E", Part
19 III. Again, "O. P. Carrillo, Trustee, \$6,190."

20 A Yes, sir.

21 Q That's the same family trust that we pre-
22 viously discussed. Is that correct?

23 A Yes, sir.

24 Q No other money went into that, to your
25 knowledge?

1 A No, sir.

2 Q And then the partnership, O. P. and Ramiro
3 Carrillo, shows a net profit of \$9.97 for the year?

4 A \$9.94. That's his half of it.

5 Q \$9.94 was half of the income of that partner-
6 ship?

7 A It came pretty close.

8 Q That partnership wasn't doing very well, was
9 it?

10 A Not very.

11 CHAIRMAN HALE: Mr. Kirkland, thank you
12 for answering my questions.

13 Mr. Maloney?

14 BY VICE CHAIRMAN MALONEY

15 Q Mr. Kirkland, did you bring any records with
16 you?

17 A These?

18 Q Any records at all.

19 A I have some up here in the attorney's office.

20 Q All right. Let me ask you on this trust, who
21 is the trustee of this trust?

22 A O. P. Carrillo.

23 Q Who are the beneficiaries of the trust?

24 A It would take a little while. You start out--
25 there's a Mrs. Emma Gavito in Brownsville, and Valentine

1 Gavito in Brownsville, and Mrs. Elna Stockwell, Benavides.

2 Q Elna Stockwell?

3 A Stockwell. And Julian Stock—no, not Julian
4 Stockwell—James Stockwell in Benavides, and Ramiro
5 Carrillo.

6 Q Would this be senior or junior?

7 A Senior. And Ramiro Carrillo, Jr. I don't
8 know whether I can remember all the children's names or
9 not. There are three of Ramiro's children: Ramiro Jr.,
10 and Cynthia Garcia and Arnoldo Carrillo. And then there
11 is O. P. Carrillo, and then there are ten of Oscar
12 Carrillo's children.

13 Q Do you file the returns for this trust?

14 A Yes, sir.

15 Q Do all the beneficiaries share equally in the
16 trust, or is there different relationships?

17 A Well, the six children share equally in the
18 trust, originally. Of course, O. P. Gets a full share;
19 he's single. And the others, all except Oscar, have
20 given the minerals to their children. Oscar has given
21 everything to his children. So, we just have to work it
22 out and come up with an answer.

23 Q And each of the beneficiaries who have one-
24 sixth interest, when they gave it out, that one-sixth
25 interest would then have some division whichever way they

1 wanted it to go?

2 A Yes, sir.

3 Q But you're able to trace all of it back?

4 A Yes, sir.

5 Q And O. P. Carrillo is the trustee?

6 A Yes, sir.

7 Q When was this trust established?

8 A I don't know. I started doing their work in
9 '59, and it was in existence then, and I have just
10 followed it right on through.

11 Q Is D. C. Chapa—is he a trustee with regards
12 to this?

13 A No.

14 Q Is there any other trust involved, other than
15 this one?

16 A Not that I know of.

17 Q You do file a partnership return for the Farm
18 and Ranch, do you not?

19 A Yes, sir.

20 Q How about Ramiro Carrillo and Brothers? Do
21 you file returns for that?

22 A No, sir. There is no return filed. That is
23 the nomenclature. That is the way they have this
24 account set up for O. P. Carrillo, Trustee. It is the
25 same thing. What we do, we file a schedule showing the

1 different types of income, and how it is distributed, and
2 attach a copy of it to each income tax return.

3 Q You're saying that if a check were made out to
4 Ramiro Carrillo and Brothers, it would be, in effect,
5 made payable to this trust. Is that correct?

6 A Yes, sir. I believe the bank account is
7 carried "Ramiro Carrillo and Brothers."

8 Q Did you do Oscar Carrillo's tax return?

9 A Yes, sir.

10 Q Do you do a tax return for Duval Cedar Posts?

11 A No, sir.

12 Q Do you do a tax return for Benavides Cedar
13 Posts?

14 A No, sir.

15 Q Who in the Carrillo family do you do their
16 individual tax returns for?

17 A All of those that are in the trust, and Oscar,
18 and D. C. Chapa.

19 Q Did you bring the partnership returns for Farm
20 and Ranch?

21 A Yes, sir.

22 Q What years?

23 A I think from all the way back down through '74.

24 Q Has the '74 return been filed?

25 A Yes, sir.

1 Q Has a '74 return been filed for O. P. Carrillo?

2 A As soon as he signs it.

3 Q Has a '74 return been filed for Ramiro
4 Carrillo and Brothers, the trust?

5 A Yes, sir. We have filed the information
6 return and put it on all the others.

7 Q Are there any other business entities that you
8 know of that are owned by the Carrillo family, other than
9 the ones we've mentioned here today?

10 A No, sir.

11 Q What returns did you bring for Ramiro Carrillo
12 and Brothers?

13 A We should have copies of them, oh, possibly
14 back into the fifties.

15 Q Do you have those with you?

16 A The attorney has them. Yes, sir.

17 Q What copies do you have of Mr. O. P. Carrillo's
18 tax returns?

19 A I believe, from '57.

20 Q '57 forward?

21 A Yes, sir. I don't have his for the last three
22 or four years. We don't have his return filed yet. It
23 is prepared, and the file and the return are in the
24 office waiting for him to come by and sign it.

25 Q So, you don't have the '74 return with you. Is

1 that what you're saying?

2 A No, sir.

3 Q I get the impression, from previous testimony,
4 that basically what you do is take the figures that they
5 bring you and put them in the right slot.

6 A Yes, sir.

7 Q Is that correct?

8 A That's right.

9 Q You don't look at the checks themselves or any
10 supporting documents whatsoever?

11 A When something doesn't appear to be right or I
12 have some questions, then I will call for whatever I need
13 to look at and work it out.

14 Q Do you keep the books for any of these entities—

15 A No, sir.

16 Q —or do you just file the tax returns?

17 A I just file the tax returns.

18 Q How soon do you think that you could have these
19 tax returns for us from 1968 forward on each of these
20 entities: the Ramiro Carrillo and Brothers, Farm and
21 Ranch, and O. P. Carrillo?

22 A I would have to talk to their attorney about
23 that. He has them all.

24 Q He is right there.

25 A Yes, sir.

1 Q Why don't you chat with him.

2 MR. MITCHELL: I don't have the
3 authority, Mr. Maloney, to deliver those persons who
4 are not—for example, those youngsters that are bene-
5 ficiaries of the trust, I don't think it would be
6 appropriate for me to deliver those. And certainly Mr.
7 Chapa, I would have to talk to his attorney. And they've
8 got an IRS man sitting in this hearing and I don't think
9 I'm going to deliver any more. I've delivered all I'm
10 going to.

11 A I had an unfortunate experience. The IRS
12 subpoenaed all of my files and kept them two years, and I
13 just got them back the other day. And I'm having to rebuild
14 them all now.

15 MR. JOHNSON: Who is the IRS man?

16 MR. CHAVEZ: Ask him. Who is the IRS
17 man?

18 MR. MITCHELL: I don't know. Maybe you
19 could ask and find out.

20 MR. CHAVEZ: Is he here?

21 MR. MITCHELL: Sure he is.

22 Q Will you tell me, please, Mr. Kirkland, what
23 returns the Internal Revenue Service has subpoenaed
24 from you?

25 A Let's see. They took O. P. Carrillo from

1 1957 through 1971.

2 Q Through '71?

3 A Yes, sir.

4 Q All right, sir.

5 A And Ramiro—well, I have them back now. I just
6 got them back the other day. Ramiro Carrillo from 1942
7 through 1971, and Oscar Carrillo for— I don't remember
8 how many years—and Ramiro— O. P. and Ramiro, the Farm
9 and Ranch Store from the beginning through '71, and
10 Zertuche General Store from '65 through '70.

11 Q You say the Ramiro Carrillo and Brothers?

12 A No, sir. O. P. and Ramiro Carrillo, the Farm
13 and Ranch Store.

14 Q Did the IRS subpoena Ramiro Carrillo and
15 Brothers?

16 A No, sir.

17 Q No?

18 VICE CHAIRMAN MALONEY: The Committee will
19 stand at ease for five minutes.

20 (Brief recess.)

21 CHAIRMAN HALE: The Committee will come
22 to order.

23 Mr. Maloney, the Chair is informed, in my
24 absence a moment ago, some question came up about some
25 tax records.

1 VICE CHAIRMAN MALONEY: That's correct,
2 Mr. Chairman. I would move at this time that the Chair
3 issue a subpoena duces tecum to Mr. O. D. Kirkland to
4 produce the partnership returns for the Farm and Ranch
5 Store to cover the period of 1967 through 1974; to
6 produce the trust returns for Ramiro Carrillo and
7 Brothers for the period 1967 through 1974; to produce
8 the tax returns for O. P. Carrillo from 1967 through 1970.
9 BY CHAIRMAN HALE

10 Q Mr. Kirkland, let the Chair ask you, did you make
11 the returns that Mr. Maloney mentioned in his motion?
12 Did you prepare those returns?

13 A Yes, sir. But I don't have them now.

14 Q Do you have copies of them in your possession?

15 A No, sir.

16 Q Did you retain copies of each of those in your
17 files?

18 A Yes, sir.

19 Q —at the time they were prepared? Where are
20 your copies of those records?

21 A In Mr. Mitchell's office.

22 Q You delivered them to Mr. Mitchell?

23 A Yes, sir.

24 Q Was the same thing true on these that I
25 questioned you about, the 1971 and the 1972 and the 1973

1 returns for Judge Carrillo?

2 A Yes, sir.

3 Q Your copies of those you have turned over to
4 Mr. Mitchell?

5 A Yes, sir.

6 Mr. Chairman?

7 Q Yes, sir.

8 A There is something I would like to clear up
9 with Mr. Maloney on the IRS and my records. I said they
10 just delivered them back to me. They returned Oscar
11 Carrillo's records to me several months ago with a letter
12 that they could find no evidence of fraud in any of his
13 tax returns and they cleared him on it.

14 VICE CHAIRMAN MALONEY: That's fine.

15 Those are not the records in issue at this point, Mr.
16 Kirkland.

17 A Yes, sir.

18 Q You lost me on that. The Internal Revenue
19 returned Judge Carrillo's returns for what years?

20 A 1957—

21 Q Oh, Oscar Carrillo.

22 A Oh, for about fifteen or twenty years.

23 Q Those are on Oscar Carrillo?

24 A Yes, sir. They kept all the others until just
25 the other day. They returned Oscar's. It was brought up

1 in here about Oscar Carrillo's returns, and I just wanted
2 to clear it. They have been returned and he has been
3 cleared.

4 Q That is not true with respect to Judge Carrillo,
5 though?

6 A No, sir. They did return his files, though, to
7 me.

8 Q But there are pending indictments with
9 respect to some of his returns, are there not?

10 A Yes, sir.

11 Q Aren't those indictments still pending?

12 A Yes, sir.

13 CHAIRMAN HALE: Mr. Mitchell, could the
14 Chair ask you, do you have the returns in question in
15 your possession?

16 MR. MITCHELL: I have all of those
17 except that I have delivered as part of the evidence
18 in this case. Yes. I have delivered, as the record
19 will reflect, the Zertuche returns from 1965 to '70;
20 the O. P. Carrillo returns for '70, '71 and '72, I believe;
21 and I have rest, the Farm and Ranch—no, the trust
22 returns and the O. P. Carrillo returns insofar as they
23 relate to the indictment which is presently pending in
24 the Southern District of Texas.

25 CHAIRMAN HALE: You would not make those

1 returns available to this committee voluntarily?

2 MR. MITCHELL: Not the others that I have
3 not already delivered. It appears to me that the
4 inquiry now is whether we're going to try him up here
5 for this tax evasion, and I'm going to invoke the attorney-
6 client privilege, as well as the rights that I have under
7 the State and Federal Constitution with regard to my
8 client on incrimination.

9 CHAIRMAN HALE: What years does the
10 Federal court case in Corpus Christi— I believe it's in
11 Corpus Christi.

12 MR. MITCHELL: Yes, sir.

13 CHAIRMAN HALE: What years does that
14 involve?

15 MR. MITCHELL: I think the record
16 speaks to that, Mr. Chairman; it goes from 1960—the
17 first count is the conspiracy count that ends in May of
18 1974 and commences in 196— January 1st, 1967.

19 CHAIRMAN HALE: Over a seven-year period?

20 MR. MITCHELL: Yes, sir. The first
21 count is a conspiracy count beginning the 1st of
22 January. I have delivered everything I have prior to
23 the 1st of January, Mr. Chairman, to the Committee
24 already. And for the years January 1st, 1967 to May of
25 1974, I have delivered, as I have already stated. The

1 record will speak for itself. But that is the conspiracy
2 count.

3 CHAIRMAN HALE: Well, you have given us
4 '71, '72 and '73 returns here on Judge Carrillo.

5 MR. MITCHELL: Yes, sir.

6 CHAIRMAN HALE: Are those three involved
7 in the conspiracy count also?

8 MR. MITCHELL: Yes, sir. They are. I
9 chose to waive as to those at the time that I did them
10 because of the prior questions raised in the issue on
11 the Zertuche General Store, and at the time that Judge
12 Carrillo first became District Judge. I, however, have
13 heard the questions put to—some of the questions put—to
14 some of the witnesses this morning, and I think it would
15 be amiss of me in a discharge of my duty if I let this
16 Committee have 154 returns, and that's what they're
17 asking for. There would just be no end to it. We might
18 as well try the case there in the Federal District Court
19 on June the 30th where we have the attendant protection
20 of the Constitution.

21 As I understand, Mr. Chairman, out of due
22 respect, that I had the understanding at the time this
23 impeachment proceeding commenced, that specifically in
24 Judge Douglas's impeachment, that unsuccessful impeach-
25 ment move, that the tax records were held and are

1 continued to be held even to this date confidential.
2 However, out of a feeling that I had to be sure that
3 this Committee had everything, I had a very difficult
4 decision to make about releasing those, and I have done
5 them. I brought all the records over on the in-put. Mr.
6 Maloney has examined those. But I feel that now when I
7 have been required here without the attendant protections
8 of the right to cross examine, the rights to subpoena
9 and et cetera, et cetera, in terms of a regular trial,
10 not that it hasn't been afforded me here—the record
11 speaks for itself—that I cannot, in all good conscience,
12 produce those returns that I have been called upon to
13 produce.

14 CHAIRMAN HALE: Mr. Maloney?

15 BY VICE CHAIRMAN MALONEY

16 Q Mr. Kirkland, who is your attorney?

17 A I don't have one.

18 Q Those records that you turned over to Mr.
19 Mitchell are your records, are they not?

20 A Yes, sir.

21 Q They are not Judge Carrillo's records; they
22 are your records?

23 A Yes, sir.

24 VICE CHAIRMAN MALONEY: Mr. Chairman, I
25 feel that there is no attorney-client privilege between

1 Mr. Kirkland and Mr. Mitchell. Let me ask one more
2 question.

3 Q Who told you to give those to Mr. Mitchell?

4 MR. MITCHELL: I did.

5 A He did.

6 VICE CHAIRMAN MALONEY: That's what I
7 thought.

8 MR. MITCHELL: There is precedent, Mr.
9 Maloney, if you will permit me, for that very precise
10 procedure to be followed in cases of all IRS violations;
11 that is, the material that is delivered to the attorney
12 is deemed to be and is covered within the privilege.

13 CHAIRMAN HALE: Well, this Committee,
14 of course, Mr. Mitchell, doesn't want to do anything
15 that would interfere with the handling of the Federal
16 Court case in Corpus Christi. At the same time, it
17 appears to me that if the position that you have taken,
18 or it has been the Chair's impression of the position
19 that you have taken throughout this hearing, was that
20 you were going to make available to us whatever records
21 you have for us to peruse. In fact, it was the Chair's
22 impression from our first occasion up here that you had
23 several big file boxes full of records and you were
24 going to bring them up here as long as—if I could provide
25 the safe custody for them and even let us keep them while

1 we were checking through those records.

2 MR. MITCHELL: That's true.

3 CHAIRMAN HALE: Now, has your position
4 on that changed?

5 MR. MITCHELL: It has changed, because I
6 think the tenor of the examination has changed. I think
7 that now we're trying him for Federal Income Tax evasion,
8 and I think that I can change my mind in view of the
9 shift.

10 CHAIRMAN HALE: Well, of course—

11 MR. MITCHELL: If I have IRS people in
12 this Committee hearing, and I have questions put to these
13 people all along that deal with the very niceties of
14 the questions of whether there have been over-statements
15 of deductions, under-statement of income, when I have
16 admitted the indictment from the very beginning, and
17 then I have called upon me to produce, to emasculate my
18 client's defense to the tune of a hundred and some odd
19 tax returns, then I say I have in good conscience— I owe
20 my client the duty to refuse to deliver them, Mr. Hale.

21 CHAIRMAN HALE: Well, of course, it occurs
22 to me that up until now, at least, it hasn't been my
23 impression that the inquiries have been towards violation
24 of Federal income tax laws. I know all of the questions
25 that I directed at Mr. Kirkland here with respect to

1 these tax returns were an effort on my part to find out
2 if any income, basically, if any income from Farm and
3 Ranch or Zertuche was going in to Judge Carrillo's
4 benefit, which is one of the key allegations that's been
5 made here— that he was deriving income from the Zertuche
6 operation and not in violation of Federal income tax
7 laws, but in violation of a state statute which prohibits
8 an official from doing business with a government entity.

9 MR. MITCHELL: That may be correct. I
10 don't dispute that. I notice, however, when I proceeded
11 to go back to the years 1965 up to '67 I was told I was
12 being irrelevant because that wasn't the subject matter
13 of the inquiry. And yet the Speaker himself questioned
14 this man about each and every item of income. And I
15 said, "Well, now, fine. I have nothing to hide. Let
16 him ask him. I'm just so glad that this man can make a
17 public examination of his tax returns before these
18 people." And I have admitted the indictment. I have
19 admitted those years and I have delivered those. But I
20 think that we're getting some very valuable rights that
21 the Constitution protects mixed up into this matter. And
22 I know the Committee doesn't want to step on them, and I
23 certainly don't want to be a party so that an attorney
24 sitting here thirty years hence on an impeachment proceed-
25 ing, since it occurred in thirty, says, "Well, if

1 Mitchell had just stood up and said, now, whoa; we're
2 not going to convert this thing into a public denounce-
3 ment of a public official." We're setting a dangerous
4 precedent, Mr. Chairman. I'm bound to feel that duty
5 very strongly. I didn't mind giving that material. I
6 tendered that material. But, quite frankly, I have sat
7 here and I've scratched my head, pulled back over 25
8 years of experience and I've seen the ball thrown, I've
9 seen the ball thrown back. I said, now, wait a minute.
10 If we're going to try this man for income tax evasion, I
11 want that jury in a box and I want to call this man or
12 that man or that man and find out what occurred here.
13 And if we've tried him here, I've got a double jeopardy
14 plea down there.

15 CHAIRMAN HALE: Mr. Mitchell, let me ask
16 you, is there anything in any of the questions here that
17 Mr. Maloney made that is not now in the hands of the
18 U. S. District Attorney?

19 MR. MITCHELL: Well, the children—how
20 many are there? I don't even know, that are in that one
21 trust, Mr. Kirkland. How many children?

22 A 10, 13, 14, 15—at least 15.

23 MR. MITCHELL: Fifteen children? Well, I
24 don't know that there's fifteen children. I have been
25 asked to deliver their returns. Did you deliver those

1 to me?

2 A There are eighteen.

3 MR. MITCHELL: Eighteen children. I'm
4 not going to stand up as a lawyer of this State of Texas
5 and say, "Yes, here. Take all of them kid's returns."
6 I can't do that.

7 CHAIRMAN HALE: I don't believe those
8 returns were even included in the motion, were they?

9 MR. MITCHELL: The trust returns and the
10 O. P. Carrillo and Sons returns are those kids returns.
11 And, Mr. Chairman, the items from those returns, those
12 fiduciary returns are picked up and carried over on the
13 O. P. Carrillo individual returns. Am I correct?

14 So, what the kiddos' returns—a little old
15 fellow down in Brownsville that's four years old has got
16 to do with this, I swear, I don't know. That's what I'm
17 trying to say. You all put me in the position where I've
18 got to deliver all those returns.

19 Now, the Farm and Ranch returns, that's picked
20 up in that schedule pursuant to the partnership returns,
21 and that's before the Committee. The O. P. Carrillo
22 returns, I've delivered them. The Zertuche returns, I
23 delivered to show that they stand on their own. Gross
24 sales, the deductions, et cetera.

25 CHAIRMAN HALE: Mr. Kirkland, let the

1 Chair ask you a question.

2 BY CHAIRMAN HALE

3 Q The Ramiro Carrillo and Brothers: is that the
4 name under which the trust is operated?

5 A Yes, sir.

6 Q That's this family trust that I asked you a
7 number of questions on earlier?

8 A Yes, sir.

9 Q I noticed that on each of these returns, for
10 '71, '72 and '73, in Schedule "E" it showed the income
11 from O. P. Carrillo, Trustee.

12 A Yes, sir.

13 Q What is the difference between O. P. Carrillo,
14 Trustee and Ramiro Carrillo and Brothers?

15 A When we file, we file as O. P. Carrillo,
16 Trustee for income tax. And it's my understanding that
17 the bank account is carried in the name of Ramiro
18 Carrillo and Brothers. That's the way the ranch and all
19 the operations are carried on.

20 Q Did you prepare a fiduciary return for that
21 family trust each year?

22 A No, sir. I prepare a schedule showing all the
23 income and expense and the distribution and attach it
24 to each tax return.

25 Q You do not prepare a fiduciary return for the

1 trust?

2 A No.

3 MR. MITCHELL: Excuse me, Mr. Hale. That
4 schedule is attached to the individual return, to the
5 1040 form of O. P. Carrillo. Am I right, Mr. Kirkland?

6 A Yes, sir.

7 MR. MITCHELL: It's in there.

8 CHAIRMAN HALE: Yes, sir. But, Mr.
9 Mitchell, I'm not much of a tax lawyer, but I have handled
10 two or three trusts. And every one I ever handled we
11 filed a fiduciary return for the trusts in addition to
12 the schedules which showed distribution of assets to
13 beneficiaries of the trusts. That was not done in
14 this instance?

15 A No, sir. When I took this over in 1959, that's
16 the way it had been done for years, and I continued
17 preparing identical schedules each year and attached
18 them to the income tax returns. There's never been a
19 word from the IRS about it. They have accepted them for
20 the fifteen years that I've done them.

21 Q And during that fifteen years you have never
22 prepared a fiduciary return for the trust?

23 A No, sir.

24 Q Well, that's interesting.

25 Do you handle accounting for any other trusts?

1 A Yes, sir.

2 Q Do you prepare fiduciary returns on these
3 other trusts?

4 A Yes, sir.

5 Q Do you have any other trusts that you are
6 handling that you're handling the way you do Ramiro
7 Carrillo and Brothers?

8 A No, sir.

9 CHAIRMAN HALE: Mr. Maloney?

10 BY VICE CHAIRMAN MALONEY

11 Q Mr. Kirkland, you say that you have traditionally
12 attached this, we'll call it the fiduciary return, to the
13 returns themselves. Is that correct?

14 A Yes, sir.

15 Q So, if we have copies of O. P. Carrillo's
16 1971, '72 and '73 income tax return, we should also have
17 a copy of that fiduciary return, shouldn't we?

18 A Yes, sir.

19 Q And if we don't have it, then those returns
20 are incomplete to us, are they not?

21 A Yes, sir.

22 BY CHAIRMAN HALE

23 Q All right. Would you examine Carrillo
24 Exhibit 71, which I believe you still have there,
25 Carrillo Exhibit 7 and Carrillo Exhibit 8. That is 71, 7

1 and 8. Those are the three tax returns in question:
2 '71, '72 and '73 for Judge O. P. Carrillo.

3 Would you examine each of those three returns
4 and advise the Chair whether or not that schedule to
5 which you refer relative to the trust is attached?

6 A It isn't for '73.

7 Q I beg your pardon?

8 A It isn't for '73.

9 Q It is not, or it is?

10 A It is not. It was on the one that went in
11 to the IRS. We prepare a master schedule, and we don't—
12 it seems like they didn't put one in each file. Let's
13 see if there are on these other years.

14 No, sir. Evidently there's not a copy of that
15 with this.

16 Q I'm sorry. I beg your pardon?

17 A There is not a copy in here.

18 Q Which one are you looking at now?

19 A This was '72.

20 Q The 1972 return?

21 A Yes, sir. Let's see about '71.

22 Q Check the 1971 return.

23 A No, sir. There isn't one with it either.

24 CHAIRMAN HALE: Mr. Mitchell, it was my
25 impression when you offered the '71, '72 and '73 returns

1 for Judge Carrillo they were complete returns which you
2 were supplying the Committee. Did you inadvertently
3 leave this out, or was it intentional on your part?

4 MR. MITCHELL: No. They were reproduced
5 by my staff as they were in my possession and I
6 delivered them as complete returns, Mr. Chairman. I had
7 no intent, as I have stated several times and I state
8 again, of censoring those returns.

9 A Pardon me, Mr. Hale. The returns, as I say, we
10 had a master of the trust return, and we attached a copy
11 to every copy that goes to the IRS. And our file copies,
12 we keep a master copy of that to go with all the returns
13 it covers. So that was— I didn't know that he was
14 reproducing these returns. I could have given him those
15 master copies and he could have reproduced those three
16 years and attached to the returns.

17 Q You still have those schedules, then, in your
18 possession?

19 A No, sir. He has them now.

20 Q He has them now?

21 A Yes, sir.

22 Q You have turned all of that over to him?

23 CHAIRMAN HALE: Mr. Mitchell, are you
24 willing to deliver to us for '71, '72 and '73 that portion
25 of the return for Judge Carrillo?

1 MR. MITCHELL: I would like to have a court
2 order me to, Mr. Hale, because of the duty I feel of the
3 children —the names that are listed on it. I did not
4 have them, as Mr. Kirkland has indicated, and I think
5 the returns were produced as they were delivered to me
6 but I feel that responsibility and it is not an empty
7 responsibility. If the Court orders me to deliver them,
8 I will deliver them. But I hate to take that responsibility
9 standing here in a public forum of delivering returns
10 which I consider I have no control over. I don't rep-
11 resent these people.

12 MR. KASTER: Mr. Chairman?

13 CHAIRMAN HALE: Mr. Kaster?

14 MR. KASTER: Parliamentary inquiry.

15 Do we know when Mr. Kirkland turned those records
16 over to Mr. Mitchell? Because, as I remember, he was
17 subpoenaed duces tecum. And if after that he turned
18 them over, is there a question then of turning them over
19 to evade the subpoena?

20 CHAIRMAN HALE: Mr. Kirkland hasn't been
21 subpoenaed yet other than by telephone.

22 MR. KASTER: Oh. That is Mr. Mitchell
23 being nice.

24 CHAIRMAN HALE: Mr. Kirkland came up here
25 voluntarily at our request with the understanding that

1 he would be served with a subpoena here in the interest
2 of time.

3 MR. KASTER: I think I know why Mr.
4 Mitchell said he would get ahold of him for us.

5 MR. MITCHELL: That's not true.

6 CHAIRMAN HALE: Mr. Chavez?

7 MR. CHAVEZ: If Mr. Mitchell admits that
8 he waived his responsibility as to these returns, Mr.
9 Kirkland says that the schedules are part of the
10 returns, then he in fact has waived as to his client's
11 privilege on that schedule. If that schedule is part of
12 those returns then by his waiver then we're entitled to
13 the schedules. The schedules form a part of the
14 return, according to Mr. Mitchell and the accountant.
15 He has either waived the privilege or he hasn't.

16 CHAIRMAN HALE: Well, the Chair, with the
17 permission of the Committee, the Chair would like to take
18 the question of issuing this subpoena under advisement
19 and let's do a little briefing on it. I would hate for
20 us to do anything that would interfere with the fair
21 trial for Judge Carrillo in the U. S. District Court
22 for the Southern District. We don't want to interfere
23 with that in any way. That's in the hands of the
24 judiciary. And I would like to satisfy myself on the
25 extent to which the privilege can be invoked with respect

1 to these federal tax returns insofar as this type of
2 inquiry is concerned.

3 Mr. Hendricks?

4 MR. HENDRICKS: Parliamentary inquiry.

5 CHAIRMAN HALE: State your inquiry.

6 MR. HENDRICKS: The only thing we're
7 concerned with here is not the income itself, but the
8 source of the income. Isn't that correct?

9 CHAIRMAN HALE: That's my impression. I
10 didn't get the idea, as Mr. Mitchell apparently did, that
11 any of our interrogation of Mr. Kirkland had to do with
12 any misrepresentation to Internal Revenue. It occurs to
13 me that we're not really concerned with that, at least at
14 this stage.

15 MR. HENDRICKS: Maybe I've got it wrong
16 somewhere.

17 CHAIRMAN HALE: But it occurred to me it
18 was the source of the income. I know most of my
19 questions directed to Mr. Kirkland— I was trying to
20 trace the source of that money and tie down the source of
21 it. And one item in particular, for instance, \$4,000
22 which is shown as commissions on here, which Mr.
23 Kirkland says was rent which was paid to Judge Carrillo.
24 I don't know how significant that one item is, but it
25 was—again, it's going back to the source of this money.

1 Whether or not it was reported for Internal Revenue
2 purposes really is not our concern. That's the concern
3 of the U. S. District Attorney in that trial in Corpus
4 Christi.

5 Why don't we proceed with the questioning of
6 Mr. Kirkland to the extent that we can on other matters.

7 VICE CHAIRMAN MALONEY: Mr. Chairman, I
8 would like to renew my motion at this time, and I would
9 like to add to it that Mr. Mitchell be subpoenaed to
10 produce these records. Now, whether or not these
11 subpoenas would be good is something to be decided later.
12 But I think it is time for this Committee to start
13 moving, since Mr. Mitchell has said that he is going to
14 provide us these records, and he has said himself that
15 the investigation has changed its course and he wants
16 to preserve them, I think that for the record we need to
17 preserve this Committee's integrity and subpoena those
18 records.

19 CHAIRMAN HALE: Mr. Maloney, I would say
20 this: that Mr. Mitchell, I'm sure, is going to be
21 available.

22 VICE CHAIRMAN MALONEY: Mr. Chairman, I
23 think it is important for the record that this subpoena
24 be issued.

25 CHAIRMAN HALE: It occurs to me, Mr.

1 Maloney—the Chair is not— I don't intend— I don't
2 want to argue the point. If you want to insist on your
3 motion, you're entitled to make a motion, of course. It
4 occurs to me that we might want to do a little briefing
5 on this thing, though, before we take this action. That
6 was my only reason. I don't see that we would lose
7 anything by doing a little legal research on this point
8 before we take the action on it in view of the fact that
9 both Mr. Kirkland and Mr. Mitchell are long-time
10 residents of the State of Texas and I'm sure are not going
11 to get beyond the subpoena power of this Committee within
12 the next few weeks. So that if we found that we were on
13 solid legal ground in issuing the subpoena then we could
14 issue it at that time.

15 I presume from what's been said here that if
16 it is served on Mr. Mitchell he is not going to honor it
17 anyway, and that would force somewhere down the line some
18 ultimate litigation on the legality of the subpoena,
19 perhaps. The Chair would hope that we would be on solid
20 legal grounds if we did elect to issue the subpoena.
21 Of course, the Committee members are entitled to draw
22 whatever conclusion they want from the fact of his
23 refusal to produce the records.

24 I don't think we're in the category in this
25 type of hearing as we are in a trial where the fact that

1 the defendant doesn't take the stand can't be used against
2 him. We're not in a criminal trial here. I think the
3 fact that the defendant—if that is the proper term—if
4 the accused in this instance denies access of the
5 Committee to certain records, I think the Committee is
6 entitled to make whatever deduction it wants from the
7 fact that those records are not available to it. I
8 don't believe we're bound by the rules that apply in
9 criminal cases, because this is not a criminal proceeding;
10 it's a civil case. And in a civil case you can comment
11 on the fact that a party doesn't take the witness stand.
12 If they don't take the witness stand you're entitled to
13 comment on that to the jury and ask the question, why
14 didn't they produce the records?

15 But if you want to insist on your motion at
16 this time, the Chair will accept it.

17 VICE CHAIRMAN MALONEY: I do insist on
18 it, Mr. Chairman.

19 CHAIRMAN HALE: All right. Mr. Maloney
20 moves that a subpoena duces tecum be issued to Oscar D.
21 Kirkland and/or Arthur Mitchell for the production before
22 the Committee of the Federal tax returns for 1967 through
23 1974 for Farm and Ranch partnership returns.

24 Maybe we should take these one at a time in
25 separate motions.

1 VICE CHAIRMAN MALONEY: Mr. Chairman, I
2 think they can be all included.

3 CHAIRMAN HALE: For Ramiro Carrillo and
4 Brothers from 1967 through 1974.

5 VICE CHAIRMAN MALONEY: I would like to
6 add at that point, and/or O.P., Trustee, if that is the
7 nomenclature that Mr. Kirkland used.

8 CHAIRMAN HALE: All right. And/or O. P.
9 Carrillo, Trustee; and returns for 1967 through 1970
10 for O. P. Carrillo.

11 Is there any discussion on the motion?

12 MRS. THOMPSON: I would like to ask a
13 question of the Chairman. I would like to apologize
14 not being here at the time Mr. Maloney discussed it.
15 What is the purpose of this, Mr. Chairman, of getting
16 these records?

17 CHAIRMAN HALE: I'll let Mr. Maloney
18 answer.

19 VICE CHAIRMAN MALONEY: Mrs. Thompson,
20 Mr. Kirkland has informed the Committee that he brought
21 with him the tax returns for Ramiro Carrillo and
22 Brothers, Farm and Ranch partnership returns, and
23 individual returns for O. P. Carrillo; that upon coming
24 to Austin, at least when he got here, he turned these
25 returns over to Mr. Mitchell, and now at this time he says

1 he has no further records and he can produce no more
2 records. Mr. Mitchell has refused to make these avail-
3 able to the Committee.

4 MRS. THOMPSON: Thank you.

5 MR. CHAVEZ: Mr. Chairman?

6 CHAIRMAN HALE: Mr. Chavez?

7 MR. CHAVEZ: Mr. Maloney, are we restricted
8 to the time that he has been a District Judge? Why '67?

9 VICE CHAIRMAN MALONEY: Because if there
10 is a continuing conspiracy I want to know when the con-
11 spiracy began.

12 MR. CHAVEZ: Well, assuming there was a
13 conspiracy from '67 through '69, would that be an
14 impeachment offense at this time?

15 VICE CHAIRMAN MALONEY: I think if it's a
16 continuing conspiracy, it is.

17 MR. CHAVEZ: From '67 to '69?

18 VICE CHAIRMAN MALONEY: I think it's
19 important to show the inception of the conspiracy.

20 MR. CHAVEZ: Even though it stopped in
21 '69?

22 VICE CHAIRMAN MALONEY: I don't know that
23 it stopped. My impression is the players changed but the
24 game didn't change.

25 MR. CHAVEZ: In connection with the

1 privilege, I think you stated that you felt that the
2 records belong to the accountant and not to Mr. Carrillo?

3 VICE-CHAIRMAN MALONEY: That is my
4 feeling at this time. Now, I'm no great legal scholar
5 in this area, but I would say that for the record there
6 is no duty on either Mr. Mitchell or Mr. Kirkland to
7 produce these records unless a subpoena is served upon
8 them. And at that time, the question of their refusal
9 would become a legal question; it is not at this point.

10 MR. CHAVEZ: Okay.

11 MRS. THOMPSON: Mr. Chairman, Mr. Kirkland
12 is trying to get your attention.

13 CHAIRMAN HALE: Yes, Mr. Kirkland?

14 A Mr. Hale, I'm not allowed to speak as an
15 attorney, because I'm not, but I have had this occur
16 before and attorneys have called for my records and taken
17 them to their offices and held them there, just practically
18 in the same routine that we've gone through here.

19 CHAIRMAN HALE: You mean private practicing
20 attorneys?

21 A Yes, sir.

22 CHAIRMAN HALE: Private practicing
23 attorneys; not a District attorney?

24 A Yes, sir. Practicing attorneys.

25 CHAIRMAN HALE: Well, let me ask you a

1 question, Mr. Kirkland. What authority do you have to
2 release returns which you prepared for your client to
3 anyone other than your client?

4 A I cleared this with my clients, and they asked
5 that I release them to Mr. Mitchell.

6 CHAIRMAN HALE: I see. When you say that
7 you have been through this before and released records to
8 attorneys, you released it to attorneys only on
9 authority of your client, though?

10 A Yes, sir.

11 MR. KASTER: Mr. Chairman, may I ask
12 some questions?

13 CHAIRMAN HALE: Yes. Mr. Kaster?

14 BY MR. KASTER

15 Q Mr. Kirkland, when did you turn these records
16 over to Mr. Mitchell?

17 A About 2:00 o'clock yesterday afternoon.

18 Q 2:00 o'clock yesterday afternoon?

19 A Yes, sir.

20 MR. KASTER: Thank you.

21 BY CHAIRMAN HALE

22 Q Which records are we referring to now that were
23 turned over at 2:00 o'clock yesterday afternoon?

24 A There are two briefcases full of them. All of
25 the Carrillo income tax returns.

1 Q How about the '71, '72 and '73 returns that I
2 have interrogated you about? Those were turned over
3 before yesterday afternoon, were they not?

4 A I have had them up here before, and he has
5 been down to my office and we have made pictures.

6 Q Well, Mr. Mitchell has had custody of these
7 records at prior dates in the past then?

8 A Yes, sir.

9 Q And has returned some of them to you and
10 kept some of them? You all sort of exchanged them back
11 and forth, in other words, during this period of time?

12 A Yes, sir.

13 MRS. WEDDINGTON: Could he clarify whether
14 or not the master file on the trust account was turned
15 over yesterday?

16 Q Was the master file on the trust account
17 turned over to Mr. Mitchell also?

18 A I'm pretty sure it was.

19 CHAIRMAN HALE: Is there any further
20 discussion or questions?

21 (No response.)

22 CHAIRMAN HALE: The question occurs on the
23 motion by Mr. Maloney that the Chair be authorized and
24 directed to issue a subpoena duces tecum to Oscar D.
25 Kirkland and/or Arthur Mitchell for the Federal tax

1 returns for those three or four entities for the years
2 indicated in the motion. All those in favor of the
3 motion will vote aye; those opposed will vote no as your
4 names are called.

5 The Clerk will call the roll.

6 (The Clerk called the roll, with the
7 result being six ayes.)

8 CHAIRMAN HALE: There being six ayes
9 and no noes, the motion prevails. (Gavel.)

10 The Chair will prepare a subpoena and it will
11 be served as quickly as we can.

12 In the meantime, let's proceed with our
13 questioning of this witness.

14 MRS. WEDDINGTON: Mr. Chairman, should we
15 also extend official thanks to Mr. Mitchell for his
16 offer of assistance in getting Mr. Kirkland here?

17 CHAIRMAN HALE: Yes.

18 MR. CHAVEZ: Mr. Chairman, when would that
19 be returnable?

20 CHAIRMAN HALE: Instanter.

21 Mr. Maloney, do you have further questions of
22 Mr. Kirkland?

23 VICE CHAIRMAN MALONEY: Not at this time.

24 CHAIRMAN HALE: Mr. Hendricks?
25

1 BY MR. HENDRICKS

2 Q Mr. Kirkland, going back to the Hector
3 Zertuche returns, where did you say you got your informa-
4 tion to prepare these returns?

5 A It was brought in to me on a sheet of yellow
6 paper.

7 Q Legal size sheet of paper?

8 A Yes, sir.

9 Q You weren't quite positive who brought it to
10 you. Are you positive who brought the information to
11 you?

12 A No, sir.

13 Q Do you know Hector Zertuche?

14 A I'm not real sure I would recognize him. He
15 has been in my office a few times.

16 Q Could it have been Judge Carrillo that brought
17 you the yellow sheet of paper?

18 A No, sir.

19 Q Could it have been Ramiro Carrillo?

20 A No, sir.

21 Q But you're not positive it was Hector Zertuche?

22 A It was either Hector or Cleofas.

23 Q Hector or Cleofas?

24 A Yes, sir.

25 Q Now, it didn't have the checks and payouts and

1 everything to back up what information was on that
2 yellow sheet; it just had the final figures. Is that
3 correct?

4 A That's correct.

5 Q And you took the final figures and drew the
6 return from that?

7 A Yes, sir.

8 Q And, of course, you're not verifying the
9 authenticity of the return except from the information
10 given you.

11 A That's right.

12 Q And that applies to both the '65 and '66
13 returns?

14 A Yes, sir.

15 Q All right. Who brought you the information on
16 Arturo Zertuche when you filed the returns on Arturo's
17 General Store in '67, '68, '69 and '70?

18 A That's just about the same situation. I don't
19 know whether it was—

20 Q Do you know Arturo Zertuche?

21 A I wouldn't be sure. No, sir.

22 Q Has he ever been in your office?

23 A Yes, sir.

24 Q Could Judge Carrillo have brought you this
25 information?

1 A No, sir.

2 Q But you're not sure whether Arturo brought it
3 to you, or Cleofas, or who brought it to you?

4 A No, sir.

5 Q Has Cleofas brought you information before
6 concerning these returns?

7 A Yes, sir.

8 Q How was this information given to you?

9 A Brought in on a yellow piece of paper.

10 Q Nothing to back it up—

11 A No, sir.

12 Q —other than the final figures?

13 A No, sir.

14 Q You had no receipts, payouts, checks or
15 anything else?

16 A No, sir.

17 Q Just the final figures?

18 A Yes, sir.

19 Q Did you question anything about the tre-
20 mendous jump in business from '66 to '67 in this Zertuche
21 General Store? Was there any question in your mind
22 regarding that?

23 A Well, I noticed it was doing real well. I
24 told him his income was way up and it was going to cost
25 him quite a bit of income tax. And he said that they

1 were renting and in turn sub-renting this equipment,
2 and that's why their volume of business.

3 Q You said "they said" they were. Now, who is
4 "they?" Who were you talking to about it?

5 A I believe it was Cleofas, but I can't remember
6 for sure.

7 Q Who was he referring to when he said "They"?

8 A In this instance?

9 Q "They were renting."

10 A I believe that it was Cleofas. It could
11 possibly have been Arturo.

12 Q Did they give you any information on who they
13 were renting this equipment to?

14 A No, sir.

15 Q None whatsoever?

16 A No, sir.

17 Q Nothing was set out?

18 A No, sir.

19 Q Now, you mentioned earlier you saw a list of
20 some kind.

21 A Yes, sir. A list of figures.

22 Q Just figures?

23 A Yes, sir.

24 Q And it didn't have anybody it leased to or
25 rented to or anything else?

1 A No, sir. Just a list of figures and a total.

2 Q Did you question Cleofas regarding this
3 tremendous amount of business in the Zertuche General
4 Store?

5 A I don't remember who I questioned. I questioned
6 someone about it, but I don't remember now who it was.

7 Q Well, could it have been Cleofas?

8 A Yes, sir, it could.

9 Q Could it have been the County Commissioner
10 Carrillo?

11 A No, sir. He didn't bring these things in.

12 Q And it couldn't have been the Judge?

13 A No, sir.

14 Q Could it have been Arturo?

15 A Yes, sir, it could have.

16 Q Of your own knowledge, can you swear to this
17 Committee that Arturo Zertuche ever brought you any
18 information regarding income?

19 A I can't swear that he brought information, but
20 I can swear that he came in when the information was
21 brought. Whether he had it or someone that was with him
22 had it, but he came in.

23 Q Did he come in when you sent after him to sign
24 the return, or when did he come in?

25 A No, sir. He came in when the information was

1 brought in.

2 Q Did he sign the return in your office, or did
3 you send it to him to sign?

4 A I don't believe he ever signed the return in
5 the office. We would prepare—

6 Q Who did you send it to him by?

7 A Just whoever happened to be up from Benavides.
8 We prepared maybe six or eight of these and we would
9 have them ready and someone from Benavides would come in
10 and they would take them all down and distribute them.

11 Q Now, when the Judge brought you his return, he
12 brought checks and receipts and so on and so forth, did
13 he not? Or did he just bring his on the yellow sheet of
14 paper, too?

15 A Well, he would bring a sheet of paper with a
16 list of the charges and deposits, and then he would bring
17 me canceled checks and deposits slips which I would
18 compare back to them.

19 Q I believe you said you would question him about
20 any large check or unexplained check?

21 A Yes, sir.

22 Q And if it wasn't explained, you threw that under
23 "practice of law"?

24 A Yes, sir.

25 Q What size check are you considering a "large

1 check" there?

2 A Well, I had a deposit of about \$7,500 that I
3 couldn't identify, and went back and they went back and
4 took pictures of all of the checks that were on that
5 deposit that they never could find. It was five hundred
6 and something dollars. I determined what those checks
7 were and charged them accordingly, and the
8 \$516.00 I just threw into income and paid tax on it
9 because I had no way of knowing what it was. I con-
10 sidered it was a sale of cattle and added it to his
11 cattle sales.

12 Q The Judge couldn't explain to you where a
13 \$516 check came from?

14 A No, sir.

15 Q Did you ask him about it?

16 A I asked Joe Saenz.

17 Q Who is he?

18 A He is, I believe the—he helps O. P. keep
19 track of his business over there some way. I don't
20 know just what his connection is.

21 Q Do you remember who that particular check was
22 given by or drawn on?

23 A No, sir. We never did find out. The bank
24 went to the Federal Reserve Bank and never did find out.
25 But there are numerous instances. I had a deposit of

1 forty-four hundred and some odd dollars in a San Antonio
2 bank and nobody knew what it was. I hated to pay tax
3 on that much, so I started digging, and I found out
4 where he had— I had applied for an income tax refund
5 the previous year of forty-three hundred and some odd
6 dollars, and I found a slip from the IRS where they had
7 paid him seventy some odd dollars of interest. And I
8 added the two together and it came out to exactly the
9 amount of the deposit.

10 Q Were any of these checks you are speaking of
11 marked "attorneys fees"?

12 A No, sir.

13 Q Did the Judge ever deny to you that he was
14 practicing law?

15 A No, sir. We never discussed it.

16 Q And he knew that you were filing his return
17 with an income stipulation in there that it was made
18 from the private practice—that that income came from
19 the private practice of law, did he not?

20 A I don't know whether he did or not. I know
21 that he knew that I was making him pay tax on it. I
22 don't know whether he knew. It was the one year, and I
23 assumed that it was probably some work that he had done.
24 I know if you're practicing law or accounting or anything,
25 any time you go out of business, it may take you three or

1 four years to collect in your accounts. And I just
2 thought, well, this first year he's got some money
3 coming in and I set it up.

4 Q Well, that's probably true, but it's been
5 carried forward every year. Even your last return showed
6 a—

7 A No, sir. It just shows expense; not income.

8 Q But the '72 shows a considerable income—

9 A Yes, sir.

10 Q --from the practice of law.

11 A I believe I was thinking that '72 was the first
12 year that he was—

13 Q No. '71 was the first year.

14 A Was it '71?

15 Q And it showed an income from the practice of
16 law.

17 MR. HENDRICKS: I believe that's all the
18 questions I have, Mr. Chairman.

19 CHAIRMAN HALE: Mr. Kaster?

20 BY MR. KASTER

21 Q Mr. Kirkland, I need some information for my
22 own benefit. When a Certified Public Accountant pre-
23 pares a tax return and you put your stamp and your name
24 on that, what is your responsibility then, as far as
25 legally, with the Internal Revenue Service for you doing

1 that? Where do you fit in? Are you responsible for
2 it or not?

3 A A long time ago we had a stamp we put on all
4 of them. It says "Tax return furnished from information
5 prepared by tax payer," and that is just what it is,
6 as a rule.

7 Q You're limited only by the information that
8 you receive?

9 A Yes, sir.

10 Q So that in the up-coming trial of Judge
11 Carrillo, you're not subpoenaed down there to answer
12 questions about it, or are you?

13 A Not yet.

14 Q As a Certified Public Accountant, you wouldn't
15 be responsible except for the information that was
16 furnished to you?

17 A That's right.

18 Q I think you have already testified that you
19 have prepared some of these returns of Zertuche and
20 others just off yellow legal pads?

21 A Yes, sir.

22 Q Apparently there are no books kept on these
23 businesses, is there?

24 A I think they probably were made up from adding
25 machine tapes--is where they got those figures.

1 Q That's the bookkeeping system of these businesses
2 is adding machine tapes?

3 A I think so. Yes, sir.

4 Q Do you have many businesses that keep no books
5 and just run a—

6 A Yes, sir. I have them that bring me in a
7 bunch of tapes clipped together with clothes pins,
8 written on the back of file folders and such.

9 Q So that you can't testify to the authenticity
10 other than the records that you have.

11 Now let me ask you this: the person that
12 signs their return, they have a higher degree of
13 responsibility than the person who prepares the return
14 because when they sign it, they are verifying then that
15 everything in there is true under penalties of
16 perjury, et cetera, that it is true.

17 A Yes, sir. That's right.

18 Q So that if I as a tax payer gave you false
19 information and you prepared my return based on the
20 information and you put your stamp on it, you wouldn't
21 be as responsible as I would. When I sign it, then I'm
22 more responsible because it's based on the information
23 that I gave you.

24 A That's right. Your neck is the one that's out
25 if you furnish me false information.

1 Q So that on income tax returns, people generally
2 read the things before they sign them, is that correct,
3 or do they just go ahead and sign them?

4 A Some of them--most of them just go ahead and
5 sign them. They used to be notarized, but they cut that
6 out about 20 or 25 years ago.

7 Q The reason I asked, either they have great
8 trust in you without reading it--I prepare our tax
9 return and my wife, she doesn't even trust me; she reads
10 the things before she signs it. I tell her, "Just sign
11 there and don't bother about reading it," but she
12 doesn't take my advice.

13 But if I had a Schedule "C" with income, and if
14 I had several schedules, I would look through it. And if
15 I saw one for an attorney's services and I was not
16 getting fees from an attorney, I believe I would question
17 that, particularly if there were almost \$6,000 shown
18 there. So that apparently there was no question about
19 the attorney's fees. Is that right?

20 A There was never any raised. No, sir.

21 Q Did you send this to Judge Carrillo to sign, or
22 did he come in to your office to sign them?

23 A It is hard to say. He would probably--well, just
24 depends on how busy he was.

25 Q But he keeps no books. And you're having to try

1 to bring up these returns from deposits and checks and
2 things. Is that true?

3 A Yes, sir.

4 Q To the extent you even had to go to the bank
5 and get a copy of a check on the microfilm records.

6 A Yes, sir. We exhaust all the possibilities, and
7 if we can't run something down, all we can do is say,
8 well, that's taxable.

9 Q He's running a ranch with no books that shows a
10 loss?

11 A Yes, sir.

12 Q Did you determine that there was a loss?

13 A Yes, sir. He brings me his checks sorted into
14 different categories.

15 Q Do you fix up the depreciation schedules?

16 A Yes, sir.

17 Q You prepare that independently?

18 A Yes, sir.

19 Q If he has a Cadillac, do you independently
20 determine that that should be depreciated through his
21 law business because it was used in his business as an
22 attorney would be the only reason that you could
23 depreciate it in that schedule.

24 A Yes, sir. Until then when he no longer had a
25 law practice, the first year, he had the Cadillac and a

1 small amount of furniture, and some dues to the State
2 Bar Association and a few expenses. We left them on
3 there. And then the next year I just figured he wasn't
4 practicing law any more and he couldn't be using the
5 Cadillac in his law practice, so I took it off.

6 Q I'm looking at the 1971 return, I'm looking
7 at the 1972 return, which covers two years.

8 A Yes.

9 Q The 1971 return covers the year January 1st,
10 '71 to December 30th, '71; the 1972 return is for 1972
11 calendar year.

12 A Yes, sir.

13 Q In 1971 you show gross receipts from an attorney
14 of \$2,936.

15 A Yes, sir.

16 Q In 1972 you show a gross income from attorney's
17 fees of \$5,887.22.

18 A Yes, sir.

19 Q And then you put the depreciation to it.

20 A Right.

21 Q So there are two years involved.

22 A Yes, sir.

23 Q Then the third year, as you say, there is no
24 return, but they are still taking depreciation.

25 A Yes, sir. Not on the car.

1 Q Well, the part—

2 A Just on some equipment that he had there—well,
3 we couldn't just charge it off. And it was just sitting
4 there, so we depreciated it.

5 Q Going back to this trust that has apparently
6 come into question, have you seen the trust instrument
7 that sets up the trust as a part of your accounting fees?

8 A No, sir.

9 Q You don't know if it is just the interest that
10 the trust comes that is distributed, or does the trust
11 have income?

12 A Yes, sir. The trust has considerable income.

13 Q Each year?

14 A Yes, sir.

15 Q And apparently it is going to be in question
16 where that income is coming from. I think Mr. Maloney is
17 interested in that. Is that correct?

18 A Yes.

19 Q I don't want you to divulge something that Mr.
20 Mitchell doesn't want you to divulge, but I want to ask you,
21 is that trust—and again I want to caution you to check
22 with Mr. Mitchell before answering—

23 MR. MITCHELL: He can testify to anything
24 he wants, Mr. Kaster. I have no objection to the
25 witness testifying from his records. I think he can

1 probably answer the question.

2 Q Does the Ramiro Carrillo and Brothers Trust,
3 or also known as O. P. Carrillo, Trustee, does that trust
4 account have income from either the Farm and Ranch Store
5 or the Zertuche store?

6 A Not to my knowledge. No, sir.

7 Q There has been no checks written on Farm and
8 Ranch Store to that trust account that you know about?

9 A No, sir. But, as I say, I don't check their
10 bank accounts. This information on Ramiro Carrillo and
11 Brothers is brought to me as total figures.

12 Q On a yellow pad or something, like the other?

13 A Yes, sir. So much cattle sales, so much
14 caliche sales, so much pasture rental.

15 Q So that if there is income from the Farm and
16 Ranch Store and it wasn't reported to you, you would have
17 no way of knowing it.

18 A No, sir. I don't know what the trust would be
19 doing for the Farm and Ranch Store.

20 Q If there was rental equipment and checks
21 made to the trust account from the Farm and Ranch Store,
22 you wouldn't know about that?

23 A No, sir.

24 Q The reason I ask, and the reason I bring this
25 out is—and I'm going to be perfectly honest with you—

1 Monday we went down to Duval County to San Diego to the
2 First State Bank, and I have a copy of a check from Farm
3 and Ranch to the trust account, the \$550. That is just
4 one. Now, I don't know how many others there are. But
5 you're telling us that you're not aware of those checks.

6 A No, sir.

7 Q But there very well could be others.

8 A Yes, sir. That sounds like about the amount
9 of rental for those equipment rentals. I have no way of
10 knowing.

11 Q What equipment rentals?

12 A The trust account owns quite a bit of
13 equipment.

14 Q And is leasing it to Farm and Ranch? I mean
15 renting it to Farm and Ranch?

16 A I don't have any idea. I say it is a
17 possibility.

18 Q Is that per month or per year, or per what?

19 A I don't have any idea.

20 Q But you wouldn't know, because I just asked you
21 if there were checks from Farm and Ranch to the trust and
22 you said "No."

23 A I said I didn't know.

24 Q You don't know?

25 A No.

1 Q So, there could be \$10,000 or a dollar. You
2 wouldn't know?

3 A That's right.

4 Q You're only preparing your returns based on
5 the information somebody brings you?

6 A That's right.

7 Q Do you know what kind of equipment is involved?
8 Do you have a list of that or not?

9 A I have a depreciation schedule on each one of
10 them.

11 Q Is there much equipment?

12 A O. P. has a lot of equipment. I don't know that
13 he rents any of it.

14 Q I'm talking about the trust account, now, that
15 you say is—

16 A There is quite a bit of equipment. Yes.

17 Q It's renting it to O. P. Carrillo?

18 A No. I don't know. I say O. P. has a lot of
19 his own equipment.

20 Q You were talking about the depreciation
21 schedule for the trust account, I thought.

22 A Yes, sir. It has quite a bit of equipment,
23 too.

24 Q What kind of equipment?

25 A I would have to look. I believe they have some

1 tractors and farming equipment. I would have to take a
2 look and see.

3 Q Would there be any caterpillars?

4 A I think they do.

5 Q What about road graders?

6 A No. I don't think they would have any road
7 equipment.

8 Q What about backhoes?

9 A I doubt if they would have a backhoe. I don't
10 recall it.

11 Q Post hole diggers?

12 A I'm just almost sure that they did— I think
13 they had some pretty good sized trucks, and some—maybe
14 a dozer or two.

15 Q That would be—this equipment would be on that
16 schedule that the Committee has subpoenaed. Is that
17 correct?

18 A Yes.

19 MR. KASTER: Thank you. I believe that's
20 all, Mr. Chairman.

21 CHAIRMAN HALE: Mrs. Thompson?

22 MRS. THOMPSON: I pass.

23 CHAIRMAN HALE: Mrs. Weddington?

24 BY MRS. WEDDINGTON

25 Q Do you know whether or not they had any water

1 trucks, or a truck that could be used for hauling grain?

2 A No, ma'am, I don't.

3 MRS. WEDDINGTON: Mr. Chairman, I would
4 just want to clarify whether or not this witness has now
5 been subpoenaed so he will be later available to us not
6 only with the— Have they served it yet?

7 CHAIRMAN HALE: He is going to be subpoenaed
8 today.

9 MRS. WEDDINGTON: Before he leaves?

10 CHAIRMAN HALE: Yes.

11 MR. KASTER: We're just about 24 hours
12 too late.

13 CHAIRMAN HALE: Well, not necessarily.

14 Mr. Chavez?

15 BY MR. CHAVEZ

16 Q Mr. Kirkland, could you list all of the sources
17 of income to the trust?

18 A Could I list them?

19 Q Yes, sir.

20 A Cattle sales, I believe some years there have
21 been grain sales, sales of caliche, pasture rental, oil
22 lease bonuses, and some small oil runs. They have just
23 about played out. At one time they were—

24 Q A substantial amount?

25 A —quite a bit more, but now they've gone down

1 to almost nothing.

2 Q Do you receive copies of deposit slips or
3 anything like that, that reflects that that money went
4 into the trust, or do you just receive a handwritten or
5 typed up list of sources of income with totals of—

6 A I just receive a list.

7 Q Does the trust have any employees?

8 A They have some. Yes. They have some ranch
9 labor.

10 Q Do they receive any income from the County of
11 Duval?

12 A I don't know.

13 Q I beg your pardon?

14 A I don't know.

15 Q Well, on this list, have you ever seen the
16 County of Duval listed as a source of income?

17 A They don't give me a list; they just give me
18 totals. There is total cattle sales, total oil runs,
19 total lease bonuses, total pasture rent.

20 Q You don't do anything to verify the accuracy of
21 those lists?

22 A No, sir.

23 Q Does the trust pay Social Security and withhold-
24 ing taxes for those employees that they maintain?

25 A I don't know. I don't think they do because I

1 don't believe that they hire any of them long enough to
2 where they have to pay Social Security Tax on them. On
3 farm labor it is different from other labor.

4 Q Well, what about Withholding Taxes?

5 A There is no Withholding Tax on farm labor.

6 Q How do you determine whether or not any would
7 be due, or should have been withheld?

8 A I don't. They have to do that themselves.
9 That isn't part of our income tax work.

10 Q That is not part of what?

11 A Of our income tax preparation.

12 Q Well, that wouldn't be some kind of an expense
13 or some—if the Social Security were paid, that
14 would be—

15 A That would be an expense. Yes, sir.

16 Q And it should have shown up.

17 A Yes, sir.

18 Q You don't make an inquiry as to whether or not
19 that was done?

20 A When they bring me a tax figure, I ask them
21 what the taxes were and they break them down. And
22 there has not been any Social Security Tax shown.

23 Q Does that list reflect any business transactions
24 between the trust and the County of Duval?

25 A No, sir.

1 Q No transactions such as rental of equipment to
2 the County?

3 A As I say, they don't bring me the individual
4 transactions. They just bring me totals.

5 Q What kind of a certification do you make to
6 the IRS as to the accuracy of the return?

7 A That I have prepared the return from the
8 information furnished by the tax payer.

9 Q Of course, the tax payer has furnished you
10 that information under penalties of perjury, have they
11 not?

12 A Pardon me?

13 Q Does the tax payer furnish you that information
14 under penalties of perjury?

15 A He signs the return, yes, sir, under the
16 penalties of perjury.

17 Q You're not affected by that?

18 A No, sir.

19 Q You don't do any accounting for the County of
20 Duval?

21 A No, sir.

22 MR. CHAVEZ: That's all, Mr. Chairman.

23 CHAIRMAN HALE: Thank you, Mr. Chavez.

24 Are there further questions?

25 Mr. Hendricks?

1 BY MR. HENDRICKS

2 Q Mr. Kirkland, would you get the returns on
3 Arturo Zertuche in front of you. That is Carrillo's
4 Exhibit Number 3. And on page 3, does that reflect that
5 he made any income from Duval County?

6 A Yes, sir.

7 Q How much?

8 A \$2,700.

9 Q All right. Then, turning the page, it shows
10 that he grossed over \$56,000 —

11 A Yes, sir.

12 Q —in the Zertuche General Store—

13 A Yes, sir.

14 Q --in addition to working for the County.

15 A Yes, sir.

16 Q All right. Turn to page 10, sir.

17 A Ten?

18 Q Ten. Does that reflect that Arturo Zertuche
19 made any income other than the General Store in that
20 year?

21 A Yes, sir.

22 Q How much?

23 A \$2,700 from Duval County.

24 Q All right. Turn to Schedule "C" on the next
25 page. How much did he gross in the General Store that

1 year?

2 A \$72,441.79.

3 Q And turn to page 21, please, sir.

4 A Which schedule is that?

5 Q I can't read it up at the top. It is page 21.

6 A Okay. I've got it.

7 Q Have you got it?

8 A Yes, sir.

9 Q Does that reflect any income there other than
10 Zertuche General Store?

11 A Yes, sir.

12 Q And where is the Schedule "C" for that year?
13 It is back on the next page, I believe.

14 A It shows six—

15 Q How much did he gross from the Zertuche General
16 Store in that year?

17 A \$81,855.74.

18 Q Then turn to page 25, please, sir.

19 A All right.

20 Q Is there any reflection there of any income
21 other than the General Store in that year?

22 A Yes, sir.

23 Q Then find the Schedule "C" and let's see how
24 much he grossed from the Zertuche General Store that year.
25 I believe it is on page 30.

1 A \$72,974.75.

2 Q Over this period of time, wouldn't it amaze
3 you to know that this boy served some time in the army,
4 he was in the National Guard and also got a college
5 education over in North Texas in addition to working for
6 the County and running this General Store and grossing
7 all of this money?

8 A No, sir, not especially.

9 MR. HENDRICKS: Thank you.

10 CHAIRMAN HALE: Mr. Maloney?

11 BY VICE CHAIRMAN MALONEY

12 Q Mr. Kirkland, on any of the returns that you
13 filed for Farm and Ranch Store or Ramiro Carrillo and
14 Brothers, or O. P. Carrillo, Trustees, have you ever
15 made out a Form 941 for any employees?

16 A No, sir.

17 Q So, they have never had any employees that they
18 withheld any salary from?

19 A Not that I know of.

20 Q If you will also return to Carrillo Exhibit 3,
21 which I believe you have before you, which is the 1967
22 return for Arturo Zertuche, and which I would say was
23 page 2, which is the first page of the 1040. You have
24 at the bottom an asterisk with the notation, "No income
25 the previous year."

1 A Yes, sir.

2 Q What did you mean by that?

3 A Down there he owed \$881.53 and didn't file an
4 estimate. And on the basis of that, the Internal
5 Revenue Service could penalize him for failure to file
6 an estimate. There are four exceptions to that rule, and
7 one of them is, if you base your estimate on the prior
8 year's taxable income and you pay more than you paid the
9 year before, they can't penalize you. And that alerts
10 them to look and see he had no previous income so they
11 can't penalize him.

12 Q So, as far as you know, from the information
13 you had at that time, Arturo Zertuche had no income in
14 1966 to be taxable.

15 A He assured me he didn't.

16 Q You used throughout the returns that we have
17 before us on Arturo Zertuche as his home address, as
18 Drawer BB, Benavides, Texas.

19 A Yes, sir.

20 Q Is that the address that you were provided?

21 A Yes, sir.

22 Q On each of the returns on the Schedule "C"
23 where it asks for the location of the General Store, you
24 indicate that this is also the location of the General
25 Store.

1 A Yes, sir.

2 Q So, you had no street address for that store?

3 A No, sir.

4 Q And never were provided one?

5 A No, sir.

6 Q As far as you knew, in your returns with Arturo
7 Zertuche, that was a single proprietorship?

8 A Yes, sir.

9 Q No partners?

10 A No.

11 Q Are any of the entities that we have talked
12 about here today incorporated?

13 A No, sir.

14 Q Did you prepare any sales tax return for any
15 of these entities?

16 A No, sir.

17 VICE CHAIRMAN MALONEY: That's all I
18 have. Thank you.

19 CHAIRMAN HALE: The Chair at this time
20 would direct Mr. Kelly, to whom I have delivered the
21 subpoenas duces tecum previously authorized by the
22 Committee, to serve those subpoenas, one on Mr. Kirkland
23 and one on Mr. Mitchell.

24 (The Sergeant served the subpoenas.)

25 MR. MITCHELL: May I make a statement in

1 that connection?

2 CHAIRMAN HALE: Yes, sir.

3 MR. MITCHELL: In view of the fact of
4 the statement made by the representative from my district,
5 I wouldn't want the record to stand moot. I want to
6 introduce as a part of this record the subpoena for
7 Oscar D. Kirkland which I requested prior to May 27,
8 1975, and make the statement, as the Chair knows, that
9 the request to bring Mr. Kirkland up here was directed
10 to me by the Chair, and I said I would be very glad to
11 call him.

12 In addition, I would like to make a part of the
13 record my first original response, my second and my
14 third response, along with the subpoena that has been
15 served on me. May I have the permission of the Chair to
16 have those marked as exhibits and made a part of this
17 record?

18 CHAIRMAN HALE: Yes, you certainly me.
19 The Court Reporter will mark them as exhibits.

20 (The documents referred to were
21 marked "AM-1," through "AM-5,"
for identification.)

22 CHAIRMAN HALE: May the Chair see those
23 exhibits?

24 MR. MITCHELL: Yes, sir. And May I state
25 to the Committee that at the time that I had the

1 discussion with the Chair as regards getting Mr. Kirkland
2 here, I did not know that Mr. Kirkland had not received
3 back from the IRS the data mentioned. Upon learning of
4 that information, as a matter of course, in IRS cases in
5 the past, I requested him to deliver them to me for the
6 very precise reason that they come with the ambit, as I
7 have understood the law through the years, of the attorney-
8 client privilege, Mr. Hale, has nothing to do with the
9 disrespect for this Committee or, using that, I think
10 the good faith efforts that we have made to get him up
11 here in connection with subverting or throwing the
12 cloak of privilege around the data which he testified
13 to.

14 I would like to have copies of that subpoena.

15 CHAIRMAN HALE: Yes. The Chair is going
16 to get a photocopy and let you substitute here, Mr.
17 Mitchell. Let the Chair ask you a question or two, Mr.
18 Mitchell, if I might, about these exhibits. Exhibits 1
19 and 2 obviously speak for themselves.

20 What's been marked as Exhibit 3, "First
21 Response of O. P. Carrillo," I presume that that is the
22 identical document which you have previously distributed
23 to members of the Committee, is it not?

24 MR. MITCHELL: Yes, sir. I didn't know
25 whether, Mr. Hale, it had been made a part of the record.

1 It challenges the validity of the Committee and the
2 existence of the Committee's challenge then, too.

3 CHAIRMAN HALE: I'm thinking about getting
4 photocopies. Exhibit 3 has been distributed to the
5 Committee already, has it not?

6 MR. MITCHELL: Yes. All of those have
7 been filed. They were filed back in the latter part
8 of May.

9 CHAIRMAN HALE: And what's been marked
10 as AM Number 4 here, which is a two-page document,
11 which is really the one that challenges the authority of
12 the Committee, have copies of those been distributed to
13 members of the Committee?

14 MR. MITCHELL: Yes. That was filed after
15 the adjournment of the Legislature sine die on the night
16 of Monday, June 4, 1975.

17 CHAIRMAN HALE: And then what's been
18 marked Exhibit 5 has not been distributed, though, has
19 it?

20 MR. MITCHELL: Yes, sir. It was attached
21 originally to the previous one. They have all been
22 filed previously, Mr. Chairman.

23 CHAIRMAN HALE: It was?

24 MR. MITCHELL: Yes, sir.

25 CHAIRMAN HALE: Could I have one of the

1 Sergeants or the Clerk, or somebody to get photocopies of
2 these? I guess you might as well get copies for
3 everybody. Run off twenty copies of them just like we're
4 doing everything else.

5 While the Clerk is getting copies of some of
6 those exhibits, the Chair will put into the record of the
7 Committee a memorandum which was provided to the Chair
8 by Mr. Mitchell and received by the Chair on May 26,
9 1975, as the date stamp shows, in which was in reply to a
10 request by the Chair for Mr. Mitchell to outline what he
11 expected to prove from each of the witnesses on which he
12 requested subpoenas, one of those being mentioned being
13 the one Oscar D. Kirkland. And for whatever pertinence
14 that has, the Chair will offer this as an exhibit as a
15 part of the Committee's records.

16 MR. MITCHELL: Thank you, Mr. Chairman.

17 (The document referred to was
18 marked "Exhibit 72,"
19 for identification.)

20 CHAIRMAN HALE: The Chair is not certain
21 whether copies of this have been provided to all members
22 of the Committee or not.

23 In connection with the exhibits offered into
24 evidence by Mr. Mitchell and accepted as a part of the
25 record of the Committee, let the record also reflect that
AM Number 1, being the requested subpoena for Oscar D.

1 Kirkland, as previously requested of the Committee by
2 Mr. Mitchell, was not a subpoena duces tecum; it was
3 simply a subpoena for the appearance of Mr. Oscar D.
4 Kirkland before the Committee on the 27th day of May,
5 1975, at 8:00 o'clock p.m.

6 MR. MITCHELL: Mr. Hale, may I ask Mr.
7 Kirkland when the material was delivered to him by the
8 IRS?

9 CHAIRMAN HALE: Yes. When was the
10 material delivered to you by the IRS, Mr. Kirkland?

11 A In the last—when you called me and you were
12 supposed to come down there and go over there with me and
13 get it all copied and then you didn't show up.

14 MR. MITCHELL: I was up here.

15 A And I went home. When was I up here? Thursday,
16 two weeks ago? It was the following Tuesday. I went
17 over there. I went over there to get the copies we
18 needed and the guy that had picked them up had resigned,
19 retired, and the old boy there said "You can have them."
20 So he just gave me the whole bunch of them.

21 It has been in the last couple of weeks.

22 CHAIRMAN HALE: Subsequent to May 27,
23 1975?

24 A I believe so. Yes, sir.

25 CHAIRMAN HALE: Thank you.

1 A It would be real close, Mr. Hale.

2 CHAIRMAN HALE: Thank you.

3 Let the record reflect also, with respect to
4 AM Exhibit Number 3, which is entitled "First Response
5 of O. P. Carrillo," that the first information that the
6 Chair had on this particular exhibit was interrogation
7 by several members of the Capital Press Corps during a
8 session of the Legislature prior to sine die adjournment
9 when members of the Capital Press Corps had obviously
10 seen this exhibit, a copy of which at that time had not
11 been delivered to the Chair, and I was quizzed about the
12 content of this response prior to the time that I had been
13 honored with a copy of it.

14 Let the record further reflect, with respect
15 to A. M. Exhibit Number 5, which is a request by Mr.
16 Mitchell for certain information, one being a list of
17 witnesses subpoenaed by the Committee in Executive
18 Session, and the Chair would state for the record that
19 immediately upon the issuance of subpoenas everyone was
20 notified; in fact, they were notified too far in
21 advance on one subpoena, so far in advance that we
22 couldn't serve the subpoena. Thereafter, everyone was
23 advised as soon as the subpoenas were served.

24 The second request was for a transcript of all
25 testimony. And let the record reflect that copies of the

1 transcript have been furnished to Mr. Mitchell as
2 rapidly as they have to members of the Committee,
3 consistent with the speed at which the Court Reporter
4 can transcribe the testimony.

5 With respect to number three, copies of all
6 documentation introduced and considered a part of the
7 official record, copies of every exhibit, have been
8 furnished to Mr. Mitchell to the best knowledge and
9 belief of the Chair.

10 If there are any exhibits that you have not
11 received, Mr. Mitchell, it's your own fault. The Chair
12 has instructed the Clerks to make them available to you,
13 and if you will advise us which ones, if any, you do not
14 have, you will certainly be given copies of them.

15 With respect to request number four, the
16 calendar of hearings so that Judge Carrillo and his
17 attorney can set their schedules accordingly, we have
18 consulted with you on every occasion before we planned
19 advance meetings of the Committee and have tried to
20 adapt to the request of you and your client with respect
21 to the scheduling of these meetings to the best that we
22 can, even to the extent that the Chair, at the request
23 of Mr. Mitchell, on one occasion called the presiding
24 judge of the Court of Civil Appeals of the Austin Court
25 of Civil Appeals and requested permission of the presiding

1 judge that Mr. Mitchell not have to appear for oral
2 arguments in a case he had before the Court of Civil
3 Appeals in order that he could be present at this
4 hearing. And Judge Phillips, the presiding judge of the
5 Court of Civil Appeals, kindly agreed to that request
6 and advised the Chair that it would not be necessary for
7 Mr. Mitchell to appear to make oral argument.

8 So, I want the record to reflect that the
9 Chair has attempted to cooperate to the fullest extent
10 possible with Mr. Mitchell in every way consistent with
11 the transaction of the business of the Committee.

12 MR. MITCHELL: Mr. Chairman, may I state
13 I had no notice of any witnesses subpoenaed by this
14 Committee. I have had no notice of any Executive
15 Session held by this Committee. I had no notice, nor
16 was I permitted to attend this Committee's sojourn to
17 South Texas commencing last Friday, and apparently nobody
18 has seen fit to even inform me what they did, where they
19 went, or permit me to be present.

20 I did receive copies of the transcript and I
21 have copies, I suppose, current, as well as copies of
22 the exhibits which were produced to me after I filed
23 that request. And I appreciate the Chair's assistance
24 in calling Judge Phillips so that I would not have to
25 be absent from the Committee's hearing on Wednesday for

1 argument in two cases before the Court of Civil Appeals
2 for the Third Supreme Judicial District.

3 CHAIRMAN HALE: Will the Clerk take
4 charge of these five exhibits?

5 One of those is the subpoena served on Mr.
6 Mitchell. Have you been given a copy of it, Mr.
7 Mitchell?

8 MR. MITCHELL: Yes. I have it, Mr.
9 Chairman.

10 CHAIRMAN HALE: All right.

11 If you would prefer the original back, we
12 would substitute a copy in the record.

13 MR. MITCHELL: I think that would be
14 all right.

15 CHAIRMAN HALE: Let the Court Reporter
16 mark it then. See what the Exhibit number is.

17 Let Mr. Mitchell have the original.

18 THE CLERK: It was xeroxed like that.

19 CHAIRMAN HALE: With respect, Mr. Mitchell,
20 to any deliberations by the Committee in your absence
21 or any activities of the Committee in your absence, let
22 the Chair state for the record that it is the opinion
23 of the Chair, which I think is shared by members of the
24 Committee, that our understanding of the law governing
25 impeachment is that our function here as a Committee is

1 basically that of a grand jury, for the purpose not of a
2 trial but of ferreting out facts and attempting to
3 determine whether or not there is sufficient hard evidence
4 to justify preferring of Articles of Impeachment, which
5 is crudely comparable to the determination by a grand
6 jury of whether or not there is sufficient evidence to
7 justify the returning of indictments. For that reason,
8 it was the feeling of the Chair, and I believe is shared
9 by the Committee, that it was not necessary for you to
10 be privy to all of the activities of the Committee any
11 more than it would be your privilege to be privy to all
12 of the activities of a grand jury which was investigating
13 your client. And I dare say that this Committee has
14 accorded you much more courtesies than the Federal Grand
15 Jury in Corpus Christi did which indicted your client
16 on income tax evasion.

17 So, the Chair wants the record to reflect that
18 we have attempted to, even though it was not required
19 to do so, as I read the case law on it, we have attempted
20 to provide you every courtesy and every documentation
21 that we felt would be fair to you and to your client
22 in order that the true facts could be developed. And
23 that's the only purpose of this Committee.

24 Mr. Maloney?
25

1 BY VICE CHAIRMAN MALONEY

2 Q Mr. Kirkland, if I may ask you a few questions.
3 When did you first know to be here today?

4 A Let's see. This is Thursday. Tuesday night.

5 Q Tuesday night?

6 A Yes, sir.

7 Q Who told you to be here today?

8 A Mr. Mitchell.

9 Q Mr. Mitchell?

10 A Yes, sir.

11 Q How were you notified?

12 A By telephone.

13 Q Did you originate the telephone call or did
14 Mr. Mitchell?

15 A No, sir. Mr. Mitchell.

16 Q Were you called at home or were you called at
17 your office?

18 A At home.

19 Q What were you told?

20 A I was told to try to get up yesterday, to be
21 prepared to come before the Committee yesterday or
22 early today; this morning.

23 Q Was there any conversation about any records
24 to be brought at that time?

25 A I believe he asked me to bring all the records

1 that I had received from the Internal Revenue Service
2 and records that I had.

3 Q And did you bring those records, then?

4 A Yes, sir.

5 Q When you got to Austin, where did you go?

6 A To the Downtowner--no. To the Downtowner
7 Motel. Yes, sir.

8 Q You took the records with you, I presume?

9 A Yes, sir.

10 Q Did you come here to this courtroom yesterday?

11 A No, sir.

12 Q When did you then know to come here to this
13 courtroom today?

14 A Last night, about 8:15, Mr. Mitchell called me
15 and told me that-- I was waiting to see if I was
16 supposed to come last night. He called me and told me
17 to go on and go swimming, but be ready to meet him at
18 8:00 o'clock this morning.

19 Q Where were you to meet him?

20 A At his office.

21 Q Were you told to bring anything?

22 A No, sir.

23 Q Did you go to his office at 8:00 o'clock this
24 morning?

25 A Yes, sir.

1 Q Did you take anything?

2 A No, sir.

3 Q When you got to his office, did you have a
4 conversation with him?

5 A Yes, sir.

6 Q Did that conversation involve any records
7 that you had brought with you?

8 A Yes, sir.

9 Q What were you told?

10 A We just reviewed some of the records.

11 Q I thought you didn't have them with you.

12 A I left them up there yesterday.

13 Q You had left the records yesterday?

14 A Yes, sir.

15 Q At whose instance was that done?

16 A I just took them up there. There were two
17 briefcases full of them and I left them there.

18 Q On your own hook you did that?

19 A Yes, sir.

20 Q No one suggested that to you?

21 A Well, we had them out and had them spread all
22 over the desk up there, and I just agreed to leave them
23 there and come back this morning.

24 Q Were you told at any time that this Committee
25 had requested that you bring those records to court?

1 A No, sir.

2 Q You were not?

3 A No, sir.

4 Q Today, did you try to bring the records to
5 court or to this hearing?

6 A I thought about it, and then discussed it with
7 Mr. Mitchell and he said we would leave them there.

8 Q I beg your pardon? I didn't hear your
9 answer.

10 A I discussed it with Mr. Mitchell and he said
11 that he thought it would be better if we left them
12 there.

13 Q Did you ask him why he thought it would be
14 better?

15 A No, sir.

16 Q You just left them there?

17 A Yes, sir.

18 Q Have you been back to his office today after
19 that conversation this morning?

20 A Yes, sir.

21 Q When did you go back?

22 A During the noon recess.

23 Q Was there any discussion as regards these
24 records?

25 A No, sir.

1 Q Did you try to bring these records to the
2 hearing then for this afternoon?

3 A No, sir.

4 Q Were you ever told that this Committee requested
5 those records?

6 A No, sir.

7 Q Were you aware that Mr. Mitchell yesterday
8 afternoon had assured us you were going to bring these
9 records?

10 A No, sir.

11 Q There was no conversation about that?

12 A No, sir.

13 VICE CHAIRMAN MALONEY: That's all I
14 have.

15 CHAIRMAN HALE: Are there any further
16 questions of Mr. Kirkland?

17 (No response.)

18 CHAIRMAN HALE: Mr. Kirkland, let the
19 Chair ask you one or two questions.

20 BY CHAIRMAN HALE

21 Q There has been served on you a subpoena duces
22 tecum for certain records. Is it your testimony now
23 that none of these records covered by the subpoena which
24 you have the original, I suppose, with you--that none of
25 those records are now in your custody. Is that correct?

1 A Yes, sir.

2 Q You cannot produce those records before the
3 Committee?

4 A I would have to talk to Mr. Mitchell about
5 that.

6 Q All right. Mr. Mitchell has all of those
7 records that are covered by that subpoena?

8 A Yes, sir.

9 Q The Federal tax returns for the Farm and
10 Ranch partnership from 1967 to 1974, inclusive?

11 A Yes, sir.

12 Q All of those records are in Mr. Mitchell's
13 custody?

14 A Yes, sir.

15 Q The Federal tax returns for Ramiro Carrillo
16 and Brothers and/or O. P. Carrillo, Trustee, from 1967
17 to 1974, inclusive. Do you have those records?

18 A No, sir.

19 Q Where are those records now?

20 A In Mr. Mitchell's office.

21 Q And the Federal tax returns for O. P. Carrillo
22 from 1967 to 1970, inclusive. Where are those records?

23 A In Mr. Mitchell's office.

24 MRS. WEDDINGTON: Could I ask one
25 question?

1 CHAIRMAN HALE: Yes. Mrs. Weddington?

2 BY MRS. WEDDINGTON

3 Q Mr. Kirkland, a while ago I sensed some
4 uncertainty in your answer to whether or not you still
5 had the master file on the trust in your office. Are
6 you certain that you have turned that over, or are you
7 uncertain?

8 A I'm not certain that he has all the years, but
9 I believe he has.

10 Q But you're not sure about that point?

11 A That's right.

12 MR. MITCHELL: May I make a statement,
13 Mr. Chairman?

14 CHAIRMAN HALE: Yes, Mr. Mitchell.

15 MR. MITCHELL: I did not talk— I think
16 you can take judicial notice that I was here all day
17 yesterday, and I don't know what the Committee labored,
18 but whatever time that was. I got back to my office
19 and Mr. Kirkland was not at the office. I tried to call
20 him and was informed that he was not in his room. I
21 left a message for him to please call me at a later
22 time, at 8:00 o'clock. I got back to my office at 8:00
23 o'clock, called him shortly thereafter and told him
24 because of the lateness of the hour that I would rather
25 have him come on in and work the following day.

1 Mr. Kirkland and I did meet this morning for
2 breakfast. We went to my office. I asked him if he did
3 have any records. He said, yes, they were in two brief-
4 cases. I said, "Well, I would like for you to deliver
5 those to me." He said he intended to. He delivered
6 them to me. I have not examined those records, have not
7 looked at those records, and do not know whether or not
8 they include Federal tax returns for Farm and Ranch
9 partnership from '67 to '74, Ramiro Carrillo and Brothers
10 and/or O. P. Carrillo, Trustee from 1967 to 1974,
11 inclusive, and O. P. Carrillo from 1967 to 1970. I
12 thought I ought to put that in the record. If I'm going
13 to go to jail for something, I want to go to jail with
14 something that I've got. I have not had an opportunity
15 to examine because it is now 6:45. The subpoena was
16 served upon me at approximately 6:30.

17 CHAIRMAN HALE: It's 5:45, Mr. Mitchell.

18 MR. MITCHELL: I'm sorry. 5:45. I stand
19 corrected. The subpoena was served on me at 5:30. I
20 have still yet to examine the records. I'm not
21 suggesting that I don't have them, but if I do have
22 them, I would like to make a statement as regards the
23 delivery of them in a proper context and in the proper
24 spirit to the Committee, Mr. Hale.

25 CHAIRMAN HALE: Do I interpret that, that

1 you will deliver the records to the Committee, then,
2 Mr. Mitchell?

3 MR. MITCHELL: Well, no. I think the
4 threshold inquiry is whether I have them. I can't
5 represent to the Committee that I have them because I
6 have not examined the material and I have not seen the
7 material.

8 CHAIRMAN HALE: And if you do have it, is
9 it your intention to produce it for the Committee, or no?

10 MR. MITCHELL: If I do have them, Mr.
11 Chairman, because of the serious questions of constitu-
12 tional magnitude raised by the issuing of the subpoenas
13 upon counsel, as it relates to my duty, as I understand
14 those duties, being an attorney to my client, or clients,
15 and as I comprehend those duties where my client stands
16 indicted, or clients stand indicted, under indictment from
17 the Federal Grand Jury, and as I comprehend those
18 duties as spelled out by the Fifth Amendment of the
19 United States and of the Texas Constitution and the
20 cases construing them, I would have to respectfully
21 refuse to deliver the material unless ordered to do so
22 by a court of competent jurisdiction.

23 CHAIRMAN HALE: Mr. Maloney?

24 VICE CHAIRMAN MALONEY: Mr. Mitchell, was
25 Mr. Kirkland in his sworn testimony before this Committee

1 in error that you and he went over those records?

2 MR. MITCHELL: I have not gone over the
3 records, Mr. Maloney, that he delivered to me in two--
4 well, I think one is a brief case and one is an attaché
5 case. I have barely seen them. I have not gone over
6 them.

7 VICE CHAIRMAN MALONEY: You and Mr.
8 Kirkland did not go over those records as he testified
9 before this Committee.

10 MR. MITCHELL: That was the reason—that
11 statement necessitated my statement to the Committee
12 that those matters contained in the subpoena I have not—
13 in other words, if I'm found in contempt, it's one thing,
14 but to have been found in contempt of something not
15 delivered to me, I think the record needs to be clarified
16 that I don't know whether I've got them. I'm willing to
17 take Mr. Kirkland's word. But when it gets down to a
18 question of contempt, I would like to be assured that
19 I've got them. And I have not and cannot represent it.

20 VICE CHAIRMAN MALONEY: Mr. Kirkland, I
21 believe you had something to say?

22 A Yes, sir. If I could, I would like to have
23 that re-read. I believe I said that "We went over
24 those tax returns." I went over them with John McDuff.

25 MR. MITCHELL: In my office.

1 A In Mr. Mitchell's office yesterday afternoon.

2 VICE CHAIRMAN MALONEY: And what records
3 were those?

4 A The ones in question.

5 VICE CHAIRMAN MALONEY: Specifically,
6 they are the ones that are named in the subpoena?

7 A Yes, sir.

8 VICE CHAIRMAN MALONEY: Thank you.

9 A If I said I went over them with Mr. Mitchell,
10 I was wrong.

11 VICE CHAIRMAN MALONEY: I may have assumed
12 it when you said "We."

13 A Yes, sir.

14 (Brief delay.)

15 CHAIRMAN HALE: The Committee will come
16 to order. It is now past six o'clock and the Chair at
17 this time would like to ask you, Mr. Mitchell, if you
18 intend to comply with the subpoena served on you in the
19 event your check at your office reveals that the records
20 in question are in your custody?

21 MR. MITCHELL: Mr. Chairman, I will go
22 back to my office and will match, with Mr. Kirkland's
23 assistance, the data included in the subpoena, and that
24 if I have it, for the reasons previously stated and for
25 the grounds previously stated, I will not comply with

1 the subpoena, if I have the material.

2 CHAIRMAN HALE: Fine. Thank you very
3 much.

4 Could the Chair ask one other question of
5 you. I think I have asked this question before. Does
6 Judge Carrillo intend to testify in this hearing?

7 MR. MITCHELL: I made the statement to
8 the Chair and I repeat the statement that I made the
9 judgment for him that he will not testify, but will
10 choose to avail himself of the rights given by the
11 Constitution of the United States and the Texas Con-
12 stitution, which we thank the Lord for.

13 CHAIRMAN HALE: And you make that state-
14 ment for and on behalf of Judge Carrillo with his
15 authority?

16 MR. MITCHELL: Yes, sir.

17 CHAIRMAN HALE: And he is aware of the
18 position that you are taking in his behalf before the
19 Committee?

20 MR. MITCHELL: Mr. Chairman, I don't
21 want to sound— I tell my clients what to do, and I told
22 him he wasn't going to testify, and that he would have
23 to fire me if he did. And he allowed as how it was kind
24 of late in the game to hire a substitute. So he said,
25 "Well, you go right ahead; you're running it." I didn't

1 mean to be frivolous but, no, I made the judgment, and I
2 told him what that judgment was and that I intended for
3 him to abide by it. And he indicated to me that he
4 will.

5 CHAIRMAN HALE: But it is your statement
6 to the Committee that on the basis—whether it's on the
7 basis of your advice or not—

8 MR. MITCHELL: That's right.

9 CHAIRMAN HALE: —that the decision is
10 also that of Judge Carrillo; that he will not testify
11 before the Committee. Is that correct?

12 MR. MITCHELL: Yes, sir.

13 CHAIRMAN HALE: Mr. Maloney?

14 VICE CHAIRMAN MALONEY: Mr. Chairman, I'm
15 a little fuzzy on what grounds Mr. Mitchell is refusing
16 to comply with the subpoena in the event that he does
17 have these records. I would like these reasons stated
18 into the record so that I could understand them.

19 MR. MITCHELL: Mr. Maloney, the reasons
20 that I will refuse if the material has been delivered to
21 me, will be divided into two broad categories: one, the
22 category which deals with the right under the Fifth
23 Amendment on behalf of my client who stands indicted
24 for a criminal offense covered by the period of the
25 material stated and requested in the subpoena, or

1 partially there—yes, covered by that period. And not
2 to belittle the Texas Constitution, but also I am
3 refusing on the grounds to deliver the material because
4 of the comparable right given in our Texas Constitution
5 against self-incrimination. In addition, the material
6 as delivered to me is the property of my client, and
7 as an attorney, licensed as such under the rules and
8 regulations of the State of Texas, I feel a privilege
9 flowing, which I want to invoke in behalf of my client.

10 Next, I feel that there is a due process
11 involvement; that is, because of the pendency of the
12 Federal indictment and because this Committee has under-
13 taken under the tenor of HSR-161 and the testimony as
14 relates to the indictment of the legally operative facts
15 which flow from that indictment, amounting to and
16 constituting the same facts which would be required to be
17 proven by the government in U. S. v. Carrillo, et al;
18 that to be required to deliver that material, there are
19 other constitutional rights which will be violated on the
20 part of my client, which are, double jeopardy, depriva-
21 tion of property and liberty without due process, and,
22 finally, because the Committee for the reasons set forth
23 in A.M. -1, 2, 3, 4 and 5, is not a legally constituted
24 Committee, not having the power to act past the period of
25 adjournment, and for the further reason that the

1 Committee, as constituted by HSR Number 161, is limited
2 by the authority from the Legislature, the parent body
3 from which it derives its authority to making an
4 impeachment inquiry only on one question, and this
5 Committee knows it. It states in effect that my client
6 has been indicted.

7 The Committee, insofar as it goes beyond that
8 and insofar as it makes an inquiry preceding the
9 certificate of election of November of 1974, has no
10 authority.

11 Secondly, the Committee cannot by the tandem
12 resolutions HSR 167 and HSR 221, pull itself up by its
13 own boot straps, in effect, constituting and converting
14 itself into a standing committee, which standing committee
15 has no authority to conduct the inquiry based by the
16 Constitution on the Committee appointed specifically to
17 conduct an impeachment requirement, or an impeachment
18 investigation. I'm sorry.

19 Next, the motion for the issuance of the
20 subpoena, which was served on me, is improperly
21 therefore issued in that there is no authority for its
22 issuance either under HSR 161, 167 or 221, and, further,
23 there is no authority for its issuance under the
24 resolution in that the resolution was improperly adopted
25 to issue the subpoena, the same not having been seconded.

1 In addition, to be required to deliver the
2 material here called for in the subpoena served on
3 counsel will effectively destroy the presumption of
4 innocence which attends the indictment of my client, or
5 clients, which will force my clients to give up their
6 right to remain silent during the course of the trial in
7 the Federal Court that is presently pending, and which
8 will further destroy constitutionally protected rights
9 which are guaranteed by the Fourteenth and Fifteenth
10 Amendments to one charge of commission on—

11 Next, I refuse because to deliver the material
12 called for under the circumstances denies my client
13 equal protection, in that persons similarly situated, that
14 is persons who are public officials who are indicted—in
15 fact, one who was a member of the 64th Legislature—was
16 not proceeded against and consequently the equal pro-
17 tection of the law has been violated as to my client
18 and will be violated if I am required to produce this
19 material in that there is a selective application of
20 the law of impeachment without a reasonable basis for
21 that selection.

22 For those reasons and others which I can't
23 think of, Mr. Maloney, I refuse to deliver the material.

24 CHAIRMAN HALE: I'm sure, Mr. Mitchell,
25 if you think of some others, you will provide them to the

1 Committee?

2 MR. MITCHELL: Yes, sir. I have to be
3 careful I don't waive any, Mr. Chairman.

4 CHAIRMAN HALE: We wouldn't want you to
5 waive any.

6 Let me ask you one or two questions, then,
7 Mr. Mitchell, about these. You have spread them out,
8 but they really boil down to two or three basic elements
9 here. Number one, I would categorize under the broad
10 category of the Fifth Amendment rights. Is it your
11 position that Judge Carrillo in this regard is invoking
12 his rights under the Fifth Amendment of the U. S.
13 Constitution and refuses to produce these documents on
14 the grounds that it might incriminate or tend to
15 incriminate him?

16 MR. MITCHELL: In part. Yes, sir.

17 CHAIRMAN HALE: And the second broad
18 ground, as I understand it, which you, I thought, in a
19 very round about way, you attempted to invoke an attorney-
20 client privilege; that you could not produce the records
21 because they were delivered to you as his attorney, and
22 by reason of the attorney-client privilege you could not
23 divulge the contents of those without his permission.

24 MR. MITCHELL: Yes, sir. And the
25 weakness in that, as the Chair well knows, being a

1 practicing attorney, is that unfortunately my client is
2 not here and the privilege belongs to my client. The
3 Attorney General bounced him around yesterday about
4 getting down there to receive that Grand Jury and, as the
5 Chair knows, because I communicated to the Chair, I
6 asked permission to let him go so he could receive that
7 Grand Jury. And he is not here. And I would like to have
8 permission to inform him of the progress thus far of the
9 afternoon. He is going to be shocked, I'm sure. But ask
10 him to communicate to the Chair that he does intend to
11 invoke the attorney-client privilege. As the Chair
12 knows, I can't invoke it in his behalf.

13 CHAIRMAN HALE: I understand that,
14 Mr. Mitchell. And I was leading up to that. You did
15 tell the Chair of the need for him to get back to his
16 District down there.

17 MR. MITCHELL: Yes, sir.

18 CHAIRMAN HALE: And the Chair advised you
19 to tell him to go ahead.

20 MR. MITCHELL: Yes, sir.

21 CHAIRMAN HALE: So the Committee will
22 know that he is absent here now, in effect, to the
23 extent that I could give him permission to do anything,
24 I granted the permission of the Committee for him not to
25 be here for the remainder of the afternoon.

1 And then, as I see it, the third grounds of your
2 refusal, then, involves some broad area of due process,
3 which I'm not sure that you or I either one know exactly
4 what you're hitting at there, but involving double
5 jeopardy, deprivation of life and property, equal
6 protection of the laws, and any other constitutional
7 rights which he might have.

8 Then the fourth broad category, as I see it,
9 is simply your contention that the Committee is without
10 jurisdiction in this matter, in any event.

11 Have I summarized fairly well the broad out-
12 lines of your contentions?

13 MR. MITCHELL: I think you have. I
14 think you have, Mr. Hale.

15 CHAIRMAN HALE: Well, I am particularly
16 concerned primarily with the first one, and that is that
17 if you are authorized by Judge Carrillo to invoke the
18 Fifth Amendment then, of course, we would obviously
19 recognize that as far as any witness is concerned. We
20 would not want to do anything that would interfere with
21 his constitutional rights. We cannot compel him to
22 testify and would not attempt to compel him to testify
23 under the circumstances.

24 But we did want it clear in the record that the
25 Committee had invited him to be here and had offered him

1 the opportunity to testify, and we wanted it in the
2 record that he was not testifying because, on your
3 statement, that he was standing on the Fifth Amendment
4 and that anything he might say would either incriminate
5 him or tend to incriminate him from a criminal stand-
6 point.

7 MR. MITCHELL: Right. And I'm sure,
8 knowing the Committee as being fair-minded American
9 citizens, that they will carry forward to their
10 deliberations the very beautiful right that a citizen
11 has of not taking the stand to incriminate himself,
12 and that that fact will not be held against him, and
13 certainly we're not at the waterloo of that right. If
14 we are, then we can fold it all up and go home.

15 CHAIRMAN HALE: Well, I think the
16 Committee shares your concern on that, since most of the
17 members of this Committee are lawyers, as you are well
18 aware, Mr. Mitchell, and every lawyer shares the concern
19 for constitutional rights. However, let the Chair
20 again emphasize what I have emphasized time and time
21 again, that this is not a criminal proceedings. So to
22 that extent, we're not in a comparable situation to
23 your position in the Federal District Court in Corpus
24 Christi.

25 This is, by law, by constitution, by statute,

1 and by court decision, a civil proceeding, the ultimate
2 outcome of which could be nothing more or nothing less
3 than the removal of Judge Carrillo from the office of
4 trust and confidence which he holds. There are no
5 criminal sanctions that can be imposed as a result of
6 this proceeding insofar as Judge Carrillo is concerned on
7 acts and conduct which he has committed in the past.
8 The only criminal sanctions which could flow out of this
9 Committee would be prosecutions for perjury and/or
10 contempt by reason of the positions they take before
11 the Committee. But we are not a criminal body and
12 neither is the House of Representatives and neither is
13 the State Senate, in the event this proceeding ever
14 reached that point.

15 The entire impeachment proceeding is character-
16 ized throughout the court decisions as civil in nature,
17 not criminal, and the objective being not penalizing
18 the person but simply determining whether or not he
19 should continue in office.

20 As a matter of fact, the cases are clear that
21 following impeachment, that does not bar subsequent
22 criminal prosecution if a Grand Jury sees fit to
23 follow up an impeachment proceeding and proceed with
24 criminal indictments.

25 It was not done in the Ferguson case, as you

1 know. In the Ferguson case, the impeachment process
2 ran its course and Ferguson was removed from office,
3 but thereafter no criminal indictments were returned
4 or prosecuted.

5 MR. MITCHELL: And to that degree, if I
6 might be permitted to observe, the cases are distinguished
7 because here the Judge stands indicted. And at the
8 time that Mr. Ferguson and the Judge that was impeached
9 in 1931 by this body, there was not, of course, the
10 civil rights statute or the U. S. code which protects
11 the right of an office holder, a student, teacher, to
12 hold his office, and that the sanction in the Constitu-
13 tion of Texas provides that when this august body
14 returns the Bill of Impeachment he is automatically
15 suspended, and it will be our contention that it is a
16 violation of the rights which the Supreme Court will
17 protect.

18 CHAIRMAN HALE: Do you think the Supreme
19 Court, Mr. Mitchell—and this may be academic—but do you
20 think the Supreme Court of the United States would be
21 equally zealous in protecting the right of a member of
22 a school board against arbitrary removal without hearing?

23 MR. MITCHELL: I'm only familiar with the
24 recent cases as up to February of this year, in which
25 instance some children were suspended in an Ohio school

1 without notice, and the Supreme Court of the United
2 States held in that case, under 1983, that their rights
3 were violated. I'm not familiar with the school board
4 or the removal procedure because, as I understand, the
5 removal procedure was a legislative enactment and has
6 been on the books for a hundred years.

7 CHAIRMAN HALE: So has the impeachment
8 removal. It's been on the books since 1876 as a part of
9 the Texas Constitution. And the statutes under which we
10 operate have been on the books since the Ferguson
11 impeachment in 1917.

12 Mr. Mitchell, the Chair would ask you one
13 thing at this time: if you would, at your earliest
14 convenience, check the records in your office, either
15 by yourself or with Mr. Kirkland, and advise the Chair
16 whether or not the records on which you were served the
17 subpoena are physically in your custody.

18 MR. MITCHELL: I will.

19 CHAIRMAN HALE: That will be most
20 helpful.

21 MR. MITCHELL: I'll get to it this
22 evening.

23 CHAIRMAN HALE: Then the Committee can
24 decide somewhere down the line what action, if any,
25 to take with respect to it in view of your statement

1 here today.

2 In view of the invoking of the Fifth Amendment,
3 it certainly raises serious legal problems in connection
4 with the subpoena, obviously.

5 Is there any further business to be transacted
6 before the Committee here? Well, first, we'd better
7 dispose of Mr. Kirkland, hadn't we.

8 Are there any further questions of Mr. Kirkland?
9 He is still technically on the witness stand here. I
10 didn't literally mean that, Mr. Kirkland, when I used
11 the word "dispose."

12 (No response.)

13 CHAIRMAN HALE: Mr. Kirkland, as we have
14 done all other witnesses before the Committee, the
15 Chair is going to authorize you to go about your
16 business, with the instruction to you that you are now
17 under subpoena to the Committee and that you could be, if
18 the Committee deems it necessary, be subject to recall
19 for further testimony. If that becomes necessary,
20 the Chair will have you notified in ample time that you
21 could be here.

22 Absent such notification, why, you are free
23 to go about your business.

24 MR. MITCHELL: Don't you leave before you
25 come to my office.

1 CHAIRMAN HALE: Well, the Chair can't
2 control—can't determine whatever control Mr. Mitchell
3 has over you. He may need further words with you. But
4 so far as the Committee is concerned, you're free to go.

5 (The witness, Mr. Oscar D. Kirkland,
6 was excused.)

7 CHAIRMAN HALE: On behalf of the Committee,
8 let me thank you also for being here, for your appearance
9 here today and for your testimony which you have offered.

10 Mr. Mitchell, to be sure that the Chair doesn't
11 jump to any conclusions, I will ask you again, have you
12 any further witnesses or testimony that you care to
13 offer before the Committee on the matter pending
14 before it?

15 MR. MITCHELL: Mr. Chairman, that is
16 getting to be a pretty touch task. I believe I quit.
17 In answer to the question, I do not. Thank you for the
18 opportunity.

19 CHAIRMAN HALE: Thank you.

20 Mr. Kaster would like to ask Mr. Mitchell a
21 question.

22 MR. KASTER: You know I'm not an attorney
23 and I don't know all these legal niceties.

24 MR. MITCHELL: I would hate for you to get
25 your license because you come on pretty strong with these

1 questions, Mr. Kaster.

2 MR. KASTER: I have great admiration for
3 your ability and your defense, and I admire the way you're
4 handling your case. I'm curious about one thing.
5 Knowing your scholarly background in the laws and teaching
6 the courses to the students, if in fact HSR 161, 167 and
7 221 are null and void in your opinion, what have you
8 been doing here for the last couple of weeks participat-
9 ing in, defending—if in fact we're not legally
10 constituted?

11 MR. MITCHELL: As we say in the business,
12 Mr. Kaster, you can't yell "ouch" until you hurt. I ain't
13 been hurt up until today, and I'm getting ready to get
14 hurt.

15 MR. KASTER: Okay.

16 CHAIRMAN HALE: Mr. Kaster, the Chair can
17 answer that question. You frequently file a motion
18 maybe to disqualify a judge or to raise a question on
19 jurisdiction, but you still have to go ahead and try the
20 case anyway. So Mr. Mitchell has done that and the
21 Chair joins in Mr. Kaster's remark, Mr. Mitchell. You
22 have done a very able job for your client.

23 MR. MITCHELL: Thank you very much. I
24 appreciate that under the circumstances it's a pleasure
25 to appear before people really who are professional, and

1 I say that honestly, because I have been accorded by
2 the Chair and by the members a very fair opportunity
3 under what I must assure you has been a very difficult
4 time for me personally.

5 Thank you very much.

6 CHAIRMAN HALE: It's been a very difficult
7 time for all the members of the Committee, too, I can
8 assure you that. None of us have relished this job.

9 Mr. Mitchell, so that you will be advised,
10 the Chair will tell you and the public through the
11 medium of the news media, that we are not necessarily
12 terminating all public testimony by the occasion here
13 this afternoon. We are at the end of one phase of
14 this Committee's activities, namely the taking of public
15 testimony.

16 We have heard the testimony from all witnesses
17 of which the Committee feels at this time, and Mr.
18 Mitchell feels at this time, and Mr. Canales feels at
19 this time, are needed. What the Committee will do from
20 this point on, the Chair will anticipate to some degree,
21 having visited with most of the members of the
22 Committee, individually or one or two at a time during
23 the course of the day, in trying to plan our activities.
24 What we envision doing at this time would be that the
25 Committee will recess, probably for about a week, or

1 possibly a little longer, for several purposes: one,
2 to allow the Court Reporter to get the transcript
3 complete, including today's testimony, and copies of it
4 into the hands of all interested parties.

5 Then the members of the Committee need to study
6 this transcript. It is a very voluminous transcript, as
7 you can well understand. The Chair has already been
8 delivered, I believe, nine volumes of it, and there are
9 about three or four more volumes still to come. So,
10 we're going to have a tremendous amount of material
11 that we have to study and read, plus a tremendous number
12 of exhibits, approaching, what? over a hundred exhibits
13 here of one kind or another.

14 Having reviewed all of that, the Committee
15 would anticipate then that the Committee would reassemble
16 for the purpose of comparing notes from our study
17 individually of the transcript and the record, and then
18 the Committee would determine whether or not it felt
19 necessary to take any additional public testimony or to
20 subpoena any additional records. If so, we would
21 schedule a further public hearing.

22 If further public hearings are not deemed to
23 be necessary, then the Committee would be in the
24 position at that point, having the record before it, of
25 working up and drafting Articles of Impeachment in each

1 area on which complaints have been made in the testimony,
2 and then going through one by one on those Articles of
3 Impeachment, as many as there are, and determining
4 whether or not there is sufficient hard evidence in the
5 record to justify the Committee in recommending to the
6 House that any one or more of such Articles of Impeach-
7 ment be voted and referred to the Senate for trial.

8 A time schedule on that is difficult to
9 predict. But the Chair would anticipate that the
10 Committee, later today, will probably vote to recess for,
11 as I said, about a week, possibly until Monday week,
12 which would be about nine or ten days, at which time we
13 would reassemble and at that time we would have to make
14 a determination whether further public hearings would
15 be justified.

16 In the meantime, during the next week or ten
17 days, the members of the Committee will individually be
18 pouring over these records and attempting to educate
19 ourselves on the details of the testimony before it.

20 Is there anything any member of the Committee
21 would like to add to the general comments that the Chair
22 just made about our future course of action?

23 (No response.)

24 CHAIRMAN HALE: The Committee does need
25 to have a short meeting after we recess this public

1 hearing. So the Chair will ask each member of the
2 Committee to stand by.

3 Mr. Maloney moves that immediately upon—

4 VICE CHAIRMAN MALONEY: Mr. Maloney
5 withdraws his motion at this time, Mr. Chairman.

6 I think at this time the Chair needs to make
7 a statement as to whether it is going to take any action
8 on Mr. Mitchell and Mr. Kirkland's refusal to produce
9 records or whether the Chair is going to take this
10 matter under advisement.

11 CHAIRMAN HALE: Well, I thought that
12 was probably obvious from the comments I made, Mr.
13 Maloney. It appears to the Chair that any action
14 by the Committee at this time would be premature with
15 respect to any action on it. With respect to Mr.
16 Kirkland, based on his testimony, I see nothing—no
17 action we could take against Mr. Kirkland. He has
18 testified under oath that he does not have physical
19 custody of the records which are named in the subpoena
20 duces tecum. So, it occurs to the Chair that he has
21 complied with the subpoena to the extent that it is
22 within his ability to do so.

23 With respect to Mr. Mitchell, it occurs to
24 the Chair that having invoked the Fifth Amendment with
25 respect to these records, on behalf of his client, and

1 having invoked the attorney-client privilege, he has
2 raised serious legal questions as to whether or not any
3 further action would be legally permissible. It occurs
4 to the Chair that we need to brief this point exhaustively
5 before we would decide on whether we would take any
6 further action with respect to Mr. Mitchell.

7 VICE CHAIRMAN MALONEY: I just wanted to
8 be clear in my mind whether this was still pending or
9 not.

10 CHAIRMAN HALE: I think it would still
11 be pending. The only action we could take against him
12 would be a citation for contempt. And it occurs to me,
13 without having briefed the law on it, I would think that
14 if the reason for his refusal is one which is within
15 his legal right, then it occurs to me he would not be in
16 contempt of the Committee, having relied upon that right.
17 I could be in error on that.

18 VICE CHAIRMAN MALONEY: I just wanted, in
19 all fairness to Mr. Mitchell, for him to know whether
20 to go home and feel it was all over or not all over.

21 MR. MITCHELL: I have already been given a
22 package of cigarettes to tide me over tonight.

23 CHAIRMAN HALE: Well, knowing Mr. Mitchell
24 as well as the Chair does, I have a feeling that he's
25 not going to lose any sleep over these proceedings.

1 But, to answer your question, it seems to the Chair that
2 the issue of whether or not Mr. Mitchell is in contempt
3 of the Committee on his refusal to produce these records,
4 if they are in his custody, is one which is continuing
5 before the Committee and can be acted upon at a later
6 date, if we determine that the refusal was not justified.

7 As an example, I think it is patently clear,
8 for example, that if Judge Carrillo were in the witness
9 chair and we asked him for these records and he refused
10 to produce them on the ground that it would tend to
11 incriminate him, we could not cite him for contempt because
12 he would be standing on a legal right.

13 VICE CHAIRMAN MALONEY: Mr. Chairman, all
14 I was concerned about was the Chair's statement that the
15 matter is still pending.

16 CHAIRMAN HALE: I have a feeling that
17 Mr. Mitchell is in the same category on that, having
18 invoked the attorney-client privilege, assuming his
19 client backs him up on it, and I'm sure he will, and
20 assuming that—and since he has invoked the Fifth
21 Amendment on behalf of his client that those two legal
22 defenses would probably justify the refusal and make a
23 contempt proceeding illegal.

24 But the matter is still pending before the
25 Committee and will be carried forward for whatever

1 action is warranted by the facts at a later date.

2 Is there anything further to come before the
3 Committee while we're in public hearing here today?

4 (No response.)

5 CHAIRMAN HALE: If not, the Committee
6 will—we need to have a short executive session to
7 determine one or two matters here relative to subpoenas
8 and other things that we have discussed earlier.

9 MR. CANALES: Will you advise us when
10 the Committee will reconvene?

11 CHAIRMAN HALE: I'm going to put a motion
12 on it here in just a moment.

13 Mr. Maloney moves that immediately upon the
14 recess of the public hearing, which will be just
15 a few moments, that the Committee then meet in executive
16 session here to take up some business pending before
17 the Committee. Is there any discussion on the motion?

18 VICE CHAIRMAN MALONEY: Mr. Chairman, if
19 I could, I think in fairness, since there are a lot of
20 people who are obviously interested in these proceedings,
21 that they be told that they can check with the Clerk
22 of this Committee as to any further public hearings so
23 that they would be able to have someone to call and be
24 advised.

25 CHAIRMAN HALE: With respect to any public

1 hearings, there will be a five-day notice posted on the
2 bulletin boards out here with respect to any public
3 hearings that the Committee has. The Chair will advise
4 you that we will comply with the five-day rule on
5 public hearings.

6 Is there any further discussion on the motion
7 for an executive session within just a few moments?

8 (No response.)

9 (The motion, being put to a vote, was
10 carried.)

11 CHAIRMAN HALE: The ayes have it and it is
12 so ordered. (Gavel.)

13 Mr. Maloney moves that the Committee, subject
14 to the executive session, stand recessed until what time,
15 Monday? Ten o'clock?

16 MRS. WEDDINGTON: No. One o'clock.

17 CHAIRMAN HALE: Mr. Maloney moves that
18 the Committee stand recessed until 1:00 o'clock Monday,—
19 what date is a week from Monday? —until 1:00 o'clock
20 p.m. on June 23, 1975. Is there any objection?

21 (No response.)

22 CHAIRMAN HALE: The Chair hears none and
23 the Committee stands recessed until 1:00 o'clock p.m.
24 Monday, June 23, 1975.

25 (Whereupon, the hearing was recessed until
1:00 p.m., Monday, June 23, 1975.)

CERTIFICATE

1
2
3 THE STATE OF TEXAS §
4 COUNTY OF TRAVIS §
5

6 I, Walter H. Hickman, a Notary Public
7 in and for Travis County, Texas, do certify that on the
8 12th day of June, 1975, the foregoing proceedings before
9 the TEXAS STATE HOUSE OF REPRESENTATIVES HOUSE SELECT
10 COMMITTEE ON IMPEACHMENT were reported by me and that
11 the foregoing pages constitute a full, true, and correct
12 transcription of my Stenograph notes.

13 GIVEN under my hand and seal of office
14 this _____ day of June, 1975.
15

16 Walter H. Hickman, Notary Public
17 in and for Travis County, Texas.
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